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Kesuvos Daf 15

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### Mishnah

Rabbi Yosi says: There was an incident with a young girl who went to draw water from the well, and she was violated. Rabbi Yochanan ben Nuri stated that if most people in the city are of lineage which permits them to marry *Kohanim*, she may also marry a *Kohen*. (14b3)

Rava asked Rav Nachman: According to whom did Rabbi Yochanan ben Nuri state his opinion? If it is according to Rabban Gamliel, the woman should be qualified for *Kehunah* even if the majority of men are unfit (*because she should be placed under a presumption of innocence*)? If it is according to Rabbi Yehoshua, the woman should be deemed unfit for *Kehunah* even if the majority of women are qualified?

Rav Nachman responds: So said Rav Yehudah in the name of Rav: This incident happened among the wagons of Tzipori (*on the day of the market, when caravans from other cities visited*). And this follows the opinion of Rabbi Ami, who said: The *Mishnah* is discussing a case where there was a group of qualified people passing by there (*thus creating a majority of fit visitors and a majority of fit townspeople; even Rabbi Yehoshua would permit her in this case*).

The Gemora notes that this is also following the opinion of Rabbi Yannai, for Rabbi Yannai said: If she cohabited among the wagons, she is fit for *Kehunah*.

The Gemora asks: Do you think that she actually cohabited on the wagons?

The Gemora answers: Rather, it means that if she cohabited at the time of the wagons (*on the day of the market, when caravans from other cities visited*), she is fit for *Kehunah*.

The Gemora rules: If someone (a resident) came out from Tzipori and cohabited with her, the child (from that union) would be a *shetuki* (for the fact that there is a majority of visitors who are fit for *Kehunah* is irrelevant). (14b3 – 15a1)

When Rav Dimi came to Bavel, he said in the name of Zeiri who said in the name of Rabbi Chanina, and some say: Zeiri said in the name of Rabbi Chanina (*without Rav Dimi being involved*): We follow the majority of the inhabitants of the town, but we do not follow the majority of the visiting group.

The *Gemora* asks: It would seem that the reverse is more logical? The visiting group is moving about and the townspeople are stationary! [***The rules regarding majority are as follows: If something that is undefined separated from a mixture, it is given the status of the majority (Kol DiParush Mei'ruba Ka Parush); however, with regarding something that is found in the mixture, it is regarded as being 'Kavua' (stationary), and Chazal teach us that with regards to 'Kavua,' we do not follow the majority, and instead it is regarded as fifty:fifty (Kol Kavua KiMechtza Al Mechtza. The Gemora's question is that here, we seem to be saying the exact opposite!?)***]

Rather, this is what Rabbi Chanina must have meant: We follow the majority of the inhabitants of the town, but only when there is also the majority of the visiting group with it, but one does not follow the majority of the inhabitants of the town alone, nor after the majority of the visiting group alone. (*There must be two majorities.*)

The *Gemora* asks: What is the reason?

The *Gemora* explains: It is prohibited to follow the majority of the visiting group in order to prevent the following relying on the majority of the inhabitants of the town.

The *Gemora* asks: But even in the case of the majority of the inhabitants of the town, if he went out and cohabited with her, let us say that he who separates himself, is assumed to have separated himself from the majority (*and if the majority of the town consists of fit people, we ought to assume that the man who cohabited with the woman was one of the majority and did not disqualify her from marrying a Kohen*)?

The *Gemora* answers: We are discussing a case when she went to him, so that he was stationary. Rabbi Zeira said: Any case of uncertainty related to something that is stationary is considered to have the probability of fifty-fifty.

The *Gemora* asks: But do we require two majorities? Has it not been taught in a Baraisa: If nine stores sold meat that was properly slaughtered and one store sells *neveilah* (*carcass of a kosher type of animal that died without being ritually slaughtered*), and one bought meat from one of the stores but he is uncertain which store he purchased the meat from, this doubt is ruled forbidden and he cannot eat the meat. If the meat was found outside the store and we cannot ascertain which store the meat came from, then we follow the majority, and the meat is permitted to eat because the majority of stores sell kosher meat. (*Thus we see that one single majority is sufficient.*) And if you will say that the *Baraisa* is discussing a case where the gates of the city are not closed, so that a majority of kosher meat is coming from outside (*so that there are two majorities; the majority of local Jewish butchers and the majority of Jewish butchers from outside*), didn't Rabbi Zeira say: Even when the gates of the city are closed (*the meat is still permitted*)?

The *Gemora* answers: Where purity of descent is concerned (i.e., regarding the permissibility to marry a Kohen), they set a higher standard (and required two majorities). (15a1 – 15a3)

The *Gemora* had stated: Rabbi Zeira said: Any case of uncertainty related to something that is stationary is considered to have the probability of fifty-fifty, whether this would result in a lenient ruling or a strict one.

The *Gemora* asks: How does Rabbi Zeira know this *halachah*?

The *Gemora* suggests, and then rejects the following source: It is from the following case and *halachah*: Nine stores sold meat that was properly slaughtered and one store sells *neveilah* (*carcass of a kosher type of animal that died without being ritually slaughtered*), and one bought meat from one of the stores but he is uncertain which store he purchased the meat from, this doubt is ruled forbidden and he cannot eat the meat. If the meat was found outside the store and we cannot ascertain which store the meat came from, then we follow the majority, and the meat is permitted to eat because the majority of stores sell kosher meat. This *halachah* results in a strict ruling; accordingly, we may ask: How would Rabbi Zeira know that we apply the same principle to rule leniently as well?

The *Gemora* attempts another source as well: It is from the following case and *halachah*: If there were nine dead frogs and one dead *sheretz* among them (*the Torah enumerates eight creeping creatures whose carcasses transmit tumah through contact*), and a person touched one of them, but he is uncertain as to which one of them he touched, the *halachah* is that he is tamei although it is a doubt. This, as well, the *Gemora* rejects, for this is a stringency; how would Rabbi Zeira know that we apply the same principle to rule leniently as well?

Rather, Rabbi Zeira derives his ruling from the following *Baraisa*: If there were nine dead *sheratzim* (*the Torah enumerates eight creeping creatures whose carcasses*



*transmit tumah through contact*) and one frog in a group, and a person touched one of them, but he is uncertain as to which one of them he touched, the *halachah* is as follows: if the uncertainty transpired in a private domain, he is *tamei*; if the uncertainty transpired in a public domain, he is *tahor* (it emerges that we do not follow the majority in a case where the uncertainty involves a stationary item even though this will result in a leniency.)

The *Gemora* asks: Where is the Scriptural source for this?

The *Gemora* answers: The *Gemora* cites a Scriptural verse: *A man ambushes him and rises up against him*. This teaches us that he (a murderer) is only liable if he intends to kill a specific person. [R' Shimon maintains that if he intended to kill one person, but instead killed another, he is not liable.] The Rabbis (who disagree with R' Shimon) interpret the verse in accordance with the school of Rabbi Yannai, who said: This (verse) excludes a person who threw a stone into a group (of Jews and Canaanites, and he killed a Jew, he is not liable).

The *Gemora* asks: What are the circumstances of the case? If the group consisted of nine Canaanites and there was only one Jew among them, [why would a verse be necessary?] shouldn't he be exempted for there is a majority of Canaanites there? And even if the group would consist half of Jews and half of Canaanites, (he still should be exempt) for the court rules leniently when there is an uncertainty in cases involving capital punishment!?

The *Gemora* answers: The verse would be referring to a case where there were nine Jews and one Canaanite, and since the Canaanite (although in a minority), is "in place" there (*and not coming from it*), and every case of uncertainty related to something that is "in place" is considered to have the probability of fifty-fifty. [*The verse teaches us that the murderer in this case is not liable. This is the source of the principle that a minority which is "in place" is regarded as equal to the majority.*] (15a3 – 15a5)

It was stated: Rav Chiya bar Ashi said in the name of Rav: The *halachah* is in accordance with Rabbi Yosi (when he ruled like R' Yochanan ben Nuri that a girl who was violated is still fit for the *Kehunah* if the majority of the people in that city are people who are eligible for the *Kehunah*). And Rav Chanan bar Rava said in the name of Rav: That was a special ruling of the moment (that only one majority was required; but, in truth, two majorities are necessary in order to render her fit for the *Kehunah*).

Rabbi Yirmiyah asks: Is it true that in respect to purity of descent (*and to be fit for the Kehunah*), two majorities are not necessary? But we learned in the following *Mishnah*: If an abandoned child was found in a city and we are uncertain if the child was a Jew or an idolater, the *halachah* is as follows: If the majority of the inhabitants of the town consist of non-Jews, the child is a non-Jew; if the majority of the inhabitants of the town consist of Jews, the child is a Jew, and if the inhabitants of the town are fifty-fifty, the child is ruled to be a Jew. And Rav said that this *Mishnah's* ruling is only in respect to the obligation to sustain the child (*like any other poor person in the city*), however in regards to his purity of descent, we do not regard him as a Jew (*because two majorities are necessary*). Shmuel says: He is ruled to be a Jew even in respect to removing a pile of stones from upon him on *Shabbos* (*this dispensation is only allowed for the purpose of saving a Jew's life*).

The *Gemora* answers: Rabbi Yirmiyah forgot that which Rav Yehudah stated in the name of Rav, namely, that the incident which occurred in Tzipori happened among the wagons of Tzipori (*on the day of the market, when caravans from other cities visited, in which case, there were two majorities*).

The *Gemora* asks: And according to Rav Chanan bar Rava, who said that it was a ruling of the moment, Rav's explanation (of the *Mishnah* regarding the abandoned child) is difficult (for a single majority should have been sufficient even regarding his purity of descent)?



The Gemora answers: The one (Rav Chanan bar Rava) who taught this (that Rav said that the Mishnah's ruling was only a ruling of the moment) was not the one who taught this (regarding the incident of Tzipori). (15a5 - 15b1)

The Gemora had stated: If an abandoned child was found in a city and we are uncertain if the child was a Jew or an idolater, the *halachah* is as follows: If the majority of the inhabitants of the town consist of non-Jews, the child is a non-Jew; if the majority of the inhabitants of the town consist of Jews, the child is a Jew, and if the inhabitants of the town are fifty-fifty, the child is ruled to be a Jew. And Rav said that this *Mishnah's* ruling is only in respect to the obligation to sustain the child (*like any other poor person in the city*), however in regards to his purity of descent, we do not regard him as a Jew (*because two majorities are necessary*). Shmuel says: He is ruled to be a Jew even in respect to removing a pile of stones from upon him on *Shabbos* (*this dispensation is only allowed for the purpose of saving a Jew's life*).

The Gemora asks: Could Shmuel have possibly said that? But surely Rav Yosef said in the name of Rav Yehudah in the name of Shmuel: We do not follow the principle of majority when it comes to saving a life (*where it is a question of saving life, the minority has to be taken into account as well*).

The Gemora answers: Shmuel was referring to the first part of the *Mishnah*. The *Mishnah* said: If an abandoned child was found in a city and we are uncertain if the child was a Jew or an idolater, the *halachah* is as follows: If the majority of the inhabitants of the town consist of non-Jews, the child is a non-Jew. Shmuel said: In respect to removing a pile of stones from upon him on *Shabbos*, he is not regarded as a non-Jew (*although the majority of people are non-Jews*), and we must consider the possibility that he is a Jew and we remove the pile of stones from upon him.

The *Mishnah* had stated: If the majority of the inhabitants of the town consist of non-Jews, the child is a non-Jew. The

*Gemora* asks: Regarding what law do we consider him to be a non-Jew?

Rav Pappa answers: We may feed him *neveilos* (*meat from an animal that was not slaughtered properly*).

The *Mishnah* had stated: If the majority of the inhabitants of the town consist of Jews, the child is a Jew. The *Gemora* asks: Regarding what law do we consider him to be a Jew?

Rav Pappa answers: We are obligated to return to him his lost articles.

The *Mishnah* had stated: If the inhabitants of the town are fifty-fifty, the child is ruled to be a Jew. The *Gemora* asks: Regarding what law do we consider him to be a Jew?

Rish Lakish answers: It is in respect to the laws of damages.

The Gemora asks: What are the circumstances of the case? If it is one where an ox of ours (one belonging to a definite Jew) gored the ox belonging to the child, let him (the owner of the ox which gored) tell him (the child), "Provide proof that you are a Jew and then collect"!?

The *Gemora* explains: It is referring to an ox of that abandoned child which gored another animal belonging to a Jew. He is liable for half the damages as is the *halachah* by an ox of an ordinary Jew that gored for the first time. However, if he would be an idolater, he would be obligated to pay in full. Since there is a doubt, the child can say to the owner of the animal, "Bring a proof that I am not a Jew, and only then, will I pay in full." (15b2 – 15b3)

## **WE SHALL RETURN TO YOU, BESULAH NISEIS**

### **INSIGHTS TO THE DAF**

#### **Majority Rules**

According to the Rambam, all descendants of Keturah (Avraham's other wife) are obligated in the mitzvah of Bris

Milah (circumcision), while Rashi holds only the actual children of Keturah were obligated in Bris Milah, whereas the subsequent generations descending from Keturah are not obligated. The Rambam says that although only the descendants of Keturah are obligated in Bris Milah and not the descendants of Yishmael; however, nowadays, even the descendants of Yishmael are obligated, because the descendants of Yishmael are mixed together with the descendants of Keturah and we cannot tell them apart.

The Shaagas Aryeh asks on the Rambam that we have a tradition that King Sanheriv exiled all of the nations and mixed the nation with each other. Consequently, the idolaters are no longer aware which nation they descend from. For that reason, although certain nations such as Amon and Moav are forbidden to marry a Jewess even after they convert, nowadays, the prohibition no longer applies, because we have no way of knowing if a convert descends from Moav or Amon, and since the convert's status is in doubt, we follow the majority. If so, why does the Rambam say that the descendants of Keturah and Yishmael are obligated in Bris Milah; how do we know that they are truly descendants from Keturah?

The Mincha Chinuch says that he does not understand the question of the Shaagas Aryeh. The question of whether the descendants of Keturah are obligated in Bris Milah is completely different than if Amon and Moav are allowed to marry into Klal Yisrael. In a case where someone from Amon converts, he is considered to have separated himself from the mix, and therefore the dictum would apply that something that is separated from the mix is given the status of the majority (Kol DiParush Meiruba Ka Parush). However, with regarding to the descendants of Keturah, they are not separating themselves from the mix, and consequently they are regarded as being 'Kavua' (stationary). Chazal teach us that with regards to 'Kavua' - we do not follow the majority, and instead, it is regarded as fifty:fifty (Kol Kavua KiMechtza Al Mechtza) with an equal probability that they are from Keturah, and thus the Halachah would be that we must be stringent, and they would be obligated in Bris Milah.

## DAILY MASHAL

### Kohen's Elevated Status

The Gemora notes the high standards that apply to the Kehunah. A story is related: When Reb Shimon Schwab was a young boy, he had the opportunity to visit the Chofetz Chaim. In the course of the visit, the Chofetz Chaim asked him whether he was a Kohen or Yisrael. R' Schwab answered that he was a Yisrael. The Chofetz Chaim then said, "I am a Kohen. Do you know what difference it makes whether I am a Kohen or Yisrael? When Moshiach comes, we will all go up to Yerushalayim and we will all clamor to enter the Beis Hamikdash to bring karbonos and to perform the service. We will run to the gates of the Beis Hamikdash and then suddenly we will be stopped. I will be allowed to enter the Beis Hamikdash, but you will be forced to remain outside. Those who are forced to wait outside will be extremely jealous of the Kohanim who were allowed in to perform the avodah."

The Chofetz Chaim continued, "What caused this situation? Three thousand years ago, when Bnei Yisrael sinned with the Golden Calf, Moshe Rabbeinu stood by the gate of the camp and cried out, 'Whoever is for Hashem should join me!' My ancestors hurried to stand before Moshe Rabbeinu ready to do as he directed. Obviously, your ancestors did not answer his call. My ancestors merited the Kehunah as reward for their deeds."

The Chofetz Chaim finished his story and said, "Why am I telling you this? Because each person of Bnei Yisrael has his moments when he hears an inner call of 'Whoever is for Hashem...'. One day when you hear this call in your heart, take action and don't be lazy! Don't repeat the same mistake that your forefathers made, which caused them to lose such a valuable gift!"