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Center for Modern Torah Leadership



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"Taking Responsibility for Torah"

HALAKHIC AUTHORITY AND RABBINIC RELATIONSHIPS

ANNUAL DVAR TORAH HONORING THE MEMORY OF RABBI OZER GLICKMAN Z"l

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My wife's driving instructor Tom Scott had a rule: Right-of-way must be given, never taken. What about halakhic authority? Must it be given, or can it be taken?

Most yeshiva students are taught to read the halakhic passages of Talmud with the goal of abstracting and depersonalizing the content. We care about the ideas, and we want the halakhah to be decided based on who has the stronger argument. Yet if we are honest, we cannot avoid recognizing that the formal rules of psak are often about who has authority.

How is that authority obtained? Is it apportioned solely on the basis of intellectual, spiritual, or pastoral merit, or do the personal and private interactions among halakhists affect them as well?

A snippet of halakhic sugya on Pesachim 100a may offer a window into this issue, or at least a useful platform for analyzing it.

Our snippet comes at the end of a sugya discussing the rules for eating on the eves of Shabbat, Yom Tov, and Pesach. An Amoraic statement that "The Halakhah follows Rabbi Yehudah on Erev Pesach" is interpreted as referring to a hypothesized argument between Rabbi Yehudah and Rabbi Yose about whether a person who was already in midmeal needs to end that meal at the moment Pesach begins. This hypothesis is supported by a beraita which records a parallel argument regarding Erev Shabbat:

[כ]דתינא:

מפסיקין לשבתות, דברי רבי יהודה;

רבי יוסי אומר: אין מפסיקין.

ומעשה ברבן {שמעון בן} גמליאל {ורבי יהודה} ורבי יוסי שהיו מסובין בעכו וקדש עליהם היום.

אמר לו רבן {שמעון בן} גמליאל לרבי יוסי

{ברבי} {ב"ר}

רצונך נפסיק, וניחוש לדברי יהודה {חבירו}?

אמר לו:

בכל יום ויום אתה מחבב דברי רבי יהודה, ועכשיו אתה מחבב

דברי רבי יהודה בפני?

הגם לכבוש את המלכה עמי בבית?

{אמר לו:}

אם כן – לא נפסיק, שמא יראו התלמידים ויקבעו הלכה לדורות.

{אמרו:}

לא זזו משם עד שקבעו הלכה כרבי יוסי.

as we learned in a beraita:

We break for Shabbatot, according to the words of Rabbi Yehudah;
but Rabbi Yose says: We don't break:

A narrative about Rabban [Shim'on ben] Gamliel. [Rabbi Yehudah],
and Rabbi Yose.

They were reclining in Acre when Shabbat came in (lit: when the day
became holy on them).

Rabban [Shim'on ben] Gamliel said to Rabbi Yose

Berebbe

Is it your wish that we break, and be concerned for the words of Yehudah
[our chaver]?

He replied: Each and every day you show affection for my words in the
presence of Rabbi Yehudah, and now you are showing affection for the
words of Rabbi Yehudah in my presence?!

"Will you even conquer the queen with me in the house?!"

[He said to him:] If so, we will not break, lest the students see and
establish the halakhah for all generations.

[They said]: They did not move from there until the halakhah had been
established as following Rabbi Yose.

The Talmud then reports an Amoraic statement that
presumably relates to the beraita:

אמר רב יהודה אמר שמואל:

אין הלכה לא כרבי יהודה ולא כרבי יוסי,

אלא: פורס מפה ומקדש.

Said Rav Yehudah said Shmuel:

The Halakhah follows neither Rabbi Yehudah nor Rabbi Yose,
rather: One spreads a cloth (over the food) and says kiddush.

Three brief notes about manuscript variants:

1. In some versions Rabbi Yehudah is present for the conversation, and in some he is not
2. In some versions there is ambiguity as to whether RSbG responds to Rabbi Yose, or whether instead "If so, we will not break, lest the students see and establish the halakhah for all generations" is still Rabbi Yose himself talking.

3. In some versions RSbG refers to Rabbi Yehudah as “our colleague.”

After a conventional presentation of the halakhic dispute between Rabbi Yose and Rabbi Yehudah, the beraita segues into a narrative. This narrative opens with one or both of the rabbis involved reclining at a meal with RSbG (in some versions Rabban Gamliel) on Friday at the moment of nightfall. RSbG turns to Rabbi Yose and asks him whether he wants them to break and “take into consideration” the position of Rabbi Yehudah. Rabbi Yose responds angrily.

Why is he angry? RSbG did not suggest that the Halakhah followed Rabbi Yehudah against him! In fact, it seems that RSbG deferred absolutely to Rabbi Yose, to the point of letting him decide whether they should even take Rabbi Yehudah’s position into account. This is even though RSbG is the Nasi, the head of the Jewish community and the academy.

Rashbam’s commentary offers a clue. He understands RSbG as addressing Rabbi Yose using a term of great respect, “Berebbi,” that is never used in direct address elsewhere. Moreover, his version has the Nasi implicitly set Rabbi Yose up as his equal, “our colleague.” This courtesy seems excessive.

I suggest that according to Rashbam, RSbG knows that he is walking on eggshells here. Most likely RSbG meant, and intended Rabbi Yose to understand, that he thought Rabbi Yehudah was correct on this issue, and intended to rule like him. But in Rabbi Yose’s presence, he preferred to present this as merely accounting for all positions, and he gave Rabbi Yose the opportunity to save face by endorsing this.

Rabbi Yose does not take the graceful way out. Instead, he lashes out at RSbG, accusing of at least inconsistency and perhaps hypocrisy, and of spectacular chutzpah, while comparing him to Haman. Possibly RSbG is cowed by the outburst and agrees to follow Rabbi Yose; or perhaps Rabbi Yose himself insists that they keep eating until it has been established that the Halakhah follows him.

In Rashbam’s reading, the Rabbis in the beraita understand each other perfectly. What we have is an authority struggle between RSbG and Rabbi Yose, which Rabbi Yose wins absolutely. It seems that halakhic authority can be “taken.”

Except that the sugya’s final comment undoes Rabbi Yose’s victory; Rav Yehudah in the name of Shmuel disestablishes the narrative’s halakhic conclusion, and perhaps the entire beraita, and instead adopts a position that can be viewed as either entirely new or as a compromise.

But we can also read the beraita very differently than Rashbam. Perhaps RSbG sees Rabbi Yose as more authoritative than Rabbi Yehudah – and tells Rabbi Yehudah so every day – but when both rabbis are present, he’d very much like to avoid making that hierarchy explicit. But Rabbi Yose misunderstands, and thinks that RSbG’s allegiance is wavering. RSbG responds to Rabbi Yose’s outrage with complete submission.

Both these readings are predicated on the assumption that rabbinic relationships affect rabbinic authority. What makes that assumption compelling in this story is Rabbi Yose’s memorable citation of Esther 7:8: *“Will you even conquer the queen with me in the house?!”* The reference to the verse is at once brilliantly clever and deeply personal. To rule like Rabbi Yehudah is one thing; to do so in Rabbi Yose’s presence is something else entirely. Never mind that Rabbi Yehudah is present as well – he is just an innocent bystander, a Charvonah. The queen is Torah, and RSbG is alienating her affection, whether by force of personality or by simple force. And without her affection, is Rabbi Yose still king? Note also that he regards himself as king even in the presence of the Nasi, who is the current link to the Davidic monarchy.

The verse may also help us choose between our suggested readings. Because the truth in Esther, of course, is that Haman is **not** conquering Esther in any way, let alone threatening Achashverosh. He is merely pleading for his life. Perhaps the beraita cites Rabbi Yose’s bon mot to undermine his perspective and teach us that he is badly overreacting to RSbG’s innocent attempt at preserving Rabbi Yehudah’s dignity.

Rabbi Yose’s assertion of his authority appears to work; They did not move from there until the halakhah had been established as following Rabbi Yose. Maybe there was a real risk that onlookers would misunderstand; maybe Achashverosh had no choice but to condemn Haman once he found him on the bed with Esther, whether or not he understood the true situation. Perhaps sometimes halakhic authority must and can be taken.

But maybe the risk was only in his mind. Perhaps everyone else knew that RSbG *always* followed Rabbi Yose, and would have immediately realized that adopting Rabbi Yehudah’s stringency for one night was only a polite gesture. Rabbi Yose gains nothing, since the halakhah would follow him without a formal public establishment. And readers of the beraita must now suspect that his authority was *always* taken more than given (even if in fact it originally stemmed from the clarity of his analysis, *נימוקו עמו*). In the long run, perhaps that is what emboldens Shmuel to disestablish the precedent Rabbi Yose insisted on setting.