TALMUDIC METHODOLOGY
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BA'IN KE-ECHAD

Several *gemarot* address an intriguing *halakhic* predicament known as *'ba'in ke-echad*,' referring to two mutually dependent events that occur simultaneously. Logically, as each event's validity depends upon the PRIOR occurrence of the other event, the process should fail. However, Halakha allows for a notion known as *'ba'in ke-echad,'* which literally means that the two events occur in unison. Perhaps the most well known example appears in the experience of delivering a divorce. Halakhically, the woman cannot acquire the 'get' since a married woman cannot acquire items independent of her husband. To activate her capacity to acquire items, she must become divorced. However, in order to be divorced she must acquire the 'get.' Consequently, we face a dilemma of mutually dependent occurrences: her divorce depends upon her acquisition while her acquisition depends upon her divorce. Logically, there seems little reason that the process should succeed. Rava (Gittin 77b) introduces the notion of *ba'in ke-echad* to allow these two events to occur in unison and thereby validate halakhic deliveries of 'get.' How might we explain this seemingly illogical phenomenon?

One approach is to simply accept the paradox and allow its extension to analogous situations. Essentially, Halakha recognizes unmanageable situations and allows violations of particular details in order to preserve the integrity of the system. Said otherwise: logically, a divorce should not be valid as it depends upon an event which itself depends upon a successful divorce. Such a trap is logically insoluble. However, at a macro level the system of Halakha cannot refuse effective delivery of 'get,' and therefore, it allows a built-in violation of its inner logic to preserve the integrity of the overall system. This seems to be a provocative view of Halakha, which allows two levels to the system. The basic level exhibits strict fidelity to a comprehensive system of laws and guidelines. But when encountering unacceptable halakhic paralysis, the system itself legislates its own violation in preservation of some larger goal.

An interesting Tosafot appears to extend this type of logic to an additional circumstance. The *gemara* in Ketuvot (11a) describes the process of converting minors who initiate interest in Judaism. Incapable of expressing halakhically recognized interest, the *Beit Din* must represent them in this conversion through the mechanism of '*zakhin*,' which allows unauthorized representation for purely beneficial interests. All Rishonim question the validity of this application of *zakhin* since the device does not apply to gentiles, and the child, prior to his conversion, is still a gentile. Here, too, Halakha faces an inoperable paradox: conversion depends upon the employment of *zakhin*, while *zakhin* depends upon a successful conversion to Judaism. Tosafot in Sanhedrin (68b) claim that we apply the *ba'in ke-echad* principle and allow the event of conversion and the event of *zakhin* to occur simultaneously.

Yet another extension can be witnessed within an interesting Rashba in Bava Kama (67a). Typically, a thief can attain full ownership upon a stolen item (while still being obligated to compensate the value) if, subsequent to the forfeiture of hope by the owner (*yi'ush*), he alters the item's name (*shinuy ha-shem*). Classically, he may alter the name by performing or allowing an empirical change which transforms the identity. However, one example of *shinuy ha-shem* is by dedicating an item to *hekdesh* - it was previously a 'mundane' item, but now is considered *hekdesh*. Many Rishonim question this situation since only a full owner can dedicate an item to *hekdesh*. However, to acquire that full ownership the thief must first effect a successful dedication!! To solve this riddle, the Rashba claims that the dedication and the acquisition occur simultaneously.

These two examples indicate the elasticity of this concept. Halakha possesses an agenda to allow conversions of minors, acquisition of stolen items and divorces. Particular logic may be violated to preserve the broader interests of the system.

Alternatively, a very different concept may be at play when considering *ba'in ke-echad*. The *gemara* in Yoma (12) discusses a situation in which the presiding *Kohen Gadol* becomes disqualified on Yom Kippur. In preparation for this incident, a reserve *Kohen* would be dedicated prior to Yom Kippur to step in as *Kohen Gadol* should the need arise. The question is asked, how can he be

formally entitled as *Kohen Gadol*? The *gemara* suggests that '*avodato mechankhato*' – he begins serving in this capacity, and the actual ceremonies he performs establish his identity. Analogously, the vessels of the Mikdash were lent their holiness by being daubed with *shemen ha-mishcha*. However, during the period of the second Mikdash, the *shemen* was unavailable. The *gemara* suggests that under these conditions '*avodato mechankhato*' – starting to actually use these vessels would launch their holy status. Presumably, we face yet another paradox of mutually dependent events which must occur simultaneously. In order for the *Kohen* to serve as *Kohen Gadol*, he must be inaugurated. However, his inauguration depends upon his ability to perform a valid ceremony on a day during which only a *Kohen Gadol* may serve. Similarly, in order for a vessel to attain holiness it must participate in Mikdash ceremony. However, to properly participate, it must be invested with prior *kedusha*. Presumably, this predicament is solved through the mechanism of *ba'in ke-echad*.

Yet, the *gemara* does not voice this language, and instead chooses the term '*avodato mechankhato*,' suggesting that a different logic allows this situation. Perhaps Halakha dictates that the release of certain prohibitions is effected by the performance of the prohibited action in a sanctioned context. Typically, *issurim* are released by physically *impactful* actions: the prohibition upon a live animal is released by the performance of *shechita*, while impurity is altered by immersion in a *mikva*. Sometimes physical actions are unavailable or unfeasible. In these 'rare' circumstances, the prohibition is removed by beginning to perform the prohibited action as a catalyst of the change in state. A *Kohen* becomes a *Kohen Gadol* on Yom Kippur by beginning to perform the duties of *Kohen Gadol* which were previously forbidden to him. A vessel of the Mikdash achieves its requisite *kedusha* by participating in Mikdash ceremonies and containing *korban* material - which prior to this inauguration was forbidden. Similarly, a woman is divorced (and her prohibitions released) by performing an independent *kinyan* upon the 'get'- an experience which was previously inaccessible. These situations reflect halakhic ability to change a state and remove a prohibition by performing the prohibited action as a sanctioned start to the new state. They are not halakhically allowed 'paradoxes,' rather but halakhically mandated ceremonies.

Of course, this latter logic would not allow for the extension of Tosafot in Sanhedrin. One cannot claim that the state of being a gentile is removed by performing the mechanism of *'zakhin*.' Inability to be represented by *zakhin* is not 'central' enough to a gentile's identity that its bold performance would remove his status of being a gentile. The prohibition performed would have to be a CHRACTERISTIC feature of the prohibited state, such that the performance of this prohibition would announce and generate the next state of 'permissibility.' Acting out *zakhin* for a gentile would not be characteristic enough to convey Jewish identity.

Whether this logic applies to the Rashba's application is an intriguing question. Performing an act of dedicating to *hekdesh* may herald a newly achieved state of ownership for a thief. What better manner to both demonstrate and achieve ownership than performing an act which was previously reserved for the prior owner. Alternatively, the fact that this action must be performed in the wake of prior '*yi'ush*' and cannot independently launch a new state of ownership may force us to question whether this case is a candidate for the aforementioned logic.