



Too Many Cooks? A Halakhic Perspective on Communal Apathy

Haggai Resnikoff

*This source sheet was prepared for **A Day of Learning for Our Hostages** on September 30, 2024, a day of learning together as a community to honor the shloshim of the six hostages murdered in August, show solidarity with the hostages still in captivity, and call on the Israeli government and the international community to prioritize their return.*

Rabbi Haggai Resnikoff trained at Yeshivat Chovevei Torah, graduated in 2014, and joined the faculty immediately thereafter. As Director of Community Learning (2014-2022), he spearheaded YCT's groundbreaking effort to raise the priority level of the climate crisis in the Orthodox and larger Jewish community. In the summer of 2022, after eight years on the faculty, he took over the deanship making him responsible for the academic administration of the yeshiva. As a member of the YCT Advanced Kollel he has worked intensively on dementia, eldercare, and mental illness in Jewish Law. He is the author of the most comprehensive Jewish legal treatment of the climate crisis to date and is researching a book on the same subject as a recipient of the Memorial Foundation Advanced Torah Fellowship.

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Mishna Baba Batra 2:7

One must distance a tree twenty-five cubits from the city...If the city preceded the tree they cut down the tree, and the city does not give money to the tree's owner in compensation. And if the tree preceded the city they cuts down the tree and the city gives money to its owner.

1. מש' ב"ב פ"ב מ"ז

מרחיקים את האילן מן העיר עשרים ותמשי אמה... אם העיר קדמה, קוצץ ואינו נותן דמים, ואם האילן קדם, קוצץ ונותן דמים.

A Pot in Partnership

Babylonian Talmud Baba Batra 24b

"If the tree preceded the city, they cut down the tree and the city gives money to its owner." Let the tree owner say to the city residents: Give me money first and then I will cut down the tree. Rav Kahana said: A pot belonging to partners is neither hot nor cold.

2. גמ' שם כ"ד ע"ב

אם האילן קדם קוצץ ונותן דמים ולימא להו הבו לי ברישא דמי והדר איקוץ אמר רב כהנא קידרא דבי שותפי לא חמימא ולא קרירא

Rashi, commentary ad locum, s.v. לא חמימא

3. רש"י שם ד"ה לא חמימא

If we wait until the money is given, the tree will remain for some time as the citizens rely on one another [to make the first payment]. This plays directly into the hands of the owner. Therefore, we cut the tree down first and afterwards, the owner claims their payment from the citizens in beit din.

אם באת להמתין עד מתן מעות יעמוד זה לאורך ימים בני העיר סומכין זה על זה ובעל האילן רוצה בכך לפיכך יקוץ ואחרי כן יגבה מעותיו מהן בב"ד

Apathy as a Legal Exemption: Fencing a Cliff in the Public Domain

Sefer Meirat Einayim¹, Choshen Mishpat 427:7

4. סמ"ע חו"ה תכ"ז ס"ק ז'

Since the occupants of the public domain are a pot owned in partnership, it obviously cannot be their responsibility to build a fence around the public domain

כיון דבני ר"ה קדירא דבי שותפי נינהו פשיטא דאין עליהן לעשות מעקה לרה"ר:

¹ Rabbi Yehoshua Falk, 1555-1615, Poland

Apathy as a Communal Failing

Meiri,² commentary to Baba Batra, 24b s.v. Amar

HaMeiri

It is not necessary for them to give the money first. For if it were, they would be **negligent** because each individual would be **too apathetic** to pay and the owner of the tree would be silent [since until they receive the money, the tree remains]. Therefore, they chop the tree down first and afterwards the owner is motivated to demand their payment.

Arukh HaShulchan,³ Choshen Mishpat 427:4

If there is a concern that someone will fall, let the occupants of the public domain fix it, or the chosen leaders of the town. And even though there is *kidra de-bei shutfei* and everyone will rely on their fellow and nothing will be accomplished...

5. מאירי ב"ב כ"ב ע"ב ד"ה אמר המאירי

ואין צריכין ליתן הדמים תחלה שאילו כן יבאו לידי פשיעה מתוך שכל אחד מתרשל מליתן ובעל האילן שותק לפיכך קוצץ תחלה ואח"כ יהא בעל האילן זריז לבקש

6. ערה"ש חו"ה תכ"ז ס"ק ד'

ואם יש חשש נפילה יתקנוה בני רה"ר או ממוני העיר ואף על גב דקדירא דבי שותפי כל אחד יסמוך על חברו ולא יעשו כלל...

² Menachem ben Shlomo ha-Meiri, 1249-1315, Provence

³ Yechiel Michel Epstein, 1829-1908, Belarus