



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Horayos Daf Beis

MESECHTA HORAYOS

PEREK HORU BEIS DIN -- PEREK RISHON

MISHNA

- If Beis Din paskened in a way that following their psak would make one do something that is actually assur, and an individual went and acted b'shogeg based on their say, then whether Beis Din themselves acted on their psak and this person acted along with them, or whether they acted on their psak and he acted after them, or even if they didn't act on their psak but this person did, he is patur from bringing a chatas, because he relied on Beis Din.
- If Beis Din paskened (wrongly) and one of the judges realized it was wrong, or if a talmid who was there and who was fit to pasken on his own realized they were wrong, and that judge or that talmid went and acted based on their say, then whether Beis Din themselves acted on their psak and this person acted along with them, or whether they acted on their psak and he acted after them, or if they didn't act on their psak but this person did, he is chayuv to bring a chatas, because he did not rely on Beis Din.
- The general rule is, one who relies on himself and does something that was assur is chayuv to bring a korbon, but one who relied on Beis Din is not.

GEMARA

- **Shmuel** said, Beis Din would only be chayuv to bring a "par helaam davar shel tzibbur" (which is the korbon that is brought when a majority of the tzibbur does an aveira based on an erroneous psak of Beis Din) if they issued an actual psak by saying "you are mutar" in response to an actual question asked (as opposed to an academically raised question). **R' Dimi of Neharda'ah** said, they are not chayuv until they told the people "you are mutar to do", because it is only then that it is considered to be a full psak.
 - **Abaye** said, a Mishna supports **R' Dimi**. The Mishna regarding a "zakein mamrei" says, if the sage then returns to his town and continues darshening and teaching in the way he did originally (even though he was told that it was wrong) he is patur. If he paskened for people to act based on his way of learning, which he was told is wrong, he is chayuv chenek. We see that a psak is not full and final unless it authorizes one to act.
 - **R' Abba** said, a Mishna supports **R' Dimi**. The Mishna regarding a woman who was told that her husband had died says, if Beis Din said she may remarry and she then went and was mezaneh with a man (and her husband returned alive), she would be chayuv a korbon, because Beis Din only allowed her to marry, not to be mezaneh. Again, we see that the psak must be for an action (to remarry).
 - **Ravina** said, our Mishna supports **R' Dimi**. The Mishna says, "if Beis Din paskened to be oiver one of the mitzvos". Again we see that they paskened to act.
 - The Gemara says it is clear that **R' Dimi** is correct.
 - **Others** had a different version of the above, which goes as follows. **Shmuel** said, Beis Din would only be chayuv to bring a "par helaam davar shel tzibbur" if they issued an actual psak by saying "you are mutar to do" in response to an actual question asked (as opposed to an academically raised question). **R' Dimi of Neharda'ah** said, they are chayuv even if they told the people "you are mutar", because even then it is considered to be a full psak.
 - **Abaye** asked, a Mishna regarding a "zakein mamrei" says, if the sage then returns to his town and continues darshening and teaching in the way he did

originally (even though he was told that it was wrong) he is patur. If he paskened for people *to act* based on his way of learning, which he was told is wrong, he is chayuv chenek. We see that a psak is not full and final unless it authorizes one to act!?

- **R' Abba** asked, a Mishna regarding a woman who was told that her husband had died says, if Beis Din said she may remarry and she then went and was mezaneh with a man (and her husband returned alive), she would be chayuv a korbon, because Beis Din only allowed her to marry, not to be mezaneh. Again, we see that the psak must be for an action (to remarry)!?
- **Ravina** asked, our Mishna says, "if Beis Din paskened to be oiver one of the mitzvos". Again we see that they paskened to act!?
- The Gemara says, it is clear that **R' Dimi** is not correct.

V'HALACH HAYACHID V'ASAH SHOGEH AHL PIHEM

- **Q:** Why doesn't the Mishna just say "and they acted on the word of Beis Din"? Why does it say that they "acted b'shogeig based on the word of Beis Din"? By acting on the word Beis Din it is automatically a shogeig anyway!? **A: Rava** said, the "shogeig" comes to include the case of where Beis Din ruled that cheilev is mutar, and a person then meant to eat kosher fats, but instead ate the cheilev that Beis Din had erroneously said was mutar. The Mishna teaches that he is patur. The Mishna's use of "on the word of Beis Din" teaches that if someone ate the cheilev not because it got mixed up, but rather because Beis Din said it was mutar – he would also be patur.
 - **Others** say that **Rava** said, it is only when the person did the aveira solely because he was relying on Beis Din, that he is patur. However, if he did the aveira because he mistakenly ate that cheilev when he meant to eat other kosher fats, he would be chayuv to bring a korbon.
 - Although this was clear to **Rava**, this was a question to **Rami bar Chama**, who asked that when the person mistakenly ate the cheilev that was mistakenly made mutar by Beis Din, must he bring a korbon? **Rava** answered with proving from our Mishna (as he did in the first version, above) that this person would be patur as well. **Rami bar Chama** said, it may be that the Mishna is referring to only one case – where the person ate the cheilev simply because Beis Din said it was mutar.
 - **Others** say that **Rava** brought the proof from the Mishna that only where the person ate the cheilev simply because Beis Din said it was mutar would he be patur. To that, the Gemara says that the Mishna may be referring to two cases – where he mistakenly ate the cheilev, and where he intentionally ate the cheilev – in both cases where Beis Din erroneously said the cheilev was mutar, and teaches that both cases are patur.
 - This is actually something that was argued about previously. We have learned with regard to a case of where Beis Din ruled that cheilev is mutar, and a person then meant to eat kosher fats but instead ate the cheilev that Beis Din had erroneously said was mutar – **Rav** says the person is patur and **R' Yochanan** says the person is chayuv.
 - **Q:** A Braisa darshens "mei'ahm haaretz ba'asosah" to teach that one who is a mumar would not bring a chatas if he does an aveira b'shogeig. **R' Shimon ben Yose in the name of R' Shimon** said, we don't need that pasuk for that, because we darshen another pasuk to teach that only someone who would stop from doing the aveira if he knew he was doing an aveira brings a chatas for doing that aveira. A person who would not stop does not bring a korbon. Now, the person who mistakenly ate the cheilev that Beis Din mistakenly said was mutar would *not* stop himself from eating it if he had known that it was the cheilev, so why does **R' Yochanan** say he is chayuv!? **A: R' Pappa** said, since as soon as Beis Din realizes their mistake they will retract their psak, at which time this person would also not eat that cheilev, he is considered to be someone who *would* stop if he knew what he was doing, and therefore he is chayuv.

- **Rava** said, **Rav** would agree that such a person could not be counted towards the majority of the tzibbur acting b'shogeig (to make Beis Din chayuv to bring the "par helam") because the pasuk says "bishgaga", which teaches that all the people counted have to have acted on the same type of shogeg.

BEIN SHE'ASU V'ASA IMAHEN...

- **Q:** Why did the Mishna have to give all the cases – where he acted with Beis Din, after Beis Din, or where Beis Din didn't act? In the first case (where the person is patur) we can say that the Mishna is understood as "lo zu ahf zu", teaching a greater chiddush as it goes along. However, in the second case (where the person is chayuv), it should have been taught in the reverse order – since that is the order of greater chiddush! **A:** The Mishna is teaching in the method of "zu v'ein tzarich lomar zu" (the later cases are not needed, but yet the Tanna teaches it).

V'YADA ECHAD MEIHEN SHETA'U OY TALMID V'RA'UY L'HORA'AH

- **Q:** Why are both cases needed? **A:** **Rava** said, by mentioning the talmid the Mishna teaches that even if he is someone who is knowledgeable, but has not yet reached a level of deducing on his own, still he would be chayuv.
 - **Q:** **Abaye** asked, the Mishna says that the talmid reached a level of being able to pasken, which means he *is* able to deduce on his own!? **A:** **Rava** said, clearly you are correct. However, from the fact that the Mishna gives the second case altogether, it teaches that there are other cases where the person would be chayuv as well – the case where the person is knowledgeable even if he can't deduce on his own, and visa-versa.

RA'UY L'HORA'AH...

- **Q:** Who is an example of such a person? **A:** **Rava** said, like **Shimon ben Azzai and Shimon ben Zomah**.
 - **Q:** **Abaye** asked, if such a person followed the erroneous ruling of Beis Din when they knew it to be wrong, they would be a meizid, and as such would not bring a korbon!? **A:** **Rava** said, a Braisa clearly gives **Shimon ben Azzai** as an example of such a talmid and yet says he would be chayuv. The reason is that he was a shogeg in thinking that one is supposed to follow the psak of Beis Din even when he knows that Beis Din is mistaken.

ZEH HAKLAL HATOLEH B'ATZMO CHAYUV

- This comes to include a person who typically decides on his own what is mutar and what is assur, and he happens to eat the cheilev that Beis Din erroneously said was mutar. Such a person would be chayuv.
- The part of the general rule making patur the person who relies on Beis Din comes to include the case of where Beis Din retracted their erroneous ruling, but a person who was unaware of that acted on the original psak. This person would be patur.
 - **Q:** The next Mishna says this explicitly!? **A:** The Mishna here mentions it and it is then explained in the next Mishna.
- **R' Yehuda in the name of Shmuel** said, the Mishna follows the view of **R' Yehuda** (that even when Beis Din does not have to bring the par helam the person who followed their psak is patur from bringing his own chatas). However, the **Chachomim** say, if it was only an individual (as opposed to the majority of the tzibbur) who followed the erroneous psak, he would have to bring a chatas.
 - The view of **R' Yehuda** can be found in a Braisa which says that the pasuk of "ba'asosa" ("his" being oiver) is an exclusionary term (a mi'ut) that teaches that one is only chayuv when he did something on his own, but not when he did something following the psak of Beis Din.
 - The view of the **Rabanan** can be found in a Braisa. The Braisa says, we would think that if less than a majority sinned they must each bring a chatas, since Beis Din is not bringing a par helam. However, when the majority sin they should be patur, because Beis Din is bringing a par helam. The pasuk therefore says, "mei'am haaretz", which teaches that even if there is majority, and even if the entirety sinned, they must bring their own chatas. Now, this can't be talking about where Beis Din didn't pasken, because why would they bring a par helam? It also can't be talking about where they did pasken, because the pasuk quoted by the Braisa is discussing a regular shogeg, without an erroneous psak of Beis Din!? Rather, we must say, the Braisa means to say that when a minority sins not based on a psak of Beis Din they are certainly chayuv, since even when

they sinned relying on a psak of Beis Din they are chayuv because Beis Din doesn't bring a par helam. We would think that when a majority sins not based on a psak of Beis Din they should be patur, since they are patur when it is based on a psak of Beis Din. The Braisa therefore says that the pasuk of "mei'ahm haaretz" teaches that even a majority who sin are chayuv to bring a korbon when the sin was not based on an erroneous psak of Beis Din. We see that the Braisa says that when a minority sins based on an erroneous psak of Beis Din, they are still chayuv to bring a chatas.

- **Q: R' Pappa** asked, maybe the Braisa means that when a minority sins based on a psak of Beis Din, neither the minority nor Beis Din bring a korbon!? **A:** If that is so, then why does the Braisa need a special source to teach that a majority who sinned not based on a psak is chayuv a chatas? Why should they be different than a minority who sinned? Rather, it must be that we find that a majority is treated differently than a minority when they sin based on a psak, and that is why a source is needed for when it is not based on a psak!
- **Q:** Both these Braisos are anonymous, so why is it that we attribute the first one to **R' Yehuda** and the second one to the **Rabanan**? **A:** The first Braisa is based on the drasha of a "mi'ut" in the pasuk, and we find that **R' Yehuda** darshens in a similar way in another Braisa. **A2:** The second Braisa can't be the view of **R' Yehuda**, because he says in a Mishna that when the majority sins based on an erroneous psak of Beis Din it is *the majority* who must bring the par helam, not Beis Din. The second Braisa mentions that it is Beis Din who brings the par helam. Therefore, the Braisa cannot be following **R' Yehuda**.