

Semicha: Then and Now

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The institution of semicha was introduced to the Jewish people when Hashem commanded Moshe to designate Yehoshua as his successor by placing his hands on his disciple's head (Bamidbar 27:23). The Gemara (*Sanhedrin* 13b) comments that from that time on, semicha is no longer given in this manner, but rather through a declaration, by a teacher calling his student "rebbe" and giving him permission to impose fines ordained by the Torah. That same passage also informs us that we no longer have the concept of genuine semicha in our days. The transmission of semicha must be done by someone who himself received semicha through a continuous chain dating back to Moshe Rabbeinu. At some point in history, this chain was interrupted. Though we no longer have this genuine semicha, both its original characteristics and its absence have ramifications for us today.

We can glean further hashkafic insight from the words of the Rambam. In his description of semicha, the Rambam writes:

We do not ordain outside of Israel, even if those providing ordination were ordained in Israel.

Rambam, Hilchos Sanhedrin 4:6

אין סומכין זקנים בחוצה לארץ ואע"פ שאלו
הסומכין נסמכו בארץ ישראל.
רמב"ם הלכות סנהדרין ד:ו

Semicha may only be conferred in Eretz Yisroel and in a public fashion.³ In his *Commentary* to *Bechoros* (ch. 4) the Rambam explains that the need for semicha to be conferred in Eretz Yisroel is due to the fact that semicha requires the approval of the Jewish people who reside in Eretz Yisroel. This mitzva, along with *Egla Arufa* (the axed heifer), *Kiddush Hachodesh* (sanctification of the new month), and *Par Helem Davar Shel Tzibbur* (sacrifice for atonement of the entire nation) are all mitzvos that are dependent on Eretz Yisroel, in consonance with the Jewish population living there.⁴ Why can these mitzvos only be performed in Eretz Yisroel? They are

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³ See *Hilchos Sanhedrin* 4:3 and 4:5. This may serve as a basis for our custom to conduct a Chag Hasemicha.

⁴ See *Nefesh Harav* p. 80 and *Shiurei Harav, Sanhedrin* 14a.

not agricultural mitzvos. Rav Soloveitchik explained that these mitzvos only apply in Israel even though they are not dependent on the land, because they are obligations that are incumbent on the *tzibbur* (congregation). The true *tzibbur* is defined only by those who reside in Eretz Yisroel; those in Israel have the *kedusha* (sanctity) associated with the *Bris Avos* (the covenant of the forefathers).⁵ This is a powerful lesson for us to contemplate, as it reinforces the significance and centrality of the Land of Israel in Judaism.

On a more practical level, how does the absence of genuine semicha manifest itself in our time? The answer depends on how we determine which situations actually require a rabbi with semicha to decide. This discussion seems to revolve around a disagreement between Tosfos and the Rambam. Tosfos (*Yevamos* 47a) appear to assume that semicha is a requirement for membership on a *beis din*. Any time a *beis din* is needed to rule on a case, only individuals with semicha can sit on the *beis din*. The Rambam disagrees and rules that semicha is not a requirement for the *beis din*. Rather, any *hora'ah*, or halachic decision, can only be made by one who has received semicha. Let us consider some cases in which this disagreement is relevant.⁶

The Gemara (*Sanhedrin* 2b) explains that while cases of *g'zeilos* (theft) and *chavalos* (damages) require a *beis din* of three judges, the Amoraim disagree regarding *hodaos* (admissions of obligation) and *halvaos* (loans). The Rambam (*Sanhedrin* 2:10) writes that on a Torah level, even one judge will suffice. When codifying this halacha regarding the requirement of a *beis din* for *hodaos* and *halvaos*, the Rambam (*Sanhedrin* 5:8) states that where an individual judges such a case on his own, he must have semicha. The Ramach commenting on the Rambam (and according to Rav Soloveitchik, Tosfos are of the same opinion), on the other hand assumes that an individual judging such a case on his own does not require semicha. This would appear to be dependent upon the aforementioned disagreement. According to the Rambam, semicha is required any time a *hora'ah* (halachic ruling) is given. Therefore, even in a situation where one person is judging, it is still considered *hora'ah* and semicha is required. According to Tosfos, semicha is a requirement for *beis din*, and when one person is judging he is not acting as a *beis din*. The fact that one person can judge is evidence that a *beis din* is not required. Therefore, semicha is not required either.

Another area of application is in the laws of *gerus* (conversion), which Chazal also tell us requires a *beis din*. Tosfos (*Yevamos* 47a) comment:

If one will ask: how do we [nowadays] accept converts? Doesn't conversion require ordained rabbis? One can answer that we act as the agents [of ordained rabbis of earlier generations].

וא"ת ואנן היכי מקבלין גרים הא
בעינן מומחין וי"ל דשליחותיהו
עבדינן.

Conversion requires a *beis din* of three. How then can we accept *gerim* today when we no longer have semicha? Tosfos answer by employing the concept of "*shlichusayhu kaavdinan*." The Gemara, *Baba Kamma* 84b, states that judges today act as agents of the judges of earlier generations who did have semicha and can perform certain acts that would otherwise require semicha. The Rashba (ad loc.) questions this resolution on grounds that the concept of *shlichusayhu* is a rabbinic enactment and cannot suffice for application in a Torah law, such as

⁵ See *Chamesh Drashot* p. 92-93 in the footnote.

⁶ See *Eretz Hatzvi*, *Siman* 32 and *Shiurei Harav* *Sanhedrin* 2a.

gerus. Rather, the Rashba explains that a *beis din* for *gerus* does not actually require judges with semicha. The Rambam, who omits the requirement of semicha in his description of the *beis din* for *gerus* (*Issurei Biah* 13:6), may be in agreement with the Rashba.

It would appear that this disagreement may be dependent on our earlier explanation. According to Tosfos, because semicha is a requirement for *beis din*, the members of the *beis din* for *gerus* would require semicha like any other *beis din*. Without the *shlichusayhu* principle, we would not be able to perform *gerus* nowadays. According to the Rambam, however, it may be that semicha is only required when a *hora'ah* is given. In the case of *gerus*, the *beis din* is only effecting or confirming the *gerus*, but not giving a *hora'ah* that this person is a valid convert. In this fashion, halacha differentiates between a *beis din* which is *mekayem* (confirms) and a *beis din* which is *moreh* (rules). [A similar phenomenon is found regarding the *beis din* for *chalitza*.]

Based on the Gemara referenced earlier, the Rambam writes:

One cannot ordain, which is the appointment of an elder to be a judge, unless there are three [judges] one of whom was ordained from others.

Rambam, Hilchos Sanhedrin 4:3

ואין סומכין סמיכה שהיא מינוי הזקנים
לדיינות אלא בשלשה והוא שיהיה האחד
מהן סמוך מפי אחרים.
רמב"ם, הל' סנהדרין ד:ג

The transmission of semicha requires three people, one of whom must have semicha himself. The Brisker Rav⁷ (on that Rambam) explains that the requirement of three is because the act of conferring semicha requires a *beis din*. However, this *beis din* is not pronouncing a *hora'ah*. Rather it is a *beis din hamekayem*, one that gives the title of semicha. As we have seen, according to the Rambam such a *beis din* does not need to be comprised of smuchim. The only reason why one of the members of the *beis din* is required to have semicha is that semicha requires an uninterrupted chain from Moshe to the new musmach. The role of the single musmach is not to give legitimacy to the *beis din* but to the semicha. We can suggest that Tosfos and the other Rishonim who require semicha for all acts of *beis din* would require all three members to have semicha in order to confer semicha on someone else.

Finally, the Mishna (*Sanhedrin* 86b) states that the punishment of a *zaken mamre* (one who rules against the *Beis Din Hagadol*) does not apply to a "*talmid*." Rashi explains that a *talmid* cannot be a *zaken mamre* because *zaken mamre* is someone who issues a formal *hora'ah* against the *Beis Din Hagadol*. Yet in defining a *talmid*, Rashi writes that a *talmid* is someone under the age of forty. At that age, one is not old enough to issue a *hora'ah* and therefore one is not considered worthy of *hora'ah*. The Rambam, however, (*Mamrim* 3:5) has a different definition of who is worthy of *hora'ah*. For these purposes, it is one who has semicha. This would appear to be based on the Rambam's understanding that a *hora'ah* requires one with semicha. If the individual who rules against the *Beis Din Hagadol* does not have semicha, then his decision is not classified as

⁷ Rav Soloveitchik actually suggested this explanation himself in 1957 before the Brisker Rav's commentary was printed. When he repeated it again in the 1970s, one of the students informed him that the same explanation was printed in the Brisker Rav's commentary on the Rambam and Rav Soloveitchik was pleased.

hora'ah.⁸ Any ruling that this individual issues would be considered good advice or a recommendation as to where to look for further guidance, but not a binding halachic statement.

If we don't have genuine semicha, what is the purpose of the semicha that is issued nowadays? Even though we no longer confer the original semicha, we may still fulfill Rebbe's institution (*Sanhedrin* 5b) that one cannot issue rulings (or for the Rambam, even recommendations) without asking permission from his rebbe first. When a rebbe feels that his student is qualified to give halachic advice, he will give the student permission to do so. Semicha today authorizes new musmachim to respond to halachic questions. Its purpose is more to adhere to the statement of Rebbe than a commemoration of what semicha used to be.⁹

⁸ For more on this disagreement between Rashi and Rambam, see *Igros Moshe, Choshen Mishpat* 1:1.

⁹ See *Mipinei Harav* p. 224 for a reference to this in a drasha given by Rav Soloveitchik at a Chag Hasemicha to explain the humility required of a rabbi.