

CENTER FOR MODERN TORAH LEADERSHIP



THE MEANING IN THE MICROSCOPIC Rabbi Aryeh Klapper, Dean

The principle that *Halakhab* ignores the microscopic is well-entrenched in the Orthodox mind. We have some debate about the tiny lobsters (cephalopods) that populate urban reservoirs and give NYC drinking water its pleasing if sub-audial crunch, but only because the largest of them can, under the right circumstances, be seen by the naked eye. But in a different *kasbrut* context, most halakhists for at least 800 years have vehemently denied this principle and insisted on the relevance of the microscopic and even the infinitesimal.

I don't as yet have a compelling resolution for this contradiction, or even a plausible articulation of what is/was at stake philosophically or practically. But developing such resolutions and articulations seems to me desirable and might be important, so I ask your indulgence for a presentation of the evidence, and look forward to suggestions and critiques.

The last two verses of *Parashat Shemini* read:

זאת תורת הבהמה והעוף
וכל נפש החיה הרמשת במים
ולכל נפש השרצת על הארץ להבדיל
בין הטמא ובין הטהר

ובין החיה הנאכלת ובין החיה אשר לא תאכל

*This is the instruction-set for domestic animals and birds
and for every living creature that creeps in the water*

*and for every creature that swarms on the land to distinguish
between the tamei and tahor and between the living which is eaten and
the living which must not be eaten*

Rashi comments: "להבדיל"

לא בלבד השונה

אלא שתהא יודע ומכיר ובקי בהן

"בין הטמא ובין הטהר"

צריך לומר בין חמור לפרה והלא כבר מפורשים הם

אלא בין טמאה לך לטהורה לך
בין נשחט חציו של קנה לנשחט רובו

"To distinguish" –

not merely to study the verbal formula

but that you should know and recognize and be expert in them.

"between the tamei and tahor" –

*does it need to say this regarding donkeys and cows? They are already
(distinguished) explicitly!? Rather it means between those which are tamei to
you and those which are tahor to you,*

*between those which had half the windpipe cut and those which had most of
the windpipe cut*

Ramban cites Rashi and then seems compelled to warn sternly against a possible misinterpretation of Rashi's source, which Rashi himself did not cite:

וקתני התם (פרק יב ז)

וכמה הוא בין רובו לחציו, כמלא שיערה

ולא תחוש בזה ממה שאמרו בגמרא (חולין כט א)

רוב הנראה לעינים בעינין

שאינן פירושו אלא להוציא מדברי האומר מחצה על מחצה כרוב

ולכך אמרו דבעי שיהא השחוט רוב ממש כדי שיראה לעינים

לא המחצה שנחשוב אותו בלבנו ונאמר רוב הוא השחוט

מאחר שאין במה שלא נשחט יותר ממנו

אבל כל שישחוט ממנו יותר מן החצי כשר הוא

ואפילו כמלא חוט השיערה

כדמפורש בזו הברייתא

ואף בגמרא כך הוא עולה

It says further (in the Midrash Halakhah):

*How much is the difference between half and most? The width of a hair.
Do not be concerned here about the Talmud's statement (Chullin 29a)*

"we require a majority which is visible to the eye,"

*as that only means to exclude the position that an exact half counts as a
majority.*

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That's why they say that we require an actual majority that is visible to the eye,

not a half that we consider in our minds and say that most of it was cut since the part which was not cut is no greater than it.

But so long as they cut more than half of it is kosher, even if it is only more by the width of a hair,

as is explicit in that beraita and the Talmud works out that way as well.

Why is Ramban so concerned about this misinterpretation?

Likely key is his admission that while the *beraita* is explicit that the difference between half and majority is a hairsbreadth, the Talmud's language suggests that the difference be visible, and must be massaged to mean otherwise. Moreover, Rashi on the Talmud seems to be trying to preemptively exclude Ramban:

"רוב הנראה לעינים"

כלומר רוב גמור שהוא ניכר

"a majority which is visible to the eye" –

Meaning, an absolute majority which is recognizable.

Ramban on the Talmud is hypersensitive to this issue as well, and insists that neither Rashi nor Rabbi Yitzchak Alfasi (RIF) could have meant otherwise.

והא דאסיקנא בשחיטה דבעינן רוב הנראה לעינים

פירש"י ז"ל שיהא רוב גמור וניכר

פי' לפירושו לאפוקי מחצה על מחצה שאינו כרוב

שכל שהוא יותר ממחצה נראה לעינים הוא

ואין פירושו כענין שאמרו בברכות (מ"ח א') רובא דמינכר בעינן

שהוא רוב גדול שניכר מרחוק...

ולא היה צריך רבינו הגדול ז"ל לכתוב בהלכות ודוקא רוב הנראה לעינים

דהא תנן: חצי אחד בעוף ואחד וחצי בבהמה [שחיטתו פסולה] אבל נראה שהוא מסכים לפי' שכתבנו ואין בו בית מיחוש

That which we conclude that regarding shechitah we require a majority visible to the eye,

Rashi explains that it means a majority that is absolute and recognizable

The explanation of his explanation is (that he means) to exclude half/half, which is not considered a majority,

as anything more than half is visible to the eye

and it does not mean something like Berakhot's "we require a

recognizable majority," which means a majority that can be recognized from a distance . . .

and RIF did not need to write "and specifically a majority that is visible to the eye,"

as the Mishnah teaches that: "(if be cut) half of one (of the trachea and esophagus), in birds and animals, his shechitah is invalid,"

but it seems that he agrees with what we have written and there is no basis for concern about this.

Now *Chullin* 29a is discussing a dispute between Rav and Shmuel as to whether half counts as a majority. The issue for us is whether the category half/half extends to cases which are visually indistinguishable, or not. The Talmud says that Shmuel's position that half is insufficient requires a visible majority, which on its surface means that an invisible majority counts only as half. RIF goes out of his way to emphasize that a majority means "specifically a visible majority" and Rashi adds his own adjectives: "absolute and recognizable." Rashi's use of "recognizable" is likely a reference to *Berakhot*, which requires a majority of seven to be obligated for a *minyan* to be valid, rather than six. Ramban nonetheless insists that everyone agrees that even an infinitesimal difference between halves makes the larger section the halakhic majority.

What motivates Ramban? His proofs for his position are: (1) the language "majority visible to the eye" is also the criteria for determining whether an animal can still be slaughtered if its windpipe has already been cut; and (2) the *midrash halakhab* asserts that the difference between half and majority is a hairsbreadth. But on examination, both proofs are circular. Regarding (1), why is it obvious that an animal which has most of its windpipe cut is a *treifah*, so long as the majority is not recognizable? And (2): the boundary has to fall somewhere; wherever it falls, only a hairsbreadth will divide the two sides.

Nonetheless, Ramban's position and interpretation become, so far as I can tell, completely normative in the medieval period. The next suggestion that anyone ever held a contrary position is in the 16th century, when Maharshah to *Chullin* records the following:

ובמקצת ה' שחיטה כתוב

בעינן רוב הנראה לעינים אבל לא רוב במדידה

וליתא. ובישינות כ' ז"ל

בעינן רוב כשיעור, אבל לא המשוער בלב

Some versions of (a standard medieval) Laws of Slaughter have written:

"we require a majority visible to the eye, not merely a measurable majority." But this is not so

and in the ?older versions? it is written

"we require a majority by quantity, not one which is merely estimated"

Note that Maharshah, like Ramban, not only disagrees with this position but denies its existence, attributing it to scribal error. I eagerly await your suggestions as to why this issue seemed so vital to Ramban and Maharshah, and your reconciliations of this *Halakhab* with our disregard of the microscopic in other contexts. *Shabbat Shalom!*

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