



Shabbat Table Discussions

ENGAGING CONVERSATIONS TO ENHANCE YOUR SHABBAT EXPERIENCE

shabbattable@yu.edu



Yeshiva University
CENTER FOR THE JEWISH FUTURE

THE ETHICS OF WAITING IN LINE

Dedicated by Steven and Helena Usdan in loving memory of Irwin Usdan z"l

ISSUE #1
NOVEMBER 2010
KISLEV 5771

This packet is designed to initiate meaningful conversation at your Shabbat table. We hope that children as well as adults can benefit from the conversation. We invite you to read this packet ahead of the discussion to determine which parts of the discussion are relevant to your audience.

Waiting in a long line can be frustrating, particularly when it does not move quickly. In today's fast-paced society, we are constantly looking for ways to beat the line. Some of these strategies can present ethical challenges, especially when you consider that one's person's gain is another's loss. Let's look at the following scenarios:

CASE ONE	Michael often gets upset when his friends let others cut in front of them while waiting in line for lunch at school. One day, as it is almost Michael's turn, he notices a boy from another class with a cast on his leg and crutches under his arms. The boy looks very uncomfortable and Michael feels that this would be a good opportunity to bend the rules and allow this boy to cut in front of him.
CASE TWO	The Cohen family is on a family outing to an amusement park. The park is very crowded and there are long lines for all of the rides. The longest line is the line for the roller coaster. Rivka, the oldest daughter, volunteers to wait in line for the roller coaster while the rest of the family enjoys another ride.
CASE THREE	Steven and Jeremy are heading to a surprise birthday party for their aunt. They suddenly remember that they were supposed to buy the sodas and snacks for the party. They are already running late and if they have to wait in line at the supermarket to pay for the sodas and snacks, they will miss the surprise. Steven suggests that they can save some time if he waits in line while Jeremy loads the shopping cart.

PLEASE CONSIDER THE FOLLOWING QUESTIONS:

1. Which of the three cases represent ethical behavior (if any)?
2. When someone moves ahead in the line (rightly or wrongly), who does that affect?
3. If a person is ethically justified in moving ahead in the line, but the people in the line are going to be upset about it, should one forgo his right to move ahead?

It is important to keep in mind broader, overarching concerns before we discuss details relating to these cases. We are commanded to sanctify G-d's name (Kiddush HaShem). We are also commanded to be "good and upright" people. Ramban illustrates this idea:

[Our Rabbis] have said "[That which is right and good] refers to a compromise and going beyond the requirement of the letter of the law" ... **This is a great principle, for it is impossible to mention in the Torah all aspects of man's conduct with his neighbors and friends, and all his various transactions, and the ordinances of all societies and countries** ... in all matters, one should do what is good and right, including even compromise and, going beyond the requirements of the law. ... **Thus [a person must seek to refine his behavior] in every form of activity, until he is worthy of being called "good and upright."**

Ramban Devarim 6:18 (Chavel Translation)

אמרו זו פשרה ולפנים משורת הדין ... וזה ענין גדול, לפי שאי אפשר להזכיר בתורה כל הנהגות האדם עם שכניו ורעיו וכל משאו ומתנו ותקוני הישוב והמדינות כלם ... שיעשה הטוב והישר בכל דבר, עד שיכנס בזה הפשרה ולפנים משורת הדין ... עד שיקרא בכל ענין תם וישר.

רמב"ן דברים ו:יח

The concept of waiting in line is discussed in a number of Talmudic sources. One of those sources states the following:

[The verse states] "Justice, justice you shall follow"; the first [mention of justice] refers to a decision based on strict law; the second, to a compromise. How so? — E.g., **where two boats sailing on a river meet; if both attempt to pass simultaneously, both will sink, whereas, if one makes way for the other, both can pass [without mishap].** Likewise, if two camels met each other while on the ascent to Beth-Horon ... **How then should they act? If one is laden and the other unladen, the latter should give way to the former. If one is nearer [to its destination] than the other, the former should give way to the latter. If both are [equally] near or far [from their destination,] make a compromise between them, the one [which is to go forward] compensating the other [which has to give way].**

Sanhedrin 32b (adapted from Soncino Translation)

צדק צדק תרדף אחד לדין ואחד לפשרה כיצד שתי ספינות עוברות בנהר ופגעו זה בזה אם עוברות שתיהן שתיהן טובעות בזה אחר זה שתיהן עוברות וכן שני גמלים שהיו עולים במעלות בית חורון ופגעו זה בזה אם עלו שניהן שניהן נופלין בזה אחר זה שניהן עולין הא כיצד טעונה ושאינה טעונה תידחה שאינה טעונה מפני טעונה קרובה ושאינה קרובה תידחה קרובה מפני שאינה קרובה היו שתיהן קרובות שתיהן רחוקות הטל פשרה ביניהן ומעלות שכר זו לזו.

סנהדרין לב:

We consistently encounter situations where two people are interested in performing an activity that can only be performed one at a time. The Talmud states that when this happens, the parties most work out a compromise that allows both of them to perform that activity. R. Naftali Z.Y. Berlin (Netziv), Meishiv Davar 3:10, asks: why does the Talmud choose this case as the specific example of a compromise? Don't we know what a compromise is? Netziv answers that the Talmud is trying to teach us that in certain cases, all parties are required to accept compromise. The sailor with the lighter load would be perfectly justified from a strictly legal perspective to attempt to pass the boat with the heavier load. Yet, because it is "peaceful justice" to allow the boat with the heavier load to pass, the sailor is required to accept it as a valid compromise.

- CASE #1 -**↻ FIRST COME FIRST SERVE VS. PEACEFUL JUSTICE ↻**

Do we only require compromise when both parties join the line at the same time or do we require compromise even when one party comes after the other? Is "first come first serve" simply a value that should be weighed against other values or is "peaceful justice" only a tiebreaker when both parties arrive at the same time? R. Menachem Meiri seems to accept both perspectives:

There are situations where strict judgment is not applied and one must figure out based on principles of compromise and merit which side is more deserving when strict judgment is not applicable ... **In situations similar to these, anytime we see that one [party] can tolerate the wait better than the other, he should wait for his friend. If there is a healthy individual, he should wait for the sick individual and other similar situations ... If they are all equal, the first one there takes precedence.**

Meiri, Sanhedrin 32b

יש דברים שאין מדת הדין שולטת בהם ואתה צריך לחזר בהם אחר מה שראוי יותר להכריע את האחר למה שאין מדת הדין מחייבתו דרך פשרה ומדה מעולה ... וכן כל כיוצא בה כל שאנו רואין שיכול לסבול העכוב ביותר ידחה מפני חברו וכן בריא מפני חולה וכל כיוצא בזה ... ואם הכל שוה מקדימין לקודם.
מאירי סנהדרין לב:

According to Meiri, "first come first serve" does not apply when it is clear that one of the parties cannot handle the wait as well as the other parties. However, if there is no clear reason to allow one party to move to the head of the line, we employ the "first come first serve" principle.

↻ **QUESTIONS FOR THOUGHT:** Meiri states that if it is clear that one party cannot handle the wait as long as the others, he is moved to the head of the line.

1. What would you include in the category of "cannot handle the wait"?
2. What if this individual cannot handle the wait because he is a very impatient person?
3. What if he claims that he has a very important meeting to attend and if he waits, he will be late?

↻ **APPLICATION TO CASE #1:** The first case seems to be directly related to Meiri's statement. How would you apply Meiri's statement to the case? Who should make the decision that someone should cut the line because he has a need to cut? Is it up to the person with the need, the person who allows him to move ahead or all the people that are ahead of him? If the rest of the people in the line object, should Michael switch places with the boy who has crutches?

- CASE #2 -**☞ SAVING SPOTS IN A LINE ☜**

Does "first come first serve" mean that you have to actually have to come (i.e. show up in person) in order to be served? Can someone come in your place and hold a spot in the line? Does it make a difference if he is also holding his own spot? The Talmud discusses the case of a lost, ownerless item waiting to be claimed by the first person who takes it. There is a dispute whether one person can take the item on behalf of someone else:

Both R. Nachman and R. Chisda say: If a man lifts up a found object for his neighbor, the neighbor does not acquire it. For what reason? Because it is like one who [voluntarily] seizes [a debtor's property] on behalf of a creditor, thereby causing loss to [the debtor's] other [creditors because they can no longer seize that property], and one who seizes [a debtor's property] on behalf of a creditor, causing loss thereby to [the debtor's] other [creditors], does not acquire [the property] ... **R. Chiyya b. Abba said in the name of R. Yochanan: If one lifts up a found object for his neighbor, the neighbor acquires it.**

Baba Metzia 10a, (adapted from Soncino Translation)

רב נחמן ורב חסדא דאמרי תרוייהו המגביה מציאה לחבירו לא קנה חבירו מאי טעמא הוי תופס לבעל חוב במקום שחב לאחרים והתופס לבעל חוב במקום שחב לאחרים לא קנה ... אמר רבי חייא בר אבא אמר רבי יוחנן: המגביה מציאה לחבירו קנה חבירו. בבא מציעא י'.

The position of R. Nachman and R. Chisda is clear: you cannot claim something on behalf someone else if doing so will affect others who would also like to claim that item. Yet, R. Yochanan is of the opinion that one can claim a lost item on behalf of someone else. Tosafot explain R. Yochanan's position:

Even though R. Yochanan rules in the ninth chapter of Ketuvot and the first chapter of Gittin that one who seizes property on behalf of a creditor does not acquire, that is only because one cannot apply the principle that one who can acquire for himself can acquire on behalf of others because the debtor does not owe anything to the seizer. [I.e., one can only acquire on behalf of others what one can acquire for oneself.] However, **regarding a lost item, the principle (that when one can acquire the item oneself, one may acquire for others) applies and therefore, it is a valid acquisition.**

Tosafot, Baba Metzia 10a, s.v. Amar R. Yochanan

ואע"ג דאית ליה לרבי יוחנן בפרק הכותב ובפ"ק דגיטין תופס לבע"ח לא קני היינו דוקא היכא דלא שייך מגו דזכי לנפשיה דאין הלוח חייב כלום לתופס אבל במציאה דאיכא מגו קנה. תוס' בבא מציעא י' ד"ה א"ר יוחנן

It is permissible to claim an item on behalf of someone else because one has the option of claiming it for oneself. If one cannot claim the item personally, one cannot claim it on behalf others, even according to R. Yochanan. Tosafot do not address whether one can claim more than one is actually entitled to. For example, let's assume a bakery has a "door buster campaign" to give away ten loaves of bread to the first ten people who come to the bakery. However, they limit the giveaway to one per customer. Can one person come and claim one loaf for himself and one loaf for a friend?

R. Yehoshua Falk, Sema 105:3, writes that one can never claim for a friend more than what one could claim for oneself. R. Shabtai Kohen, Shach, C.M. 155:2, disagrees and maintains that when one claims for oneself, one can also claim for others beyond what one is personally entitled to. However, R. Shlomo Eger, in Drush V'Chiddush, Ketuvot 11a, limits Shach's ruling and writes that if there are two items and one is only entitled to one of them, claiming the second item is considered a separate event and the claim of the first item provides no entitlement to the second item.

➤ **APPLICATION TO CASE #2:** Is Rivka entitled to hold spots for her family while they enjoy another ride? Do we consider each spot to be a separate item? Is there a difference if each person claims a spot in the line and then comes back thirty minutes later? What would the rules of "peaceful justice" state? Are there other considerations when other people in the line will be upset?

- CASE #3 -

➤ WHY DON'T YOU MOVE AHEAD OF ME? ➤

How would you apply "peaceful justice" to holding a spot in a line without having all of the items readily available? What would happen if everyone would hold a spot in the line while they gather their items? If "peaceful justice" does not allow holding a spot while shopping, neither Steven nor Jeremy may enter the line until the shopping cart is filled with the items they plan on purchasing.

Let us look at this case from a different perspective. Steven and Jeremy are now waiting in the line with a shopping cart containing only a few items and Lisa is in front of them with over fifty items. She can tell that they are in a rush. Should she let them pass?

We previously presented the case of two boats that cannot pass through a certain area at the same time. The rule is that the boat with the heavier load passes first. Are we dealing with a case of two boats that are heading in the same direction or two boats heading in opposite directions? R. David HaLevi Segal notes a dispute on the matter:

Sema in paragraph no. 22, explains that they are travelling side by side. In my humble opinion, it would seem that the law is in fact the opposite. **Since they can travel one after another, why should we impose on the lighter one to be delayed by travelling slowly behind the heavier one? In truth, it would be preferable for [the heavier one] to follow [the lighter one]** ... It seems that the Beraita is dealing with two parties travelling in opposite directions.

Taz, Choshen Mishpat 272:13

בסמ"ע ס"ק כ"ב פירש שהולכין זה אצל זה. ולענ"ד נראה לדינא הסברא להיפך, כיון דיכולין לילך זה אחר זה למה נטריח את הריקן לשהות לילך לאט אחר הטעון, ובאמת יותר טוב לאותו שהולך אחר חבירו...ונראה פירוש הברייתא דמיירי ודאי לענין פגיעה וכמ"ש רמ"י והוא מוכח מדקתני בסיפא שם בגמ' וכן ספיונות הפוגעות.
ט"ז חו"מ רעב:יג

According to Sema, the boats are heading in the same direction and nevertheless, the boat with the lighter load must stop and allow the larger boat to pass. According to Taz, if they are heading in the same direction, the lighter boat should pass first because if the heavier boat goes first, the lighter boat will have to wait for the heavier boat for the duration of the passageway. The case in the Talmud is one where they are heading in opposite directions and the lighter boat is only required to pull over momentarily while the heavier boat passes.

Taz's opinion is that in a situation where one can move through a passageway or line faster than others, "peaceful justice" states that the faster individual should be given precedence so that he is not required to wait for the slower individuals. Sema seems to disagree with this principle.

🌀 **APPLICATION TO CASE #3:** How would you apply this dispute to someone waiting to pay for a few items at the supermarket? Should we employ "peaceful justice" in a situation where a person who has a lot of groceries will be asked by numerous people to allow them to pass? Who decides whether the individual with only a few items should move ahead?

BIOGRAPHICAL SKETCHES OF AUTHORS CITED

R. Moshe ben Nachman (also known as Ramban and Nachmanides, 1194-1270) was a leader of Spanish Jewry during his time. He wrote many works including a commentary on the Torah and a commentary on the Talmud. In his later years, he moved to Israel and established a synagogue in the Old City of Jerusalem, which exists to the present day.

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.

R. Naftali Z.Y. Berlin (also known as the Netziv 1816-1893) was born in Mir, Russia. He was a rosh yeshiva of the yeshiva in Volozhin. He was a prolific author, writing works such as Ha'Amek She'eila, a commentary on She'iltot D'Rav Achai, Ha'Amek Davar, a commentary on the Torah and Meishiv Davar, a collection of responsa.

R. Yehoshua Falk (1555-1614) was a Polish scholar. He was a student of R. Moshe Iserles and R. Shlomo Luria. His commentaries on Arba Turim and Shulchan Aruch, Choshen Mishpat are popular commentaries and are used regularly by those who study Jewish law.

R. Shabtai Kohen (also known as Shach 1621-1662) studied in Cracow and Vilna. He is most well known for his Siftei Kohen on Shulchan Aruch, which offers unique insights into Jewish law.

R. Shlomo Eger (1785-1852) served as a rabbi in Kalisz, Poland as well and was then appointed the chief rabbi of Posnan, Poland. R. Eger's Gilyon Maharsha is a collection of glosses on Shulchan Aruch.

R. David HaLevi Segal (also known as Taz c.1586-1667) was a Polish scholar. He is most well known for his Turei Zahav, a commentary on Shulchan Aruch. His commentary includes discussions about rulings of his father-in-law, R. Yoel Sirkes.