



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

### Horayos Daf Gimmel

- **R' Nachman in the name of Shmuel** said that our Mishna (which says that when an individual sins based on an erroneous psak of Beis Din he does not bring a chatas) follows the view of **R' Meir**, but the **Chachomim** say that the individual would have to bring his own chatas.
  - We find their views in a Braisa. The Braisa says, if Beis Din paskens erroneously and they act upon the ruling, **R' Meir** says they are patur and the **Chachomim** say they are chayuv. Now, who does the Braisa refer to when it says "they acted"? It can't refer to Beis Din, because then why would the **Rabanan** say they are chayuv to bring the par helam? A Braisa darshens the pasuk of "hakahal v'assu" to teach that in order to be chayuv to bring a par helam, Beis Din must issue a psak and the tzibbur must act based on it. We see that Beis Din's action would not make them chayuv!? Rather, we will say the Braisa means that Beis Din issued the psak and the tzibbur acted based on it, but that can't be, because why would **R' Meir** say that there is no chiyuv to bring a par helam!? Rather, we must say the case is where Beis Din paskened and only a minority of the tzibbur acted upon the psak, and the machlokes is that **R' Meir** holds that when an individual acts on the psak he is patur from bringing a chatas, and the **Rabanan** hold that the individual would be chayuv!
    - **R' Pappa** says, this Braisa does not necessarily show this machlokes. It may be that all agree that the individual would be patur from bringing a korbon. Rather, the machlokes is whether Beis Din can be included in the tally of the tzibbur to see if there is a majority – the **Rabanan** say they are included and **R' Meir** says that they are not.
    - We can also say that the case in the Braisa is where Beis Din gave a psak and a majority acted on the psak, and the "**Chachomim**" of the Braisa is **R' Shimon**, who says that Beis Din and the tzibbur each have to bring a par helam (when **R' Meir** says "they are patur" he means the tzibbur is patur, because he holds that only Beis Din must bring a par helam).
    - We can also say that the Braisa is discussing one sheivet who sinned based on a psak of their own Beis Din, and the **Rabanan** is the view of **R' Yehuda**, who says that when one sheivet sins based on an erroneous psak of their Beis Din, they are chayuv to bring a par helam.
    - We can also say that the Braisa is discussing where only 6 shevatim acted on the erroneous psak, but they make up a majority of the tzibbur, or where 7 shevatim acted but they do not make up a majority of the tzibbur, and the view of the **Rabanan** is the view of **R' Shimon ben Elazar** of a Braisa who says that in both these cases there is a chiyuv to bring a par helam.
- **R' Assi** said, with regard to the chiyuv for a par helam, we follow the majority of the Yidden living in EY. This is based on the pasuk that says that Shlomo Hamelech made a celebration and "all of Klal Yisrael was with him" and it then says that the people were from "Chamas until the River of Mitzrayim". Now, if we say that all were there, why are we giving those boundaries (which are the boundaries of EY)? It must be, to teach that only those within EY are considered to be the "kahal".
- **Q:** It is obvious that if a majority sinned by following a psak of Beis Din and the number of people who acted decreased (e.g. a number of them died before the par helam was brought) so that they are no longer the majority, it would be subject to the machlokes between **R' Shimon** (who says that we determine status at the time that the sin became known) and the **Rabanan** (who say that we determine status at the time that the sin was done) of a later Mishna. What would the halacha be if they were a minority and later became a majority (e.g. a number of

people who hadn't done the aveira died)? Would they argue in that case as well – and **R' Shimon** would say we follow the time of knowledge and the **Rabanan** say we follow the time of the sin – or not (they argue in determining status when it is a question of 2 different types of possible korbanos to be brought, but in this case it is a question of whether a korban should be brought altogether)? **A:** You can't compare these two cases, because in that Mishna **R' Shimon** means that we *also* follow the time of knowledge, not that we only follow the time of knowledge. The time of the sin is also needed in the determination. Therefore, in a case like this, where one time period requires a korban and the other does not, he will certainly say that no korban is brought.

- **Q:** If Beis Din paskened that a certain cheilev was mutar and a minority sinned based on that psak, and Beis Din then retracted, and then Beis again issued the same erroneous psak and a different minority sinned based on the psak. Do we say that since there are two separate periods of knowledge the two minorities don't combine to form a majority, or do we say that since it is the same erroneous psak they combine? **Q2:** If we say they still combine, what if one psak was that the cheilev on the stomach is mutar and the second psak was that the cheilev on the intestines is mutar? Do we say that since the issur of each is taught by a separate pasuk they certainly don't combine, or do we say that since they are both cheilev they can still combine? **Q3:** If we say that they do combine, what if one psak was regarding cheilev and the other was regarding blood? Do we say that since they are two separate and different issurim (the issur on blood applies to chayos and beheimos whereas the issur of cheilev only applies to beheimos) they do not combine, or do we say that since they would require the individual to bring the same korban the minorities could combine? **Q4:** If we say that they do combine, what if one psak was regarding cheilev and the other was regarding avoda zara? Do we say that since they require different korbanos they don't combine, or do we say that since both carry the kares penalty they do combine? **TEIKU.**
- **Q:** What is the halacha if Beis Din erroneously paskened that cheilev was mutar and a minority of the tzibbur sinned based on that, and then that Beis Din died and another Beis Din then made the same psak and another minority sinned based on their psak? Can the two minorities combine? Now, according to the view that it is Beis Din who brings the par helam, certainly they can't combine, because it is now a different Beis Din. The question is according to the view that it is the tzibbur that brings the par helam – do we say that it is one tzibbur or do we say that there has to be knowledge based on the psak of one Beis Din? **TEIKU.**
- **R' Yonason** said, if there were 100 people in the Beis Din which ruled erroneously, they are only chayuv for a par helam if every one of the dayanim ruled (and none remained silent). This is based on the pasuk of "v'ihm kol adas Yisrael yishgu".
  - **R' Huna the son of R' Yehoshua** said, this also makes sense, because throughout the Torah we pasken that "most" is considered to be like "all" and yet here the Torah says "all". This teaches that even if there are 100 dayanim they are *all* required to give a ruling.
  - **Q:** Our Mishna said that if there is a dayan who disagreed with the ruling and he still acted on the basis of the erroneous ruling, he is chayuv to bring a chatas. This would suggest that any other person who acted on the psak would not have to bring a chatas. Now, this means that there was a dayan who did not participate in the psak (he remained silent) and yet it is considered to be a psak of Beis Din for these purposes. This refutes **R' Yonason**! **A:** The case in the Mishna is that the dayan nodded his head. That is why it is considered to be a full Beis Din.
  - **Q:** A Mishna says, if there is one dayan who dissents to the majority opinion, the ruling of Beis Din could not be the basis for bringing a par helam. Now, this suggests that there is no par helam only because he verbally dissented. However, had he remained silent, it seems that there would be a chiyuv for a par helam!? **A:** Here too, the case would be that he nodded his head.
  - **Q:** **R' Mesharshiya** asked, a Braisa regarding gezeiros darshens a pasuk that says "hagoy kulo" to teach that a gezeira may only be enacted when most of the tzibbur is able to comply with it. We see that the pasuk uses the term "all" even though it only refers to "most". This refutes **R' Yonason** – **TEYUFTA.**

- **Q:** If so, what is taught by “kol adas”? **A:** It teaches that if the entire Beis Din is present, it is considered a proper ruling for purposes of a par helam. If the entire Beis Din is not present, it is not.
- **R’ Yehoshua ben Levi** said, even if there are 10 judges issuing a ruling, it is as if there is a chain around the neck of each of them (i.e. they each have full responsibility if the decision is improper).
  - **Q:** That seems obvious, since they each issued the ruling!? **A:** He is teaching that even if a talmid is sitting there and sees his rebbi making a mistake and doesn’t correct him, he shares responsibility.
  - When **R’ Huna** was asked to judge a case, he would gather 10 rabanim to judge with him. He explained, that in this way they would each receive only a small part of the punishment if they decide wrongly.
  - When **R’ Ashi** was asked to pasken on a treifah he would gather all the expert butchers to decide along with him. He explained that in this way they would each receive only a small part of the punishment if they decide wrongly.

#### MISHNA

- If Beis Din issued an erroneous psak and they then realized their mistake and retracted their psak, and then, whether or not they already brought the par helam, someone went and sinned based on the psak (he was not aware of the retraction), **R’ Shimon** says he is still patur. **R’ Elazar** says it is a safek (and he must therefore bring an asham taluy).
  - When is it considered to be a safek? That is when he was home (and therefore should have known of the retraction). However, if was overseas at the time, **R’ Elazar** would agree that he is patur.
    - **R’ Akiva** said, I would agree that this person is closer to being patur than he is to being chayuv. **Ben Azzai** said to him, why is this person different than the person who was at home? **R’ Akiva** said, the person at home could have heard of the retraction, but the person overseas could not.
- If Beis Din paskened to uproot an entire section of halacha – for example they said there is no issur of niddah in the Torah, there is no issur of Shabbos in the Torah, or there is no issur of avoda zara in the Torah, they would be patur from a par helam. However, if they paskened to be mevatel part of an issur and to keep part, they would be chayuv. For example, they said there is an issur of niddah but that there is no issur to be with a woman who is a “shomeres yom k’neged yom”, or they said that there is an issur of Shabbos but there is no issur to carry from reshus hayachid to reshus harabim, or they said there is an issur of avoda zara but there is no issur to bow down to it, in all these cases there would be a chiyuv of a par helam. This is based on the pasuk of “v’nelam *davar*” – a detail is the subject of the psak, not the whole concept.

#### GEMARA

- **R’ Yehuda in the name of Rav** said, the basis for the view of **R’ Shimon** is that the person acted with the permission of Beis Din.
  - **Others** say, that **R’ Yehuda in the name of Rav** said, **R’ Shimon** used to say that if a psak spread around a majority of the tzibbur, an individual who acts based on that psak is patur from a korbon (even if Beis Din had retracted) because a psak is given to differentiate between a shogeg and meizid.
  - **Q:** A Braisa says that **R’ Shimon** holds that a new collection from the tzibbur would be made to collect money for the par helam. Now, if that is so, how could **R’ Shimon** say he is patur after the retraction? Surely this person was aware of the collection made for the korbon and therefore of the retraction!? **A:** We can answer that they collected without explaining the reason for the collection. We can also say that this person was away at the time of the collection. We can also say that **Rav** holds like the version of the Braisa where **R’ Shimon** says they don’t make a new collection for the par helam, rather the money is taken from the “terumas halishka”.
- A Braisa says, regarding someone who sinned based on a psak that had already been retracted, **R’ Meir** says he is chayuv, **R’ Shimon** says he is patur, **R’ Elazar** says it is a safek (and he must bring an asham taluy), and in the name of **Sumchos** they said that it is “taluy” (ambiguous).

- **R' Yochanan** said, the difference between **R' Elazar and Sumchos** is that **R' Elazar** says he must bring an asham taluy.
- **R' Zeira** said, **R' Elazar's** view is like a case of one who ate fats that may have been cheilev or may have been kosher and then became aware of what he had done, where the halacha is that he must bring an asham taluy. This is even according to the view that it is Beis Din who brings the par helam, so there is reason to say that the person could not have known of the retraction. Still, we say that had he asked he would have known and therefore he must bring an asham taluy.
- **R' Yose bar Avin** (or **R' Yose bar Zevida**) said, **Sumchos's** view is like a case of someone who brought his korbon for a kappara during bein hashmashos. It is a safek if it is day and the korbon is valid or if it is night and it is not valid. In such a case he does not bring an asham taluy, and the same is here. This is even according to the view that the tzibbur brings the korbon par helam, so he could have asked about the korbon and should have known of the reversal. Still, a person doesn't usually ask when Beis Din brings a korbon, and therefore he is even patur from having to bring an asham taluy.