



# Shabbat Table Discussions

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Yeshiva University  
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## COMPROMISING WITH OTHERS

DEDICATED BY SHAYNA AND BRAD SOMER IN HONOR OF THEIR CHILDREN: SHOSHANA, SHMUEL, AKIVA, EZRA AND RAFI

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Two sisters were arguing about the only orange available in the house. The older sister argued that she should get the orange because she is older, while the younger argued the opposite.

**Ending #1:** After an hour of heated debate, they decide to split the orange. The older sister used the peel for a recipe and discarded the rest. Her cake didn't come out as well because the recipe called for a whole orange peel. The younger sister squeezed the juice out of her half orange and discarded the peel. She didn't get as much juice as she would have liked.

**Ending #2:** The two sisters had a discussion about why they need the whole orange. They quickly learned that they can both have what they want because the older sister only wants the peel and the younger sister only wants the juice.

When two parties disagree, the issue, if resolved, is usually resolved through some type of compromise. While compromising can be a very good solution, it can present its own set of challenges.

### Let's look at the following scenarios:

#### CASE ONE

The boys of the class are having an argument about how to split up teams fairly during recess. They ask Dov, who has a broken arm and cannot play, to split up the teams for them. Dov would love to help them but he knows that no matter how he splits them up, someone is going to be upset at him. Should that stop him from helping?

#### CASE TWO

Dina feels that she always gives in when she argues with her younger brother, and thinks he should give in sometimes as well. She decides that next time there is an argument, she is not going to give in. Is her decision appropriate?

#### CASE THREE

Beth and Chani are assigned to work together on a school project and soon realize that they have two totally different ideas of what they want to do. Should they try to find a way to compromise, work on one of the ideas together, or go back to the teacher and ask to be reassigned?

### Examining the sources

#### The Benefits of Compromise

When two people have a monetary dispute, compromise is preferred. As Rambam teaches:

*Any rabbinical court that consistently engages in compromise is praiseworthy and regarding such a court the verse (Zechariah 8:16)*

כל בית דין שעושיין פשרה תמיד  
הרי זה משובח ועליו נאמר משפט  
שלום שפטו בשעריכם אי זהו

states "Execute peace and justice in your gates." What is the kind of justice that also includes peace? Compromise. Similarly, regarding David it states (Shmuel II 8:15) "David would execute justice and charity for his nation." What kind of justice also includes charity? Compromise.

**Rambam, Hilchot Sanhedrin 22:4**

משפט שיש עמו שלום הוי אומר זה ביצוע, וכן בדוד הוא אומר ויהי דוד עושה משפט וצדקה לכל עמו איזהו משפט שיש עמו צדקה הוי אומר זהו ביצוע והיא הפשרה.

**רמב"ם הלכות סנהדרין כב:ד**

## Question for the Table

- When a monetary dispute is settled through compromise, one party will receive more than what they were legally entitled to and one party will receive less. Why is this considered justice?

Not all rabbis in the Talmud agree that compromise is the best way of settling a monetary dispute. The Talmud quotes the opinion of R. Eliezer who opposes compromise and although his opinion is rejected, it does provide further insight into the concept of compromise:

*R. Eliezer the son of R. Yosi HaGelili says: It is prohibited to compromise and anyone who compromises is a sinner ... We find that Moshe Rabbeinu would say "let the law cut through the mountain (i.e. the law will not move even in the face of obstacles)" but Aharon was a lover of peace and a pursuer of peace and would find a way to make peace between two people.*

**Sanhedrin 6b**

רבי אליעזר בנו של רבי יוסי הגלילי אומר: אסור לבצוע, וכל הבוצע - הרי זה חוטא ... וכן משה היה אומר יקוב הדין את ההר, אבל אהרן אוהב שלום ורודף שלום, ומשים שלום בין אדם לחבירו.

**סנהדרין ו:**

## Questions for the Table

- How could R. Eliezer contend that Moshe and Aharon disagreed about the issue of compromise? Wasn't Moshe the ultimate authority on Jewish law, an authority that nobody could dispute?
- Does R. Eliezer really believe that what Aharon did as a lover and pursuer of peace was incorrect? Don't we generally praise Aharon for having these attributes?

Rashi and Tosafot both explain R. Eliezer's description of Aharon:

*When he heard that there was a dispute between two [people], before they would come to rabbinical court, he would pursue them and find a peaceful solution.*

**Rashi, Sanhedrin 6b**

אבל אהרן אוהב שלום ורודף שלום - וכיון שהיה שומע מחלוקת ביניהם, קודם שיבואו לפניו לדין היה רודף אחריהן, ומטיל שלום ביניהן.  
**רש"י סנהדרין ו:**

*Since he was not a judge and the case never came before him but before Moshe, it was certainly permissible for him [to make peace between the two parties.]*

**Tosafot, Sanhedrin 6b**

אבל אהרן - פי' כיון שלא היה דיין ולא היה הדין בא לפניו אלא לפני משה ודאי לדידיה שרי.  
**תוספות, סנהדרין ו:**

According to Rashi, Aharon pursued peace by trying to find a solution before the two parties came to court. The prohibition against compromise (according to R. Eliezer) only applies once the court process begins. According to Tosafot, Aharon was permitted to make a compromise because he wasn't acting as a judge. The prohibition against compromise only applies to a judge.

## Questions for the Table

- We are not judges in rabbinical court, but we may encounter a disagreement between two friends. What can we learn from Rashi's comment? What can we learn from Tosafot's comment?
- When a dispute is mediated outside of court, do you think the two parties are always happy? Do they blame the mediator when they don't like the result? Should this deter someone from getting involved in trying to make peace? How would you apply this to case #1?

### How Much Should One Give In?

Settling a disagreement doesn't necessarily require a third party to mediate. Two parties can come up with a solution on their own. How do the parties find a solution? Maharal of Prague writes that one who pursues peace can find solutions to disagreements by forgoing some of what they are entitled to:

*The idea of pursuing peace involves telling one's friend that one is prepared to pardon the wrongdoing of the friend and not stand one's ground.*

**Derech Chaim 1:15**

כל ענין מי שהוא רודף שלום שיאמר לחבירו  
שיהיה מוותר מה שעשה לו חבירו ולא יעמוד  
על מדותיו.  
דרך חיים א:טו

Does this mean that one should give in anytime there is a dispute in order to preserve peace? Are there limitations to how forgiving one should be? At first glance, the Mishna seems to say that one who is always forgiving is considered pious:

*[One who says]: What's mine is yours and what's yours is yours is considered pious.*

**Pirkei Avot 5:10**

שלי שלך ושליך שלך חסיד.  
אבות ה:י

## Questions for the Table

- Is the Mishna really recommending giving away everything to others? Are there any limitations on how accommodating we should be?

Rambam and Maharal qualify the Mishna. Rambam notes that the Mishna's use of the term "*chasid* (pious individual)":

*We have already established in this essay that the pious individual is someone who is generous in performing good deeds, meaning one who tilts **slightly** towards one of the extremes. [Rambam is stating the pious individual can be more accommodating than the average person, but not overly accommodating].<sup>1</sup>*

**Rambam, Commentary to Mishna, Avot 5:10**

הנה התבאר בזה המאמר  
שהחסיד הוא שירבה  
בפעולות הטוב רצה לומר  
שיטה לאחד משני הקצוות  
מעט.  
פירוש המשנה לאבות ה:י

Maharal also follows this approach and provides further explanation:

*There are some who ask: How is it possible to say "what's mine is yours and what's yours is yours" is considered pious? [Is it possible] that one should not care about one's own possessions and give everything away to others? ... This question has no substance because the rabbis certainly did not discuss someone who is overly accommodating ... what they said*

יש מקשים איך אפשר לומר שלי  
שלך ושליך שלך יהיה חסיד שלא  
יהיה מקפיד על שלו ויתן כל אשר לו  
לאחרים ... והכל אין בו ממש כי  
בודאי לא דברו חכמים על מי שהוא  
מוותר יותר מדאי ... אבל מה שאמרו

here "What's mine is yours and what's yours is yours is considered pious" means that one should be forgiving up to twenty percent [referencing the rabbinic decree (cited in Ketubot 50a) that one should not give more than twenty percent of one's wealth to charity] or whatever is reasonable.

**Derech Chaim 5:10**

כאן שלי שלך ושליך שלך הוא חסיד  
היינו שהוא מוותר עד חומש או  
כאשר ירצה לפי הראוי.  
דרך חיים ה:

## Questions for the Table

- Both Rambam and Maharal state that one should be slightly generous towards others but within reason. What do you think happens if someone is too extreme?
- How would you apply this to case #2? How does one objectively determine what is reasonable? Is it possible that Dina's brother also feels that he always gives in?

### Finding an Effective Compromise

Sometimes both parties recognize the value of compromise and are willing to make certain concessions, but still have trouble coming up with a satisfactory compromise. This is because the compromise doesn't put them in a better position than if they would totally give in and it sometimes puts them in a worse position. Let's consider case #3. If Beth and Chani would compromise by each independently producing half of their own idea, they would come up with two half projects, neither of which would be satisfactory. They would have been better off choosing one of the two ideas and working on it together. In matters of Jewish law, our Rabbis gave special consideration to rulings that serve as a compromise or resolution between two dissenting opinions:

*R. Yochanan stated: The law follows the position of the one who presents the compromise.*

**Berachot 43a**

אמר רבי יוחנן הלכה כדברי המכריע.  
ברכות מג.

At the same time, our Rabbis recognized that certain positions appear to be compromises, but in reality, are third positions that don't provide any compromise and should not be given special consideration:

*A compromise offering a third position is not a valid compromise.*

**Chullin 137a**

אין הכרעה שלישית מכרעת.  
חולין קלז.

R. Menachem Meiri presents one approach to what constitutes a valid compromise:

*A compromise offering a third position is when one expresses a position that doesn't follow either opinion, even if it is a middle position between the other two ... it doesn't serve as a valid compromise but rather as a [third] dissenting opinion. However, a valid compromise is when the position takes one aspect of one opinion and one aspect of the other opinion.*

**Beit HaBechirah, Chullin 137a**

הכרעת שלישי הוא שזה מחדש  
דעת שלישי שלא כזה ושלא כזה אע"פ  
שהוא ממוצע בין שניהם ... ואין זה  
מכריע אלא חולק אבל הכרעה גמורה  
היא כשהוא תופס דברי האחד בדרך  
אחת ודברי השני בדרך אחרת.  
בית הבחירה, חולין קלז.

Let's say for example, a family is having a discussion about what to eat for dinner. Certain family members want chicken and certain family members want macaroni and cheese. Choosing fish would be considered a compromise offering a third position because nobody expressed interest in eating fish.

However, if those choosing chicken have expressed interest in having a meal that is high in protein and those who are interested in macaroni and cheese have expressed interest in a meat-free meal, then fish would be a good compromise.

## Questions for the Table

- Can you think of examples of two ideas for a project where a compromise can be worked out? Can you think of examples where a compromise cannot be worked out?
- Are there times when compromise is inappropriate?
- In case #3, if a compromise cannot be worked out, should they choose one of the two ideas or go back to the teacher and ask to be reassigned?

Compromise can be an effective way of resolving a dispute between two parties. Someone involved in helping two parties come to a compromise is emulating the character traits of Aharon. While there is no guarantee that both parties will be satisfied with the results, the “mediator” may be more successful by helping the two parties come to a compromise on their own. As Maharal teaches, this is accomplished by each party making reasonable concessions. Both parties should figure out a solution that makes sense and has elements of each side. Arbitrary compromises may not satisfy either side’s needs.

The story of the sisters and the orange is attributed to management expert Mary Parker Follett and illustrates that certain conflicts can be resolved without concessions but through integration. The solution to a conflict may not always be as simple as giving one person the peel and one person the juice. However, when both parties work towards understanding the other’s position and are willing to make reasonable concessions, the conditions are ideal for finding a peaceful solution that satisfies both parties. In 1932, Jean Piaget wrote *The Moral Judgment of the Child*, where he suggested that an important part of the development of children is to learn how to discuss, compromise and negotiate when dealing with conflicts among peers. Piaget’s suggestion continues to play a role in modern psychological theory.<sup>2</sup> Willingness to compromise and make concessions is a trait that we should try to acquire. Our Rabbis emphasized this idea in stating:

*Those who are forgiving of others will be forgiven for their own wrongdoings.*

**Rosh HaShanah 17a**

כל המעביר על מדותיו מעבירין לו על כל פשעיו.

**ראש השנה יז.**

*Compiled by Rabbi Josh Flug, Director of Torah Research, Yeshiva University's Center for the Jewish Future*

## BIOGRAPHICAL SKETCHES OF AUTHORS CITED

**R. Moshe ben Maimon** (also known as Rambam and Maimonides, 1138-1204) is one of the most famous rabbis in Jewish history. His works on Jewish law and Jewish philosophy are extremely influential and are studied regularly by students of Jewish law and philosophy. He began his life in Cordoba, Spain but eventually settled in Egypt.

**R. Shlomo Yitzchaki** (also known as Rashi, 1040-1105) is arguably the most popular commentator on Tanach and Talmud. His commentaries are considered standard for almost all printings of Tanach or Talmud containing commentary. He lived in Northern France.

**R. Yehuda Loew** (also known as Maharal of Prague, c. 1520-1609) spent most of his career as the rabbi of Prague, Czechia. His writings on Torah, Talmud, Jewish philosophy and mysticism are considered influential works. He is popularly known for creating a golem (kabbalistic creature) to protect Jews from anti-Semitism, though historians question whether such an event took place.

**R. Menachem Meiri** (1249-1306) was a Spanish scholar. He is most well known for his *Beit HaBechirah*, a commentary on the Talmud. He was heavily influenced by the teachings of Rambam.

**Mary Parker Follett** (1868-1933) was an innovator in the field of management, known by some as the “mother of Scientific Management.” She served as a consultant to President Theodore Roosevelt as well as some large corporations.

**Dr. Jean Piaget** (1896-1980) was a French developmental psychologist. His theory of cognitive development, which focuses us on how human intelligence develops, still serves as a model among modern psychologists and educators.

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<sup>1</sup> Rambam is referring to his introduction to *Pirkei Avot* titled *Shemoneh Perakim*, chapter 4. He writes that although it is generally recommended to follow the middle path regarding one’s character traits, a pious individual may decide to tilt slightly towards one of the extremes as long as it doesn’t have any negative implications. As such, Rambam is stating the pious individual can be more accommodating than the average person, but not overly accommodating.

<sup>2</sup> See *Developmental Psychology: An Advanced Textbook*, Borenstein and Lamb eds. (1999), pg. 454.