

OVERVIEW of the Daf

1) Clarifying R' Yochanan ben Nuri's position (cont.)

Two rulings are cited that support the explanation that R' Yochanan ben Nuri followed the position of R' Yehoshua who agrees that when there are two majorities in a woman's favor she remains fit for kehuna.

A ruling cited in the name of R' Chanina is presented that also supports this explanation.

As the Gemara explains this ruling it clarifies the rationale behind the enactment that we do not follow a simple majority and require two majorities in her favor.

The assertion that two majorities is required is unsuccessfully challenged.

2) Items that are stationed in place קבוע

R' Zeira ruled that an item that is stationed is treated as if it has a probability of fifty-fifty whether that results in a leniency or stringency.

The Gemara inquires about the source for this ruling.

On the third attempt the Gemara identifies a Baraisa that serves as a source for this ruling.

A pasuk is identified that serves as a source for this principle.

3) The halacha concerning the Mishnah's case

Two conflicting versions of Rav's comment regarding our Mishnah are presented. According to the first version Rav ruled like R' Yosi's report of R' Yochanan ben Nuri's ruling whereas according to the second version Rav commented that the Mishnah's case was a special ruling due to unique circumstances.

The first version of Rav's position is unsuccessfully challenged.

It is noted that the resolution to the challenge is inconsistent with the second version of Rav's position.

4) An abandoned child

Rav and Shmuel disagree how to treat an abandoned child.

Shmuel ruling is successfully challenged and the Gemara revises its understanding of Shmuel's position.

The Mishnah's rulings on this topic are clarified.

הדרן עלך בתולה נשאת

5) **MISHNAH:** The Mishnah presents a dispute regarding a disagreement between husband and wife whether she was married as a בתולה and deserves a kesubah worth two-hundred zuz. A second case is presented related to a dispute concerning land where R' Yehoshua agrees with the principle הפה שאסר וכו' ■

Distinctive INSIGHT

When to follow the majority

כל קבוע כמחצה על מחצה דמי

The 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. ■

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HALACHAH Highlight

The status of children found after the holocaust

ומי בעינן תרי רובי ... מעלה עשו ביוחסין

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 Elyashiv¹ thoroughly addressed many different aspects of this question. One issue that he discussed was the position of Rashi². Rashi indicates that the principle that one majority is insufficient in matters of lineage is limited

REVIEW and Remember

1. Explain the principle of *כל קבוע כמחצה על מחצה דמי*.
2. What is the source that something that is fixed has a probability of fifty-fifty?
3. What is the genealogical status of an abandoned child?
4. How does a woman demonstrate that she was a בתולה at the time of her wedding?

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 Shemeisa³ 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 ליוחסין.
3. שב שמעתתא ב'. ■

STORIES Off the Daf

Setting Fixed Times for Torah Study

"קבוע כמחצה על מחצה..."

The 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 itim 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'mechatze al mechatze, 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!" ■