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**Leap Year**

[Mnemonic: Appointment, Nasi, Necessary, Kid.] The Gemora cites a *Baraisa*: The year can be intercalated only by judges who have been appointed for that purpose (*by the Nasi on the night before*).

There was an incident with Rabban Gamliel, where he said: “Awake seven judges early in the morning to the attic for this purpose.” He came in the morning and found eight. He asked, “Whoever came up without permission, let him go down (*for he was not designated beforehand*).” Shmuel Hakatan arose and said, “It was I who came up without permission; my objective was not to join in the intercalation, but rather, it was because I wanted to learn the practical application of the law.” Rabban Gamliel said to him, “Sit down, my son, sit down; you are worthy to intercalate all years, but it is a decision of the *Chachamim* that it should be done only by those who have been specially appointed beforehand.” In reality, it was not Shmuel Hakatan who was the uninvited member, but another; he only said it was him to save the other from humiliation.

This is similar to an incident that once happened while Rebbe was delivering a lecture. He noticed a smell of garlic, and said, “Whoever has eaten garlic, go out.” Rabbi Chiya arose and left. Upon seeing this, all the other disciples rose and went out. In the morning, Rabbi Shimon, Rebbe’s son, met Rabbi Chiya and confronted him, “Was it you who pained my father yesterday?” He responded, “Heaven forbid that such a thing should happen in Israel (*I only left in order that the guilty one should not be humiliated*).”

The Gemora notes: Rabbi Chiya learned how to do this from Rabbi Meir, as an incident was recorded in the following

*Baraisa*: A woman appeared at the *Beis Medrash* of Rabbi Meir, and said to him, “Master, one of you has betrothed me through cohabitation.” Thereupon, Rabbi Meir arose and gave her a bill of divorce (*so as not to humiliate the disciple who acted licentiously*). Upon seeing this, every one of his disciples stood up and did likewise.

Rabbi Meir learned this from Shmuel Hakatan, and he learned it from Shechanyah, the son of Yechiel, for it is written: And Shechanyah the son of Yechiel, one of the sons of Eilam answered and said to Ezra; “We have sinned against our God and have married alien women of the peoples of the land, yet now there is hope in Israel concerning this thing. [*Although he himself was not guilty of this, he confesses in order to convince others to admit and repent.*]

And Shechanyah learned it from Yehoshua, as it is written: *And God said to Yehoshua, “Get up, why have you fallen upon your face? Israel has sinned (by taking booty from Yericho).”* [*Hashem did not say who the sinner was in order not to humiliate him.*] Yehoshua asked Him, “Master of the Universe, who sinned?” Hashem replied, “Am I an informer? Go and cast lots (*to find the culprit*).”

Alternatively, I might say that he learned it from Moshe, as it is written: Until how long will you refuse to keep My commandments (*even though there were in fact only two sinners*)? (10b4 – 11a2)

The Gemora cites a *Baraisa*: When Chaggai, Zecharyah, and Malachi, the latter prophets, died (*at the beginning of the second Beis Hamikdash*), the Divine Spirit left the Jewish people. Even so, they would use a Heavenly voice. This is evident from an incident where they were sitting in the attic



of Guryah's house in Yericho, and a Heavenly voice came out and said: There is someone amongst you who is worthy to have the Divine Spirit settle on him, but his generation is not worthy to have this happen. They all set their eyes on Hillel the Elder (*realizing that he was the one*). When he died, they eulogized him: What a pious one, what a humble one, disciple of Ezra. A similar incident happened later in an attic in Yavneh, and they all set their eyes on Shmuel Hakatan. When he died, they eulogized him: What a pious one, what a humble one, disciple of Hillel the Elder. Even he said when he died: Shimon and Yishmael will be killed by the sword, and their friends will be killed other ways, and the rest of the nation will be plundered, and other tragedies will befall the nation. Even regarding Yehudah ben Bava, people wanted to eulogize this way, but they did not have the opportunity, as we do not eulogize those killed by the government (*out of fear from the king*). (11a2 – 11a3)

The *Gemora* cites a *Baraisa*: We do not intercalate a year unless the *Nasi* agrees. It once happened that Rabban Gamliel was away obtaining permission (*regarding a communal matter*) from an official in Syria, and, as his return was delayed, the year was intercalated on condition that Rabban Gamliel would later approve. When Rabban Gamliel returned, he agreed and it emerged that it was a leap year. (11a3)

The *Gemora* cites a *Baraisa*: We do not intercalate a year except where it is necessary either for the roads or for the bridges (*which deteriorated in the winter and they needed to repair them in order for people to travel to Yerushalayim*), or for the ovens (*that got ruined*) which were used for the *korban Pesach*, or for the sake of Jews from distant lands who have left their homes and would not reach Yerushalayim in time (*for the Festival*). But they would not intercalate the year because of heavy snows or cold weather (*for people would travel anyway*), or for the sake of Jews from distant lands who have not yet left their homes. (11a3)

The *Gemora* cites a *Baraisa*: We do not intercalate a year because of the goats or the lambs (*for they can be brought for the korban Pesach as is – even though, by waiting, it would*

*provide more people with the korban Pesach*), or because of doves that do not fly yet (*for only a dove that is old enough to fly is a valid korban for a woman who gave birth; nevertheless, she is not required to bring a dove – she can bring a pigeon instead*). But we consider each of these factors as an auxiliary reason for intercalation. [*The Gemora will say that there are three primary reasons which would justify intercalation; as long as two reasons applied, they would make a leap year; our Gemora is stating that one of these reasons in combination with one of the primary reasons is sufficient enough cause to intercalate the year.*] How is this so? Rabbi Yannai said in the name of Rabban Shimon ben Gamliel: They issued the following proclamation: We wish to inform you that the doves are still tender and the lambs are still young, and the grain has not yet ripened. It makes sense to me that the year should be extended and therefore I am adding thirty days to the year.

The *Gemora* asks from a *Baraisa*: How long a period was added to the year? Thirty days. Rabban Shimon ben Gamliel said: A month (*twenty-nine days*).

Rav Pappa answered: If they wish, they may add a month; or if they wish, they may add thirty days.

The *Gemora* notes: Come and see the contrast between the haughty leaders of the former generations (*Rabban Gamliel, who used to enforce his authority on his students, and nevertheless, he humbly credited his colleagues in making the leap year*) and their modest successors of later generations (*Rabban Shimon, who used to act humbly towards his students, and nevertheless, he did not credit his colleagues in making the leap year, as is evident from the Gemora above*). For it was taught in a *Baraisa*: It once happened that Rabban Gamliel was sitting on a step on the Temple Mount and the well-known scribe Yochanan was standing before him with three cut sheets of parchment lying before him. Rabban Gamliel told him: Take one sheet and write as follows: To our brethren in the Upper Galilee and to those in Lower Galilee: May your peace be increased! We wish to inform you that the time has arrived for the removal of the tithes from the olive



vats. [The entire series of tithes (terumah to the Kohen; rishon to the Levi; ani to the poor; sheini – to be eaten in Yerushalayim) reached its completion close to Pesach in the fourth and seventh year of the Shemittah cycle, and all the tithes which should have been separated in the course of the three years, but were not given, had to be removed on the day before Pesach, and a prayer of confession was recited.]

Rabban Gamliel continued: Take another sheet, and write the following: To our brethren of the South, May your peace be increased! We wish to inform you that the time has arrived for the removal of the tithes from the sheaves of grain. And take the third sheet and write as follows: To our brethren of the Diaspora in Babylon and to those in Media, and to all the other exiled people of Israel: May your peace be increased! We wish to inform you that the doves are still tender and the lambs are still young, and the grain has not yet ripened. It makes sense to me and to my colleagues that the year should be extended and therefore we are adding thirty days to the year. [We see that Rabban Gamliel attributed the decision to intercalate the year to his colleagues!]

The Gemora explains that the reason that Rabban Gamliel displayed humility in this case was because it occurred after he had been deposed from being the Nasi. (11a3 – 11b1)

The Gemora cites a Baraisa: A year may be intercalated because of three things: On account of the ripening of the grain (if they saw that the grain will not ripen until after Pesach, they added a month, for Pesach must be in the “Aviv” – the season in which the grain is ripening); on account of the fruit trees (which should, as a rule, ripen close to Shavuot, for then, those that were ascending to the Beis Hamikdash for the Festival would be able to bring bikkurim -- the first fruits; if it happens that the fruits have not yet ripened, the year may be intercalated in order to prevent a special trip to Yerushalayim); on account of the tekufah (the seasons - the Jewish calendar, while being lunar in nature, recognizes the solar system with respect of the seasons; should the tekufah of Tammuz (summer solstice) extend till after Sukkos, or the tekufah of Teves (winter solstice) extend till Pesach, the year would be intercalated; this would ensure that the festivals

might fall in their due seasons, viz., Pesach in the Spring, and Sukkos in the Autumn). Any two of these reasons can justify intercalation, but one alone is not sufficient. When the ripening of the grain is one of them, everyone was glad (because if the grain is already ripe and the intercalation was caused on account of other reasons, the prohibition of eating from the new produce (chadash) until after the korban omer was brought would be prolonged for another month). Rabban Shimon ben Gamliel said: On account of the tekufah.

They inquired: What did he mean when he said, “on account of the tekufah”? Did he mean that they were glad when it became a leap year on account of the lateness of the tekufah, or did he mean that this reason alone was sufficient for intercalating the year? The Gemora leaves this question unresolved.

The Gemora cites a Baraisa: There are three regions in Eretz Yisroel that are used to decide (as far as the crop ripening late) if the year will be intercalated: Judea, Transjordan and Galilee. The occurrence of late ripening of two of these regions might determine the intercalation, but not that of a single one. When one of the two was Judea, all were glad, because the barley for the Omer offering was obtained (preferably) from Judea. (11b1 – 11b3)

The Gemora cites a Baraisa: A year may be intercalated only (with a Beis Din) in Judea; but if they did so in Galilee, it is valid. Chananyah of Ono, however, testified: If the intercalation was decided upon in Galilee, it is not valid.

Rabbi Yehudah the son of Rabbi Shimon ben Pazi said: The reason is based upon the verse: To His dwelling place you shall seek and there you shall come. Whatever matter you are searching for (investigating), it shall only take place in the dwelling place of God (Judea).

The Gemora cites a Baraisa: A year may be intercalated only by day, and if it has been declared at night, it is invalid. The sanctification of a month is to be performed by day, and if it has been performed by night, it is invalid. Rabbi Abba says:



The source for this teaching is because it is written: *Blow a shofar at the moon's renewal, when the moon is covered for our festive day.* The verse is referring to *Rosh HaShanah*, because only on *Rosh Hashanah*, which occurs on the first day of the lunar month of Tishrei, is the moon not visible throughout the world. And it is thereupon written: *For this is a decree for Israel, a judgment of the God of Jacob.* Just as judgment is decided by day, so also must the sanctification of the month take place by day. (11b3 – 11b4)

### INSIGHTS TO THE DAF

#### ***Intercalating a Month into the Year Outside of Eretz Yisroel***

The *Baraisa* says that intercalating a month into the year can only be done in Judea, and if it were done in Galilee, there is a dispute whether it would even be binding. The reason is based upon the verse: *To His dwelling place you shall seek and there you shall come.* Whatever matter you are searching for (*investigating*), it shall only take place in the dwelling place of God (*Judea*).

Rashi seems to understand that the requirement is to do it specifically in Yerushalayim, and adds that it must be the *Beis Din* that is established in Yerushalayim, referring to the *Sanhedrin*. However, Tosfos seems to contrast the *Gemora* with intercalating the year outside of *Eretz Yisroel*, implying that all we require is that it take place in *Eretz Yisroel*, but not necessarily Yerushalayim. The Rambam (Kiddush HaChodesh 1:8) also writes that intercalating the year and sanctifying the new month must take place in *Eretz Yisroel*, but he does not mention Yerushalayim.

Regarding the particular aspect that must take place in *Eretz Yisroel* or Yerushalayim, Tosfos seems to understand that it is the actual sanctification and declaration, but the calculation may be done even outside of *Eretz Yisroel*. However, the Minchas Chinuch (4) understands from the Rambam that even the calculation must take place in *Eretz Yisroel*, and cannot be done outside of *Eretz Yisroel*.

Tosfos quotes from the *Gemora* in Brochos that if the Head of

the Generation is outside of *Eretz Yisroel*, the requirement of the sanctification to be done by the Head of the Generation trumps the requirement of it being done in *Eretz Yisroel*.

However, the Minchas Chinuch raises a question: What if the Head of the Generation is in *Eretz Yisroel*, but it is not feasible to do the intercalation in *Eretz Yisroel*; can it be done outside of *Eretz Yisroel*? He quotes from our Tosfos who cite the Yerushalmi that if the intercalation cannot be done in *Eretz Yisroel*, it can be done outside of *Eretz Yisroel*, just as we find that Yirmiyahu and Yechezkel and Baruch ben Naria intercalated a month into the year outside of *Eretz Yisroel*. But, the Minchas Chinuch challenges the proof of Tosfos. Although we find that the Prophets made leap years outside of *Eretz Yisroel*, that is because the *mitzvah* of intercalation in *Eretz Yisroel* is only during a time period when *Eretz Yisroel* retains its *kedushah* (*sanctity*), but during the Exile, when the initial *kedushah* was lost, they can make a leap year even outside of *Eretz Yisroel*. Therefore, the fact that the Prophets made leap years outside of *Eretz Yisroel* doesn't prove that any *o'nes* in *Eretz Yisroel* entitles the intercalation to take place outside of *Eretz Yisroel*, because that is only during the time of the Exile when *Eretz Yisroel* lost its *kedushah*.

The Minchas Chinuch proves his point from the *Gemora* in Megillah (14a) which says that we only say *hallel* on a miracle that took place in *Eretz Yisroel*, which only applies after *Eretz Yisroel* was chosen, to the exclusion of the exodus from Mitzrayim, which was prior to *Eretz Yisroel* being chosen. Based on this, the Minchas Chinuch concludes that nowadays when we say that the second *kedushah* of *Eretz Yisroel* still exists, even if there is an *o'nes* that prevents *kiddush* in *Eretz Yisroel*, it cannot take place outside of *Eretz Yisroel*.

The Minchas Chinuch concludes that this is all assuming that the *kedushah* relevant to sanctifying and intercalating a month into the year in *Eretz Yisroel* is the *kedushah* of the Land with respect to *terumah* and *ma'aser*, but since we learn this *halachah* from the verse: *To His dwelling place you shall seek and there you shall come*, and from the verse: *From Zion, the Torah will come out*, as Tosfos points out, it is really





dependent on *kedushah* of Yerushalayim and the Beis Hamikdash, where the *kedushah* was associated with the Divine Presence, rather than *kedushah* of the Land, and the *kedushah* of the *Shechinah* was not lost in the Babylonian Exile (Rambam Beis HaBechira 6:14-15). Since we see that even in the time where Yerushalayim had its *kedushah*, the Prophets sanctified the new month outside of *Eretz Yisroel*, it is clear that whenever there is an *o'nes* that prevents *kiddush* or intercalation in *Eretz Yisroel*, it can be done outside of *Eretz Yisroel*.

### HALACHAH ON THE DAF

#### *Maariv*

The *Gemora* contrasts the actions of Rabban Gamliel with his son Rabban Shimon. The *Gemora* labels Rabban Gamliel as strict, as opposed to his son, who was humble. Rashi explains that we find Rabban Gamliel was strict and sowed fear among his disciples in three different episodes that he had with Rabbi Yehoshua. One of those stories involved a dispute regarding *Ma'ariv* – if it's a mandatory obligation or not (Brochos 27b).

Although the Rambam rules that it is not an obligation, the later generations accepted it as a *chovah* (*obligation*). It is for this reason that the Shulchan Aruch (Orach Chaim 237) rules that there is no *chazaras ha'shatz* (*Chazan's repetition*) by *Ma'ariv*. As the Lechem Chamudos elaborates, the rationale for the *chazaras ha'shatz* is to discharge the obligation of the people that do not know how to *daven* (*meaning they have an obligation to daven but they can't, so we came up with a solution for them*), but since *Ma'ariv* is only a *reshus* - not an obligation, there is no need for the *Chazan* to repeat it. Even though these days we accepted it upon ourselves as a *chovah*, we didn't go so far as to say that we must enact the *chazaras ha'shatz* as well.

If someone came to *Shul* and the *minyán* is holding in middle of *birchos kerias shema*, and he calculates that if he joins them, he will not be able to *daven* the *Shemoneh Esreh* with a *minyán*, then he should wait until the *minyán* reaches *Shemoneh Esreh* and he should *daven* along with them, and

after *Shemoneh Esreh* he should return to the beginning of *Ma'ariv* (ibid 236:3).

The Mishnah Berurah points out that if he calculates that he can catch up with the *minyán* if he will skip *baruch Hashem l'olam* etc., then he should do so. There is a *machlokes*, however, whether he should recite the *brachah* of *baruch Hashem l'olam* after *davening* or not. The Mishnah Berurah rules that it is best to say it without the conclusion of *yiru eineinu*.

Similarly, a person that finds himself in a place where they *daven Ma'ariv* early and he did not yet *daven Minchah*, he should *daven Minchah* while the *minyán* is reciting the *birchos kerias shema* and *shema*, and when they reach *Shemoneh Esreh*, he should *daven Ma'ariv* along with them. This *halachah* only applies when he knows that he will not be able to find another *minyán* for *Ma'ariv* later that night, but if he knows that he will, then he should *daven Minchah* when the *minyán* is *davening Ma'ariv*, and *daven Ma'ariv* normally with the later *minyán* (ibid).

### DAILY MASHAL

#### *A Fair Trial*

This is a warning to the *beis din* to refrain from hearing one litigant without the presence of the other.

Rabbi A.L. HaLevi Horvitz, author of *Rashei Besamim*, was required to judge the validity of a *beis din* that had heard one litigant without the presence of the other and he cited the example of Tzelofchad's daughters: "And they stood before Moshe and before Elozar the *Kohen* and before the heads of the tribes and **the whole congregation**" (Bemidbar 27:2). Why must we know that they stood before the whole congregation? The Torah wants to emphasize that the potential litigants, the tribe of Menasheh, were also present, for if not so, Moshe would not have listened to Tzelofchad's daughters (Kemosetzi Shalal Rav, Parashas Pinchas).