Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o"h

Tzvi Gershon ben Yoel (Harvey Felsen) o"h

May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Enumerated Items

Rav Pappa answers that the author of our *Mishnah* is the author of the *Baraisa* about a litra measure of dried figs, who says that anything prohibited – even with only a Rabbinic prohibition - that is counted is not subsumed in a larger mixture.

The *Gemara* cites the *Baraisa*, which discusses one who pressed a litra measure of dried *terumah* figs which were pressed into part of one cake of dried figs, but doesn't know in which cake. The *Baraisa* cites a dispute in the case where he pressed it at the top of one of the cakes. Generally, *terumah* is subsumed in a mixture that is 100 times greater than it, but here we know that it is on one of the tops of the cakes. Rabbi Meir and Rabbi Yehudah dispute what the positions of Rabbi Eliezer and Rabbi Yehoshua are about this case:

Rabbi Meir	Rabbi Eliezer	All the cakes, bottoms and tops, are counted for the 100
	Rabbi Yehoshua	There must be 100 tops
Rabbi Yehudah	Rabbi Eliezer	
	Rabbi Yehoshua	It cannot be subsumed

Rabbi Yehudah's version of Rabbi Yehoshua's opinion says that cakes of dried figs are too substantial to be subsumed, even though the prohibition is the Rabbinic *terumah* of fruits, and only some people count the cakes.

The *Baraisa* concludes by saying that if he pressed the *terumah* figs, but he doesn't in which cake, or even where in the cake, then all parts of all the cakes are counted towards the 100 which will subsume it. In this case, all of the parts are included in the doubt of where the *terumah* is, and there isn't a substantial unit, since only part of a cake is at issue, and not a top of a cake. (72b – 73a1)

Live Beings

Rav Ashi says the *Mishnah* can follow the Sages, who say that enumerated items are subsumed, since live beings (i.e., animals) are too substantial to be subsumed. (73a2)

From the Majority

Even though they are not subsumed, the *Gemara* asks why we don't separate and sacrifice one animal at a time, since we should assume that each one came from the majority, which are fit for sacrifice.

The *Gemara* clarifies that if we would select one from the flock, this would be *kavua* – stationary, which is considered to be an even possibility.

Rather, the *Gemara* suggests that we should gather the animals together, and then let them disperse, as each animal that disperses is not *kavua*, and can therefore be assumed to have come from the majority.

Rava answered that we do not allow this, lest 10 *Kohanim* will sacrifice these animals, and then apply their blood simultaneously from the same vessel. Although each animal is assumed to be valid, across the large population, we may not assume that they are all valid, and some of the blood must assumed to be invalid.

One of the Torah scholars objected to this concern, since once we rule that each animal that left the flock is valid, it cannot become invalid once the blood is received.

Rather, Rava suggested that the concern is that 10 *Kohanim* may come and simultaneously each take a dispersed animal. Since they've collectively taken a majority, we may not assume that all are valid.

The *Gemara* objects, as it is impossible for 10 people to truly simultaneously take the animals. Rather, Rava says that we prohibit taking the dispersed animals, lest he come to take the animal directly, when it is *kavua*. (73a2 – 73b1)

Disqualified?

Rava says that since the Sages decreed that one not sacrifice any of these animals, if someone did sacrifice one, it did not atone, even if was later clarified to have been a valid animal.

Rav Huna bar Yehudah challenged Rava's assertion that the Sages decreeing not to sacrifice something prevents atonement from a *Mishnah*. The *Mishnah* in Kinin says that if one bird *olah* got mixed in with a *chatas* bird, or even if it just one got mixed in with 10,000 of the other, all must die, since the service for the two types of sacrifices are in different locations. The *Mishnah* continues that this is the ruling we issue to a *Kohen* who asks. However, if one did not ask, but sacrificed both of them, some can be valid. If he sacrificed all on the top half of the altar (*the olah's place*), half of them (*whichever were the olos*) are valid. If he sacrificed all on the bottom half (*the chatas place*), half of them (*whichever were the chatas*) are valid. If he sacrificed half on top, and half on bottom, none are valid, since he may have offered all the *chatas* ones on top, and all the *olah* ones below.

Rava answers that this *Mishnah* follows the opinion that live animals cannot be permanently disqualified, but he made his statement according to the opinion that live animals can be permanently disqualified.

The *Gemara* challenges this from Rabbi Eliezer's statement about a case of limbs of many *olah* sacrifices that were mixed up, one of which was found to have a blemish and therefore invalid. Although all agree that slaughtered animals can be permanently disqualified, Rabbi Eliezer says that if the head of one *olah* was sacrificed, the rest of the *olah* heads can be sacrificed, since we can assume that the one already sacrificed was from the blemished one. Although we would have told the *Kohen* not to sacrifice any of them, once one was sacrificed, the rest can be sacrificed, indicating that the prohibition of the Sages does not disqualify it.

Rava answers that Rabbi Eliezer follows the opinion of Chanan Hamitrzi, who says that even slaughtered animals are not permanently disqualified. Chanan Hamitzri says that even if the goat to be sent to *Azazel* died after the *chatas* goat's blood was already received, one can choose another goat for *Azazel*. Although once the *Azazel* goat died, this disqualified the blood of the *chatas* goat, this does not permanently disqualify it, and one can replace only the *Azazel* goat, and continue with the existing *chatas* goat's blood. (73b2 – 74a1)

INSIGHTS TO THE DAF

Rabbi Yehudah and Mixtures

Rav Pappa cites a *Baraisa*, in which Rabbi Yehudah states the positions of Rabbi Yehoshua and Rabbi Eliezer about the parameters for subsuming a measure of pressed *terumah* figs among other pressed figs.

L'zecher Nishmas HaRav Raphael Dov ben HaRav Yosef Yechezkel Marcus O"H

Tosfos (73a Rabbi Yehudah) asks how Rabbi Yehudah could be discussing the parameters for this type of mixture being subsumed, when Rabbi Yehudah says that any item cannot be subsumed in others of the same kind.

Rabbeinu Tam suggests that Rabbi Yehudah only says this in reference to liquid mixtures, but when solids are mixed, *terumah* is subsumed in a mixture of 100 times its size.

Tosfos cites numerous challenges to the suggestion that the rule of one in 100 only applies to solid mixtures, and Rabbeinu Tam retracted this position, and instead suggests an answer based on the *Gemara* (Menachos 23b), which states that Rabbi Yehudah only says that an item is not subsumed in others like it when the item being subsumed and the larger mixture can theoretically become fully alike, even in *halachic* status. Therefore, when *terumah* liquids fall into chulin, which cannot attain the status of *terumah*, they are subsumed in a ratio of 1:100. Tosfos discusses at length whether all hold of this principle, or whether it is a matter of debate among the Tannaim and *Amoraim*. See Tosfos for further discussion of the different cases of mixtures, and how they may be reconciled with this principle, and with each other.

Who's Watching?

The *Gemara* suggests that we should gather the animals, which contain one which is unfit for sacrifice, into a herd, and then let them disperse. We cannot select one, since that would be taking something *kavua* – fixed, which the Torah considers an even chance, while, if they disperse, we can assume each one that left the population came from the majority, and is fit for sacrifice.

Tosfos (73b v'nichbeshinhu) notes that this must be done without our seeing them disperse, since our witnessing an item leaving the population, which was *kavua* at the time, is tantamount to choosing something while it is *kavua*. The only case which is truly a case of following the majority is where we only observed the item after it was removed, e.g., by a non-Jew.

Tosfos proves this from the *Gemara* in Pesachim (9b), which says that if we see ten pieces of food, only one of them *chametz*, and we observe a mouse taking one of them, we consider it an even doubt, since it is *kavua*. Although the mouse took the piece away, since we observed it, it has the status of *kavua*.

What is Kavua?

Rava says that we do not permit letting the animals disperse, lest someone take one from the *kavua*. Tosfos (73b ela) says that although this would seem to indicate that taking it from the *kavua* would be prohibited from the Torah, it is actually only Rabbinically prohibited. True *kavua* is when we know where the prohibited item is, but we do not know whether the item in front of us is that one or not.

The Seven Animals Divided in Half

A Vilna butcher who slaughtered seven animals about 350 years ago did not know that the event would be recorded forever in the works of the *poskim.* The butcher divided each animal into two parts and began to carry them to his shop. He managed to bring two-and-a-half animals when suddenly a needle was found in the pile of innards on the floor. Had the butcher known to which animal the innards belonged, it would be forbidden as *tereifah* (an animal that is harmed in a limb such that it cannot live more than 12 months; see Chulin, Ch. 3). The trouble was that the innards were mixed up and no one could identify to which animal the innards with the needle belonged.

Before we begin to detail the discussion that developed as a result of the incident, we should distinguish between *bitul berov* and the halachah of "follow the majority" (*halech achar harov*). If we have a **complete mixture**, the minority becomes insignificant in the majority and loses its identity

L'zecher Nishmas HaRav Raphael Dov ben HaRav Yosef Yechezkel Marcus O"H

(concerning eating all the pieces; see *Shulchan 'Aruch, Y.D.* 109:1). The *halachah* of *bitul berov* cannot apply to the above case as each part of the animal is a counted thing and as we explained in the previous article, a counted thing does not become insignificant in a majority. The only possibility to allow eating the parts of the animals is because of the *halachah* of *rov*. In other words, the Torah instructed us to "follow the majority" and therefore we should regard each part as belonging to the kosher majority.

Our *Gemara* explains two basic rules regarding the *halachah* of *rov*: **Anything that departs, departs from the majority, anything in its place is like half and half**. In other words, if we have forbidden and permitted foods **placed** before us and we don't know which is forbidden and which is permitted, we mustn't follow the majority, but there is an equal doubt about each piece and as a doubt of the Torah should be treated strictly, it must not be eaten. However, if one of the foods departs to another place, we apply the rule of "anything that departs, is (considered as having departed) from the majority" and if the majority is permitted, it is also permitted.

Therefore, the parts that remained in the butcher's home are forbidden as "anything in its place is like half and half" and we mustn't follow the majority, whereas the parts that left the mixture and were taken to the shop are allowed as "anything that departs, departs from the majority" and their status is determined according to the majority.

In the light of the above, a most unusual reply developed among the *poskim* as we mustn't forget that the parts of one animal are in the house **and** in the shop because only a half of it was brought to the shop. It turns out, then, that half of that animal, which stayed in the house, is forbidden while its other half, which was brought to the shop, is permitted! Could this be? Indeed, many *poskim* strongly denied this possibility and a severe dispute developed. Some asserted that the part in the shop should be associated with the part that remained in the house and be forbidden. On the other hand, some claimed that the part in the house follows the part in the shop and that both parts are allowed.

Pri Chadash contended that there is no reason not to rule that the part that remained in the house is forbidden while the part in the shop is permitted. He was so sure of his opinion that he wrote: "…and anyone who does not rule so does not know from his right to his left concerning forbidden and permitted foods" (*Pischei Teshuvah, Y.D.* 110, *S.K.* 4).

DAILY MASHAL

A Spark of Holiness

Kol kavua kmechtze al mechtze domi – anything fixed in place is not nullified.

The passuk in Hoshea says בקרבך קדוש (Hoshea 11:9). The Sifra in Kedoshim Chap. 1 explains this to mean that every Jew has a spark of holiness inside him that cannot be destroyed, and the soul of a Jew remains holy whether he actively develops his holiness or not.

The Imrei Emes connects this to the dictum of our Gemara and says that this source of holiness must be established and "fixed" in the person so that even if it is the minority of his makeup, it will still be as significant as if it comprises half of him.

The Gemara says in Kiddushin 40b that a person should always view himself that if his actions were to be weighed, the scale would be evenly balanced between his good and bad deeds. This is a difficult statement to understand as the odds of his actions being equally divided between good and bad are minuscule. The Imrei Emes explains that this Gemara is also based on the same rule, and if the person focuses on that spark of holiness and uses it to propel acts of holiness, even though his evil action may outweigh the good, it is considered as if he is evenly balanced, so that one additional good deed can tip the scales for his acquittal.