

The Institution of *Semicha*

Everyone has heard of the concept of *semicha*, where a person is given permission to issue *halachic* rulings. What is less known, however, is that the *semicha* which we have today is a far cry from the original *semicha* discussed in this week's *parsha* which continued for sixteen centuries. In this week's article we will discuss the background of both forms of *semicha*.

As the same word – *semicha* – is used to refer to both forms of ordination, please note that the first half of the article will discuss the original form of *semicha* exclusively.

Courts in Jewish Law

Before we begin the actual topic, it is worthwhile to first introduce the basis for our court system as found in Torah and Rabbinic Law. The Torah calls the judges on a *beis din* “*Elohim*” (see *Shemos* 21:6 and *Rashi* ad loc.). The *Rishonim* explain that “*Elohim*” refers *specifically* to a *beis din* comprised of judges who have *semicha* in *Eretz Yisrael* (*Rambam*, *Hilchos Sanhedrin* 5:8; *Semag*, *Asin* #97, s.v. *Moshe*). Thus, the Torah awards authority only to *batei din* in *Eretz Yisrael* whose judges have *semicha*. The *Gemara* tells us in several places that the *batei din* in *chutz la'aretz* are granted authority to adjudicate by virtue of the fact that they are representatives of the *batei din* in *Eretz Yisrael* (“*shelichuseihu avdinan*,” “we are fulfilling their charge”) [*Gitin* 88b and *Bava Kama* 84b]. We will see later in the article that the fact that the *batei din* in *chutz la'aretz* are merely fulfilling the charge of their counterparts in *Eretz Yisrael*, creates a situation where the former's authority to adjudicate is limited. This was true during the era of *semicha*. Now that we no longer have *semicha*, all the *batei din*, both in *Eretz Yisrael* and in *chutz la'aretz*, are fulfilling the charge of the earlier *batei din* when there still was *semicha*.

The Source

The source of the concept of *semicha* is found in this week's *parsha*. Hashem instructs Moshe, “Take to yourself Yehoshua bin Nun, a man in whom there is spirit, and lean your hand upon him” (*Bamidbar* 27:18). The Torah then says, “Moshe did as Hashem had commanded him. He took Yehoshua... He leaned his hands upon him” (ibid. 22-23). According to the *Gemara* (*Sanhedrin* 13b), this “leaning of the hand” mentioned in the *pasuk* is Moshe ordaining Yehoshua.

What was this “*semicha*” that Moshe did to Yehoshua? The *Gemara* and the commentators of the *Chumash* provide different answers, and some of these explanations are the basis for future applications of *semicha*:

1) On the simplest level, it refers to the leaning of the hands of the teacher onto his student. This is the literal translation of the *pasuk* and is evident from *Rashi*'s comment to *pasuk* #23. The *pasuk* there states that Moshe leaned his “*hands*” (plural) on Yehoshua, yet when Hashem earlier commanded him to do so, He used the singular

“hand.” *Rashi* writes that Moshe was being generous and doing more than he was commanded.

2) *Rashi*, in his comments to *pasuk* #18, tells us of another aspect of Moshe’s *semicha* to Yehoshua. Moshe was to instruct Yehoshua give public discourses in Moshe’s lifetime. That way, people would not be able to complain against Yehoshua after Moshe’s passing, saying that he did not have the ability to lecture publicly during his teacher’s lifetime. The source of *Rashi*’s comment is the *Sifri* (*Pinchas* #140) where it adds that Yehoshua was given the right to issue *halachic* rulings.

The Expansion of the *Semicha*

Let us examine the words of the *Rambam* in order to get a better understanding of how the *semicha* expanded after the initial *semicha* of Yehoshua:

“Whether the Great *Beis Din* (i.e., the *Sanhedrin* of 71), or the Small *Sanhedrin* (of 23), or a *beis din* of three, it was necessary for one of them (i.e., one of the judges in any court) to have *semicha* from one who had *semicha*. Moshe gave *semicha* to Yehoshua with his hand, as it states: ‘And he leaned his hands upon him and commanded him.’ Similarly, Moshe gave *semicha* to the seventy elders and the Divine Presence resided upon them. Those elders gave *semicha* to others, and others to others. Thus, those who had *semicha* had it from person to person going back until the *beis din* of Yehoshua and the *beis din* of Moshe *Rabbeinu*” (*Rambam, Hilchos Sanhedrin* 4:1).

The Procedure

The *Mishnah* (*Sanhedrin* 2a) tells us that “*semichas zekeinim*” is performed by three people. The *Gemara* (ibid. 13b) explains that one of the connotations of “*semichas zekeinim*” is the act of giving *semicha* or ordination. How was this done? The *Rambam* describes the procedure as follows: “How is *semicha* performed in future generations (i.e., after Moshe)? It was unnecessary for them to place their hands on the head of the elder. Rather they would call him ‘*rebbe*’ and they would say to him: ‘You have *semicha* and you have permission to judge even cases of *kenasos* (penalties)’” (*Rambam, Hilchos Sanhedrin* 4:2).

The *Rambam* (ibid. 4:3) also explains that even though three people are required to confer *semicha*, only one of them has to be a “*samuch*” (i.e., someone who has received *semicha* from another individual who has *semicha*).

Kenasos* and *Semicha

As we just mentioned the concept of *kenasos*, we will explain it now.

All monetary payments that come about due to some type of damage or injury are divided into two categories: *mamonus* (from the word “*mamon*,” “money”) and *kenasos*. The category of *mamonus* includes those payments where the payment matches the damage caused. In the category of *kenasos*, on the other hand, the payment made is not equal to the damage caused.

Although there are numerous payments which fall into the category of *kenasos*, we will suffice with two well-known examples:

1) According to Torah Law, if a thief steals from someone and is caught, he must pay *keifel*, double the value of the stolen item (see *Shemos* 22:3).

2) If someone steals an ox or sheep and he then either slaughters it or sells it and is caught, he must pay four times the value of the sheep or five times the value of the ox (ibid. 21:37).

The *halachah* is that cases involving *kenasos* can be adjudicated only in front of three judges who have *semicha* (*Rambam, Hilchos Sanhedrin* 5:8). This is because, as we have seen, the primary authority of *beis din* is awarded by the Torah to one comprised of *semuchim*. *Batei din* in *chutz la'aretz*, whose authority rests in the fact that they are fulfilling the charge of the *batei din* in *Eretz Yisrael*, were never awarded the authority to adjudicate cases involving *kenasos* (see *Tur, Choshen Mishpat* 1:3).

Later on in the article, we will discuss other halachos that are affected by whether the judges have or do not have *semicha*.

The Purpose of *Semicha*

The *Sefer Hachinuch* (#78) explains the purpose of *semicha*: “The *semicha* is a testimony to them (i.e., the Jewish People), that those (who received *semicha*) are wise, intelligent and of high caliber (‘*chachamim unevonim vesheleimim*’) and it is fitting that all matters should be carried out by them. (This also indicates) that we will not have the death penalty issued by people who are lacking in wisdom.”

Location, Location, Location

The *Rambam (Hilchos Sanhedrin* 4:6) details where *semicha* can be conferred: “*Semicha* cannot be given to the elders in *chutz la'aretz*, even if those issuing the *semicha* received their *semicha* in *Eretz Yisrael*. If those conferring *semicha* are in the Land and those receiving it are in *chutz la'aretz*, *semicha* is not conferred. And it goes without saying (that *semicha* is not issued) if those receiving it were in the Land and those conferring it were in *chutz la'aretz*.

“If both (i.e., the ones giving the *semicha* and the ones receiving) were in the Land, *semicha* can be conferred even if they are not together with those receiving it in the same place. Rather, they send him a message or they write to him that he is *samuch* and they give him permission to judge cases of penalties.”

Once the members of a *beis din* have received their *semicha* in *Eretz Yisrael*, they are allowed to judge penalty law in *chutz la'aretz*.

Sixteen Centuries

The chain of *semicha* that began with Moshe, remained unbroken for over 1,600 years. It continued throughout the era of the *Tannai'im* and most of the *Amorai'im*. According to the *Ramban (Sefer Hazechus, Gittin* 18a) it lasted until Hillel *Hasheini*, a thirteenth-generation descendant of Hillel *Hazakein* and the compiler of our perpetual Hebrew calendar, until the year 4118 (358).

With and Without *Semicha*

There are several practical differences whether the judges of the *beis din* have *semicha* or not. One we have already mentioned at the beginning of the article, namely that without *semicha* the judges cannot preside over cases involving *kenasos*.

Another difference is that without *semicha* the judges cannot rule on capital offenses (*Rambam, Hilchos Sanhedrin* 14:14). It should be noted that aside from the reason of not having *semicha*, capital offenses can no longer be tried for a different reason. In order to allow these types of cases to be brought before a *beis din* anywhere, the seat of the *Sanhedrin* of seventy-one must be in the *Lishkas Hagazis*, the seat of the *Sanhedrin*, in the *Beis Hamikdash* (*Rashi, Rosh Hashanah* 31a, s.v. *meilishkan hagazis*).

Another ramification of the lack of judges with *semicha* has to do with the testimony of the witnesses. The *halacha* is that when witnesses testify in *beis din*, *lechatchilah*, they are supposed to stand up. This is the basic *halacha* (see *Shulchan Aruch, Choshen Mishpat* 17:1). However, there is an opinion in the *Rishonim*, cited by the *Beis Yosef* (*ibid.* 17:3) that maintains that this requirement is only when the judges have *semicha*. However, when the judges do not have *semicha*, the witnesses are allowed to testify while seated.

The Novelty of the *Rambam*

Before continuing with the next portion of our discussion, we first must examine the words of the *Rambam*. In his commentary to the *Mishnah* (*Sanhedrin* 1:3), the *Rambam* writes:

“I maintain that if there is an agreement among all the students and the sages to appoint a person over the *yeshiva*, meaning, that they will make him the head, on condition that this is done in *Eretz Yisrael*, that person will be a *samuch*. He may then give *semicha* to whomever he wants.”

Although in his commentary to the *Mishnah*, we see that the *Rambam* is quite definite in his opinion, in *Mishnah Torah*, he is slightly less so: “It seems to me that if all the sages in *Eretz Yisrael* agree to appoint judges and give them *semicha*, they are considered to be *semuchim* and may judge cases of *kenasos* and give *semicha* to others... and the matter needs to be decided” (*Hilchos Sanhedrin* 4:11).

Now let us discuss the events that unfolded based on this view of the *Rambam*.

The *Semicha* Controversary

The backdrop of the following events is that following the expulsion of the Jews from Spain in 1492, many resettled in *Eretz Yisrael* and wished to begin life anew. However, many of these Marranos were troubled by the fact that when they lived as Christians in Spain, they transgressed sins whose punishment was *kareis*. In order to alleviate their suffering, the *rav* of Tzefas, Rav Yaakov Beirav (*Mahari Beirav*) came up with an original idea. Following the view of the *Rambam* that we cited earlier, he would reestablish the *semicha* and recreate the *Sanhedrin*. This *Sanhedrin* of *semuchim* would then have the authority to punish people with *malkos*, lashes. By doing so, they would then be exempt from *kareis*. This is based on the *Mishnah* (*Makos* 23a): “All those who are liable for *kareis*, once they have received *malkos*, they are exempt from *kareis*.”

To that end, in 5298/1538, *Mahari Beirav* convened all the *rabbanim* of Tzefas and they give him *semicha*. He then began giving *semicha* to the *rabbanim* of Tzefas which

included Rav Yosef Karo (author of the *Shulchan Aruch*), Rav Moshe ben Yosef Trani (the *Mabit*), and Rav Moshe Cordovero (the *Ramak*).

However, these activities generated a great controversy. The leaning proponent against the initiative was Rav Levi ben Chaviv (*Maharalbach*), the *rav* of Yerushalayim. His main contentions against the project were:

- 1) According to the *Rambam*, it is necessary to receive the approval of *all* the *chachamim* in *Eretz Yisrael*, and he himself was not consulted.
- 2) It is not clear whether the *halacha* follows the *Rambam* in this matter. The *Rambam* himself writes in *Mishnah Torah* that the matter needs to be decided.
- 3) Recreating the *Sanhedrin* will draw in its wake other problems. The most prominent of which is that *Rosh Chodesh* will again be declared by *beis din* based on the testimony of witnesses.

In the end, nothing came of this attempt to renew the *semicha* (see *Radvaz, Hilchos Sanhedrin* 4:11; *Chazon Ish, Choshen Mishpat, Likutim* #1).

The Post-Semicha Semicha

As we mentioned earlier, the original *semicha* which began with Moshe giving *semicha* to Yehoshua, lasted until the era of the *Amora'im*. The current form of *semicha*, which is a testimony to the fact that the *samuch* (or *musmach*) is sufficiently knowledgeable in Torah scholarship to issue *halachic* rulings, is usually acquired in one of two ways: 1) a student studies under his *rebbe* for many years and the *rebbe* feels that the student is sufficiently knowledgeable, or 2) one approaches a *talmid chacham* to be tested after many years of study and is found to be proficient in his studies.

Although we do not know exactly when our current form of *semicha* came into being, it is discussed by the *Rishonim* and presumably began not long after the original *semicha* ceased. The *Rivash*, a fourteenth century *Rishon*, writes as follows:

“The *semicha* which is in practice in France and Germany functions as follows: When a student reaches a point that he is able to issue *halachic* rulings, he may do so. And, he is also obligated to issue rulings. This is based on a passage in the *Gemara* (*Avodah Zarah* 19b) which derives that the *pasuk* speaks very negatively against both students who have not reached the level of issuing rules and they do so nonetheless, and students who have reached that level and still refrain from doing so.

“However, because of a decree, the student may not issue *halachic* rulings unless he receives permission from his *rebbe* to do so, and this occurs when they call him ‘*rav*.’ This means to say that from this point forward, it is as if he is no longer a ‘student,’ and he is fitting to teach others anywhere and to be called ‘*rav*’” (*Shu"t Rivash* #271).

The Necessity of our Semicha

Rav David ben Chayim *Hakohein*, a sixteenth century *rav* and *posek*, explains why it is necessary to issue a *semicha* to someone who is becoming a *rav*:

“It is customary to issue *semicha* in order to inform everyone that this person is learned and has reached the level of issuing rulings, and he is fitting ‘to carry out the charge of judges of the earlier generations in *Eretz Yisrael*.’ [We will explain this term shortly.]

“All of this is necessary, as due to our sins that have multiplied, students who have not learned sufficiently don the mantels of their teachers and they take authority for themselves to issue *halachic* rulings. They cause much evil. Anyone wishing to do so does as he pleases.

“For this reason, the consensus is to give *semicha* to those who are fitting to issue rulings and to call them ‘*rabbi*.’ In this manner it will be known to all that anyone without *semicha*, does not have permission to issue rulings, is not fitting to do so and should not be relied upon” (*Shu”t Radach*, Bayis #18, #10).

Semicha Documents

At least as far back as the era of the *Rishonim*, it was customary for the one receiving *semicha* to be given a document attesting to that fact. *Rabbeinu* Yehudah bar Barzilai of Barcelona, a contemporary of the *Rosh* (late thirteenth century), writes in his *Sefer Hashtaros* (page 132) about a “*shtar masnich*.” By giving this document to the student, he was considered to be *musmach*. From that point forward he was to be called “*rabbi*,” he could be appointed as a *dayan* and he was to dress in the style of other *rabbanim*.

Ruling of the *Rema*

The *Rema* (*Yoreh Dei’ah* 242:14) writes: “The idea of *semicha* which we are accustomed to do nowadays is that the people will know that this person is competent to issue rulings, and those rulings are with the permission of his *rav* who gave him *semicha*.”

Semicha and Ruach Hakodesh

The *Toras Chayim* (*Sanhedrin* 14a) wonders why (the original) *semicha* could not be given in *chutz la’aretz*. He explains as follows:

The chain of *semicha* went back all the way to Moshe *Rabbeinu*, who received a “*ruach*,” or Divine Spirit from Hashem. When Moshe gave *semicha* to Yehoshua, he passed to him that “*ruach*.” Subsequently, when Yehoshua gave *semicha* to the *zekeinim*, and they in turn to future generations, that Divine *ruach* was passed on to each recipient of the *semicha*. Thus, everyone who gave *semicha* was conferring to the recipient that *ruach* which Hashem originally gave to Moshe. This is why the *dayanim* who have *semicha* are called “*Elohim*” in the Torah, for they contain within themselves that *ruach* that came from Hashem. And it is for this reason that *semicha* could not be given in *chutz la’aretz*, as *Chazal* tell us (*Mo’eid Katan* 25a) that the Divine Presence does not rest on a person in *chutz la’aretz*.

Let us pray to Hashem that He rebuilds the *Beis Hamikdash* speedily in our days and renews the *semicha* so that we can once again offer *korbanos* and benefit from the Divine spirit that will rest upon our *dayanim*.

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