

## INSIGHTS FROM OUR CHABUROS

### Follow the Majority

כל קבוע כמחצה על מחצה דמי

**T**he Rishonim note that the source in the Torah from which we learn that we are to follow a majority is the verse in Shemos which states that a Jewish court can and should rely upon the majority view of judges who hear a case. We need not have a unanimous decision to rule. Yet this group of judges are set and established in their place as they deliberate and vote—they are קבועים. We only follow a majority when it is separated from its source, and not when it is still situated at its point of origination. How are we able to follow the majority in a case of קבוע?

The Mordechai (Chullin 1:593) explains that when Beis din follows a majority, it is not counting the judges themselves, but rather the words and opinions which issue from their mouths. The words are פירש, they are separated from their source, and it is comparable to the case of the piece of meat found in the street, removed from the store where it originated.

Alternatively, Mordechai explains that the rule that we do not follow a majority when it is found in its place of origin (קבוע) is only true when there remains some element of doubt which is unresolved. For example, let us consider a piece of meat whose origin is unknown. Whether it was found in the street or in one of the stores, we still do not know definitively from where it came. In this case, we can only follow the majority when the doubt originated after it was separated from its source. This is also true in the classic case of a person throwing a stone into a group of people, nine of whom are Jews and one who is a non-Jew. In this case, when one of the people is struck, the one who threw the stone must still go and determine who was killed. However, in the case of the judges, once the vote is taken, we clearly see who acquits and who attributes guilt. Here we can follow the majority, regardless of the judges being קבועים.

## PARSHA CONNECTION

**The number 10** figures prominently both in this week's daf as well as in the Parsha. Our daf discusses 10 stores, nine of them selling kosher meat and the 1 that sells non-kosher meat. As we shall see the 10 brothers of יוסף in this week's פרשה were also split into 9 and 1. The פסוק says "עשרה לשבר בר מצרים" יוסף עשרה לשבר בר מצרים, why did all ten travel to מצרים to get food, wouldn't it have been sufficient for one or two to go and get food for everyone? The מדרש רבה offers two answers. First, because יוסף expected his brothers to make it down to מצרים, he instituted a regulation limiting how much every person who come for food could obtain to only on one donkey load. יוסף did this to insure that all of his brothers would have to come down to מצרים. Second, the מדרש writes that only one of the brothers went down to purchase food while the other nine searched for יוסף. How did יוסף know when his brothers arrived in מצרים? The מדרש says that in addition to the regulation mentioned above, יוסף required each person entering מצרים to write his name, his father's name and his grandfather's name. He then יעקב, שמעון בן יעקב וכו' review all the papers each day. When he saw יעקב בן יעקב וכו' he knew that his brothers had arrived and had them all arrested.

## STORIES OFF THE DAF

### Fixed Times for Torah

"קבוע כמחצה על מחצה..."

**T**he previous Rebbe of Toldos Aharon, zt"l, once delivered such strong words of chizuk to inspire men to devote special times to learn that his words were posted publicly so that their impact could spread to other communities besides his own. The chizuk wasn't actually expressed in a speech—it had been the Rebbe's response to a question asked by one of his own chassidim. The questioner had asked, "A lot of people work and learn a little but are still not using their free time productively. Can the Rebbe please tell us how we might be able to stimulate them to be koveiah ittim l'Torah, to dedicate set times for Torah study?"

The Rebbe responded, "The concept of kevi'as ittim is a very deep one indeed. Even if one has a set hour of learning, and the Hafla'ah writes that although this might only represent a small portion of the day, we still hold that kavuah k'mechatzei al mechatzei, that when something is fixed, it assumes a far greater significance than the actual quantity of time would normally indicate. We learn this principle from Kesuvos 15; if nine stores sell kosher meat and one sells non-kosher meat in a particular area, and one bought from one of the stores and doesn't know which, the meat is forbidden. Even though the rule of thumb is that we follow the majority, since the kosher and the non-kosher were all sold in an established and fixed place, the makom kavuah enjoyed by the non-kosher store grants it an added degree of importance. This makes it as if half the stores in the area are selling non-kosher meat, which means that we have to assume that the purchase had a 50/50 chance of not being kosher in retrospect.

So too, if one learns even an hour a day on a fixed basis it is as if fully half his day was occupied in holy matters!"

The Vilna Gaon, zt"l, said: "We find that the word koveia also can refer to stealing... This is because very often one must literally steal the time to learn from a busy day!"

## HALACHA HIGHLIGHT Children Found After the Holocaust

ומי בעינן תרי רובי...מעלה עשו ביחוסין

*Do we require two majorities?... There is a higher standard for genealogical matters*

Following World War II representatives were sent to Europe to recover Jewish children that were given to non-Jews during the war for protection. On one occasion a non-Jewish woman presented a girl to these representatives and reported to them that this girl was given to her by a Jewish man during the war. The representatives brought this girl to Eretz Yisroel and she was raised in a religious institution that did not discuss with her this history. This girl grew up, married a Torah scholar and at some point became aware of her history and posed the following question. Is she allowed to presume that she is Jewish or should she undergo a conversion? On the one hand, one could argue that there is reason to believe the story related by the non-Jewish woman since it is unlikely that it was her own child, since people don't give away their children and the majority of children deposited by others during the war were Jewish. On the other hand, our Gemara teaches that concerning matters of lineage one majority is insufficient; accordingly the assertion that she is Jewish is not admissible.

Rav Yosef Shalom Elyashiv<sup>1</sup> thoroughly addressed many different aspects of this question. One issue that he discussed was the position of Rashi<sup>2</sup>. Rashi indicates that the principle that one majority is insufficient in matters of lineage is limited to cases involving kohanim. Therefore, in a case that does not involve a kohen a single majority is sufficient. The difficulty with relying on this position of Rashi is that the majority of later authorities reject Rashi's understanding of this principle and they apply it to all cases of lineage. Accordingly, since this woman does not have a second majority to support the conclusion that she is Jewish a conversion should be required. Nonetheless, Shev Shemeisa<sup>3</sup> writes that one could rely on Rashi's position in pressing circumstances. Since the question at hand is but one example of many people who are in a similar predicament, it is considered a pressing circumstance and thus he did not require this woman to convert.

1. קובץ תשובות ח"א סי' קל"א
2. רש"י ט"ו: ד"ה אבל ליחוסין
3. שב שמעתא ב'

## MUSSAR FROM THE DAF Better Together

לא צריכא: דאיכא תשעה ישראליים וגוי אחד ביניהם, דהוה ליה גוי קבוע, ובקבוע - על מחצה דמי

The Gemara explains that we view this group of people as קבוע, and therefore it has the status of מחצה דמי.

What would happen if this group of people was moving? Would it lose its status of קבוע?

The Binas Adam explains that even though the group is moving, it still maintains its status of קבוע.

We see from here a big Yesod. Oftentimes a person may want to separate from a group and do something on their own. The person may think they can accomplish more if they do things on their own, pace and own time. However, we see from this halacha, that if one is part of a group they are by definition Kavuah. A group has a stability that can keep an individual committed to a project long term even when challenges arise.

## POINT TO PONDER

The Gemara says that even in a city where most people are כשרים, we don't assume that a woman who is pregnant is carrying a child of כשר, because we don't know if he went to her or she went to him. If he went to her we have a כל דפריש מרובא פריש of רוב but if she went to him it's קבוע which is considered 50/50. Why can't we assume that the child is כשר because of a ספק ספקא? Did she go to him or not, and even if she went to him, it's still a ספק if he was כשר or פסול.

### Response to last week's Point to Ponder:

What is the halacha in a situation where it's half פסולים and half כשרים and the כהן who wants to marry her is part of the 50% כשרים, do we exclude him because he knows that he wasn't the one who was מאנס her?

According to the רבי עקיבא איגר the כהן would have to exclude himself from the count and make sure that without him there are enough כשרים.

## IYUN ON THE DAF

By Rabbi Yitzchok Gutterman

כל קבוע כמחצה על מחצה דמי

The סימן תרע"ג סעיף א in הלכות חנוכה brings from the תרומת הדשן that if you mix up your חנוכה candles with other candles then it isn't בטל because candles are a דבר שבמנין during the חנוכה which are not בטל. The ס"ק ו' ט"ז disagrees with the reasoning but agrees that it isn't בטל if the חנוכה candles didn't move and the other candles got mixed in with it since מחצה דמי. כל קבוע כמחצה על מחצה דמי. The פרי מגדים there says that this is incorrect since the rule of מחצה דמי is only said where the object is עצמו. However, if all the candles look the same and got mixed up then we would say it is בטל חד. בתרי.

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, [dafaweek.org](http://dafaweek.org), or download the app

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