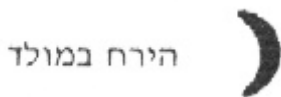


Daf Notes is currently being dedicated to the neshamah of
Tzvi Gershon Ben Yoel (Harvey Felsen) o"h

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

INTERROGATION

When witnesses come to Yerushalayim to testify that they have seen the new moon, Beis Din interrogates them in order to ascertain that they have, in fact, seen the beginning of a new lunar cycle which looks like this



and not just the end of the previous one which looks like this.



These shapes are what the moon looks like in Israel at the beginning and end of each lunar month. The closer one gets to the equator, the flatter the crescent of the moon becomes, until it can look like this.



(Courtesy of the Aleph Society)

(23b4 – 24a1)

POSITIONS OF THE MOON

The Mishnah had stated: How high in the sky was it? Which way was it facing? The Gemora cites conflicting

¹ Rashi explains that the sun sets at a different point on the western horizon each day, depending on the season. It sets farther south on the western horizon in the winter, and farther north on the western horizon in the summer. However, at the time of the new moon, the moon *always* appears at the "south-west corner." (Rashi implies that it appears there slightly *before* the moment at which the sun sets.) Therefore, on the shortest day of winter (the winter solstice) -- when the sun sets farthest south along the western horizon -- the moon is seen slightly to the north of the

Braisos regarding the position of the moon. One Baraisa states that if he saw the moon north of the sun, his testimony is valid but if he testified that the moon was to the south of the sun, his testimony is not accepted. Another Baraisa is cited that rules exactly the opposite: If he saw the moon south of the sun, his testimony is valid but if he testified that the moon was to the north of the sun, his testimony is not accepted! The Gemora reconciles the two by saying that the first Baraisa is referring to the summertime and the latter is referring to the wintertime.¹ (24a1)

The Gemora cites a Baraisa: If one says that it was two goads high and the other says three, their testimony is valid. If one, however, says that it was three and the other five, their testimony is nullified, only each of them can be joined with another witness. (24a1 – 24a2)

The Gemora cites a Baraisa: [If they say]: We saw it in water, we saw it in a mirror, we saw it through the clouds, they are not allowed to testify concerning it. [If they say]: We saw half of it in water, half of it through the clouds, half of it in a mirror, they are not allowed to testify concerning it. - Since you disallow them [when they see]

sun (that is, *ahead* of the sun in its circuit around the earth; see Rashi on the Mishnah with regard to "north" and "south" of the sun), since the moon reaches the south-westerly point at which the sun will set slightly before the sun does (i.e., before sunset). Similarly, when the sun sets in the *northern* side of the western horizon (in the summer) the moon still appears close to the southern corner, and thus it is seen farther south than the sun ("behind" the sun). (Courtesy of Kollel Iyun Hadaf)

the whole, can there be any question [when they see] only half? — In fact the statement should run as follows: [If they say they saw] half of it in water and half in the sky, half of it through the clouds and half in the sky, half of it in a mirror and half in the sky, they are not allowed to testify.

The Gemora cites a Baraisa: [If they say]: We saw it [once], but did not see it again, they are not allowed to testify concerning it. [Why so?] Are they to go on seeing it the whole time? — Abaye replied: What is meant is this: [If they say]: We saw it by chance, but when we came to look for it deliberately we could not see it, they are not allowed to testify concerning it. What is the reason? Because I might say, they saw only a circular disc in the clouds. (24a2)

BEIS DIN'S PROCEDURE

The Mishnah elaborates on the procedure how Beis Din sanctifies Rosh Chodesh. The head of Beis Din declares, "It is sanctified" and all the people there answer him by saying, "It is sanctified. It is sanctified." This procedure applies whether the moon was seen in its proper time or whether it was not seen in its proper time. Rabbi Elazar the son of Rabbi Tzadok says: If it was not seen in its proper time, Beis Din does not sanctify the day since it has already been sanctified by Heaven. (24a2)

The head of Beis Din etc. From where do we know these words? Rabbi Chiya bar Gamda said in the name of Rabbi Yosi ben Shaul, who said it from Rebbe: The verse states: And Moshe spoke the festivals of Hashem; from this we learn that the head of the Beis Din says, "It is sanctified."

And all the people there answer him by saying, "It is sanctified. It is sanctified." From where do we learn this? — Rav Pappa said: The verse states: that you shall proclaim [them]. [For osam - them] read 'attem' [- you].

² In this way, conditions that might be complicated to express orally could be discussed with the help of these illustrations.

Rav Nachman bar Yitzchak said: [we learn it from here]: These 'they' are my festivals, [which implies], they shall declare my festivals.

"It is sanctified. It is sanctified." - Why twice? — Because it is written "declarations" of sanctification. (24a2 – 24a3)

The Mishnah had stated: Rabbi Elazar the son of Rabbi Tzadok says: If it was not seen in its proper time, Beis Din does not sanctify the day.

It has been taught in a Baraisa: Pelimo says: If seen at its proper time, it is not sanctified, if it was not seen at its proper time, it is sanctified. Rabbi Elazar the son of Rabbi Shimon says: in either case it is not sanctified, since it says: And you shall sanctify the fiftieth year, which shows that you are to sanctify years, but are not to sanctify months.

Rav Yehudah said in the name of Shmuel: The halachah is as laid down by Rabbi Elazar the son of Rabbi Tzadok.

Abaye said: We have also learned to the same effect in the following Mishnah: If the Beis din and all Israel saw it, and if the witnesses had been tested, but they had no time to say 'sanctified' before it grew dark, the month is full, which implies that it is full, but that [the new month] is not sanctified [later in the day]. [This is not conclusive, since] there was a special reason for mentioning the prolonging. You might think that since the Beis din and all Israel saw it [the new moon] everyone knew that it had appeared and therefore the month should not be full. Therefore, we are told [that this is not so]. (24a3 – 24a4)

MISHNAH: Rabban Gamliel had models of the moon in various shapes on a tablet and on the wall of his upper chamber, which he would show to the people coming to testify.² He would say to them, "did you see the moon like this or like that?" (24a4)

The Gemora questions as to how Rabban Gamliel was allowed to create these images, when it is written: You shall not make with me; this teaches us that you shall not make images of My servants.³ Abaye replied: The Torah forbade only [the images of] those servants of which it is possible to make copies, as it has been taught in a Baraisa: A man may not make a house in the form of the Temple Sanctuary, or a pavilion in the form of the Temple Antechamber, or a courtyard corresponding to the Temple Courtyard, or a table corresponding to the [sacred] Table, or a candelabrum corresponding to the [sacred] Menorah, but he may make one with five or six or eight lamps, but with seven he should not make, even of other metals. Rabbi Yosi ben Yehudah said: He should not make one even of wood, this being the way in which the kings of the house of the Hasmoneans made it. They said to him: Can you bring this as a proof? The spits were of iron and they overlaid them with tin. When they grew wealthier they made them of silver. When they grew wealthier still, they made them of gold. - But is it allowed [to make likenesses] of servants of which it is impossible to make copies, seeing that it has been taught in a Baraisa: You shall not make with Me: [this implies], you shall not make the likeness of My servants who minister before Me on high? — Abaye replied: The Torah forbade only the likeness of the four faces all together.⁴ If that is so, the portrait of a human being by himself should be allowed; why then has it been taught in a Baraisa: All portraits are allowed, save the portrait of man? — Rav Huna the son of Rav Idi replied: From a discourse of Abaye I learned: You shall not make with me [implies], you shall not make Me.⁵

Still, are the other servants permitted, seeing that it has been taught in a Baraisa: You shall not make with Me: you shall not make the likeness of My servants who serve

before Me on high, such as Ofanim and Seraphim and holy Chayos and ministering angels? — Abaye replied: The Torah forbade only the servants in the upper abode. - But are those in the lower abode permitted? Has it not been taught in a Baraisa: Which are in the heaven: this brings under the rule the sun, the moon, the stars and constellations; above: this brings under the rule the ministering angels? — That statement refers to the prohibition of [making a likeness] for serving them. - If for serving, then the tiniest worm should also [be prohibited]? — Yes, that is so, as it has been taught in a Baraisa: Which are in the earth: this brings under the rule mountains, hills, seas, rivers, streams and valleys. Beneath: this brings under the rule the tiniest worm.

But is the mere making allowed? Has it not been taught in a Baraisa: You shall not make with me: you shall not make a likeness of My servants who minister before Me, such as the sun, the moon, the stars and constellations? — Rabban Gamliel's case was different, because others made for him. - But what of Rav Yehudah who [had a figure on a seal which] others had made for him, and yet Shmuel said to him: Sharp one! Put out that fellow's eye? — In that case the seal was projecting, and [Shmuel forbade it] so that it should not arouse suspicion,⁶ as it has been taught in a Baraisa: A ring of which the seal projects must not be worn on the finger, but it is permitted to sign with it. If the seal is sunk in, it is permitted to wear it but forbidden to sign with it. - But does it matter if we do arouse suspicion? Was there not a synagogue which 'moved and settled' in Nehardea and in it was a statue [of a king] and Rav and Shmuel and the father of Shmuel used to go in there to pray, and were not afraid of arousing suspicion? — Where a whole body of persons is concerned it is different. But Rabban Gamaliel was an individual? — Since he was the Nasi, a large company was always with him. If you like I

³ It is forbidden to form heavenly objects like the sun, moon, stars and constellations.

⁴ The holy angels who carry the Heavenly throne.

⁵ And since man was made in God's image, the reproduction of the human face is not allowed.

⁶ The idolaters only worshipped images of people that protrude.

can say that it was [drawn] in sections, or if you like I can say that he did it for purposes of study, and it is written: You shall not learn to do, which implies that you may learn to understand and to teach. (24a4 – 24b5)

INSIGHTS TO THE DAF

MENORAH WITH SEVEN STEMS

One is prohibited from building a house in the form of the Beis Hamikdosh. One cannot make a courtyard similar to the courtyard of the Beis Hamikdosh. One is forbidden from creating a menorah corresponding to the menorah in the Beis Hamikdosh. He is not allowed to make a menorah that has seven stems even if he constructs it from other metals. Rabbi Yosi maintains that one may not make a menorah out of wood either.

The sefer Shoel U'meishiv wants to answer the famous Beis Yosef's question with this halacha. The Beis Yosef asks why do we eight days of Chanukah when the miracle was only for seven days? There was enough oil found for one complete day. He answers that it is forbidden to make a menorah with seven stems. This is forbidden even if it is not in the precise dimensions of the menorah in the Beis Hamikdash. Chanukah could not be seven days since the menorah couldn't have seven stems.

DOLLS AS TOYS

There was a report in a newspaper that HaRav Eliyahu ruled that baby dolls are included in the prohibition of owning statues. I have not independently confirmed this ruling, however Rav Elyashiv shlita in his sefer on Rosh Hashanah concurs with this ruling. I quote from the sefer below.

Jerusalem - In a tough break for the children of Orthodox Jewish families, a former grand rabbi of Israel has urged parents to amputate their dolls to avoid the perils of idolatry. Basing the move on a Biblical ban on the possession of idols, Mordechai Eliyahu, a Sephardic rabbi,

broadcast his edict on a religious radio station calling for an arm or a leg to be dismembered. In the case of a teddy bear or other stuffed animals, the children will see their beloved toys lose an ear or an eye instead. "It is very important that these toys do not remain intact so as to remove the element of idolatry," said Eliyahu. His son, Shmuel Eliyahu, himself a rabbi in the northern town of Safed, said that it was inappropriate to own statues or dolls, even to play with or for artistic purposes. "They need to be amputated or at least altered," he said.

Shmuel revealed that his father had forced one of his followers to snap off the ear of a replica of a statue of Moses by Michelangelo that he had bought at an exorbitant price. Religious edicts are not legally obliging in Israel. - Sapa-AFP

The Maharit (2:32) states that dolls which are made for the sake of children to play with are considered a temporary action and they are not included in this prohibition. Rav Elyashiv shlita cites Acharonim who disagree with this ruling and state that it is a Biblical question and cannot be dismissed out of hand. Rav Elyashiv rules stringently and he says that one must deface the form of the dolls somewhat in order for it to be permitted to remain in the house.

Here is a summary of some of the conclusions from Harav Ovadia Yossef in regards to idolatry and specifically pertaining to dolls, where he rules that it is permitted. (Written by a student)

1. It is forbidden to make a protruding image of a man, and it is forbidden to leave it in one's house. This is only if it is a complete image, but a portrait up to the chest is not forbidden. It is permitted to make dolls for children that look like a full person, and certainly to buy and sell them. It is permitted to take a photograph and to paint the picture of a person, which is not protruding at all. Some are stringent about this, but the custom is to be lenient. It is forbidden to make the image of the four forms that were

on the Heavenly chariot: the lion, eagle, ox and person. This is only when one makes all four together.

2. A protruding image of a person, in which one only sees one side (a profile), is permitted since this is not a complete image of a person.

3. The Shulchan Aruch writes that one cannot make the image of the sun, moon and stars, whether protruding or flat. Rabbi Yosef Hayim explained that it is permitted if one does not make the full picture of the sun. However, a picture of the moon is forbidden even if a part is missing, since that it is how it is seen at times. The Maharam Mirotenberg permitted a picture, made only of colors that are not protruding at all. However, many do not agree with his opinion, and it is best not to rely on it.

4. It is forbidden to build a house in the image of the Beis Hamikdash, in its exact measurements. It is also forbidden to make a table (Shulchan) or menorah with seven branches, as existed in the Beis Hamikdash. If the menorah has seven branches but has electric lights on top, with no place for oil, it is permitted.

5. A small model of the Mishkan, for educational purposes, is permitted.

6. A cross, which Christians hang around their necks, does not have the status of avodah zarah, since Christians do not bow down to them, and the crosses are only a reminder of their avodah zarah. If a Jew finds one, he may sell it to a gentile. If a medal is given to a Jew by the government on which there cross, he may wear it. It is better that he not do so regularly, but only when he is visiting government officials or on official occasions. (End of summary)

I heard a Shiur from Rabbi Eli Mansour who cited the sefer Halichos Olam (7:281) from HaRav Ovadia Yossef where he rules that it is permitted to buy dolls for the children. He explains the reasoning for this as follows: Everyone knows that the dolls are not intended for worshipping and therefore there is no concern that others will suspect that the dolls are for avoda zora. Secondly, he states, that most of the time, the dolls are mistreated and handled in a

degrading manner and therefore it would not be prohibited. He does rule stringently regarding a trophy that is a full image and sits on top of a mantel with honor: there it is a legitimate concern and one should deface it somewhat.

DAILY MASHAL

The Permissibility of Photographing People

(The Meoros Daf Hayomi from the Kollel Sochitshov issued words of Torah on the Daf. This was taken from their kuntrus on Bava Kamma 5762) The Gemora in Bava Kamma describes how already in ancient times it was the custom to honor great people by engraving their likeness on coins. So it was with Dovid and Shlomo, and before them with Avrohom and Yitzchok. Tosfos (S.V. Matbeya Shel Avrohom) contends that it was not their image on the coins, as it is forbidden to forge a human image; rather it was their names that were inscribed.

The source of the prohibition to create a human likeness even for decoration is found in the posuk (Shemos 20:20), "Do not make with me gods of silver and gods of gold" (Rosh Hashana 24b, Rambam Hilchos Acum 3:10, Chinuch Mitzva 39). The Rambam explains the reason for this prohibition is so that a casual observer should not mistakenly reach the conclusion that these images were meant to be avoda zarah.

There is a debate amongst the Rishonim as to what comes under the prohibition. According to the Ravad (ibid) and the Ramban (see Tur Y.D.141) included are engraving, embossing, or painting of a human image. However, they do express a lenient ruling as to the ownership of engraved or painted images if they are found; but not an embossed (protruding) image. The Rambam differs and maintains that there is no prohibition to make an image by engraving or painting; the Torah forbade exclusively embossing. Though the Shulchan Oruch (141:4) rules in favor of the Rambam, the Taz insists that in the matter of

making human images one should not adopt any leniencies.

When the Gaon R' Eliezer of Brod was installed as Chief Rabbi of Amsterdam, one of the local Jews decided to mark the festive occasion in a unique manner. He issued a commemorative medallion which bore the likeness of the new Rav. The Yavetz writes (responsa Sheilos Yavetz, I:170) that upon seeing this he was shocked to his very core. Though the Shulchan Oruch (ibid 7) forbids only an image of a full human, whereas the image of just a face is permitted, the Yavetz takes the more stringent view of the Smag, the Taz (ibid S.K. 15) and some Rishonim who forbid this as well. The Yavetz further points out that even according to the more lenient poskim it is only a featureless face that is allowed. (See the responsa for how the Yavetz derives this from the Tosafos in our sugya.) In the end, declares the Yavetz triumphantly, the medallion was banned by the Dutch king who viewed the matter as an impingement of his royal status.

The Painting of the Chacham Tzvi: The Yavetz's father, the Chacham Tzvi, was extremely strict for himself and would not even allow his face to be drawn. We know this from his son who describes with great emotion how, "The true saint, my father and Rebbe, our great master, may Hashem be with him forever... went to visit the Sephardic Kehilla in London. He was greeted with great respect the like of which is unheard of. He was escorted into town in a royal floatilla amidst great jubilation." The kehilla, relying on the majority of poskim had commissioned an artist to draw his countenance. The Chacham Tzvi due to his "great saintliness and holiness" refused to permit this. The hosts were unable to restrain themselves and the artist managed with great speed and unusual talent to paint an extraordinary painting. So true was his rendition that the Yavetz declares, "All that is missing is the breath of life."

Taking a Snapshot The Taz's opinion, that even a flat image is forbidden has led Poskim to question the legitimacy of photographing people. A reason to be lenient is explained by R' Moshe Sternbuch, Shlit"za (Teshuvos V'Hanhagos Vol. III, 263). The prohibition includes only image making formed by direct action. The process of photography and film development does not fit into this category, since the reactions of chemical to light rays cause the picture to appear. He concludes that customarily photography is permitted.

It is interesting to note that many Gedolim for Kabbalistic reasons insisted not to be photographed. Someone drew a picture of the Steipler Gaon zt'l, during his army service in Russia. The Steipler paid an entire day's ration for the picture and immediately destroyed it (Toldos Yaakov, p. 30).