



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

### Sanhedrin Daf Lamed Gimmel

DINEI MAMANOS MACHZIRIN...

- **Q:** Another Mishna seems to contradict this! The Mishna says, if a judge judged a monetary case and acquitted one who was truly liable to pay, or he made liable one who was truly not liable, or he said that something was tamei when it was truly tahor, or that something was tahor when it was truly tamei, what was done is done and he must pay the person for the loss he caused. We see that a verdict cannot be reversed!? **A: R' Yosef** said, our Mishna is dealing with an expert judge (who may reverse a decision) and the other Mishna is dealing with one who is not an expert (and cannot reverse his decision).
  - **Q:** That same Mishna then says, if the judge was an expert he does not have to pay for loss caused by the mistaken decision. This suggests that even with an expert judge the decision may not be reversed!? **A: R' Nachman** said, our Mishna is talking about where there is a Beis Din who is greater in knowledge and in number, and only such a Beis Din may reverse the earlier decision. The other Mishna is discussing where there is no such Beis Din, and therefore the decision cannot be reversed.
  - **R' Sheishes** answered the contradictions between the Mishnayos by saying that our Mishna is discussing a case where the judge made a mistake in a matter that is clearly paskened in a Mishna, and a decision based on such a mistake may be reversed. The other Mishna is discussing a mistake based on how the judge weighed different factors in coming up with his decision ("shikul hadaas"). We find that **R' Sheishes** gave this difference to **R' Ashi** elsewhere as well.
    - **R' Ashi** explained to **Ravina**, "making a mistake in something that has been clearly paskened in a Mishna" would include a mistake in something paskened in a Braisa taught by **R' Chiya** and **R' Oshiya**, would include something paskened by **Rav** and **Shmuel**, and even something that was paskened by **R' Ashi** and **Ravina**.
    - **Q:** What is "shikul hadaas"? **A: R' Pappa** explained, this would be a case where two Tanna'im or two Amora'im argue about a certain matter, and the halacha was never established like either side, but the consensus is to follow one view and this judge decided like the other view.
    - **Q: R' Hamnuna** asked **R' Sheishes**, a Mishna says that **R' Tarfon** once made a mistake and paskened that a cow was a treifah and had it thrown to the dogs. The **Rabanan** later taught that a cow with the condition that caused **R' Tarfon** to pasken that way was actually not a treifah. Upon hearing that, **R' Tarfon** lamented on the fact that he would now have to pay for the loss he caused. **R' Akiva** told him that he would not have to pay, because he was accepted as an expert and would therefore be patur from paying. Now, according to the way **R' Sheishes** explained, why didn't **R' Akiva** just tell **R' Tarfon** that he made a mistake in something paskened clearly in a Mishna and therefore he could simply reverse his decision!? **A: R' Akiva** was actually giving him two reasons not to worry: 1) that it was an error in a psak of a Mishna and the decision could therefore be reversed, and 2) even if it could not be reversed, since he was an expert he would be patur from having to pay.
- **Q: R' Nachman bar Yitzchak** asked **Rava**, what is **R' Hamnuna's** question? **R' Tarfon** could not have reversed the decision in that case, because the cow was already given to eat to the dogs!? **A:** He was asking, if **R' Sheishes** is correct that the decision could be reversed then **R' Tarfon** could have reversed the decision, even though he could not

reverse the result, and would become patur from having to pay even though the damage was done.

- **R' Chisda** said, our Mishna is discussing where the judge did not take the money in his hand from one and give it to the other, and therefore may reverse his decision. The other Mishna is discussing where he did take it from one and give to the other, and in that case the decision cannot be reversed.
  - **Q:** This answer can make sense in the other Mishna's case of where he obligated someone who was truly patur to pay (he took the money from him and gave it to the other person). However, how can we explain the case of where he decided that someone who truly should have paid does not have to pay? There is no taking of money there, only a statement of saying that this person is patur, so why did the Mishna say that the decision cannot be reversed? **A:** Saying "you are patur" is the equivalent of taking money from one and giving it to another.
    - **Q:** Our Mishna said that monetary cases can be reversed to make someone patur or to make someone obligated to pay. Now, reversing a decision to make someone patur can mean that initially he told someone he is chayuv, but did not take the money in his hand, and therefore he could reverse his decision. But, the case of reversal to make someone chayuv means that initially he told him "you are patur", which we just said is the equivalent of taking in his hand, so how could he reverse his decision!? **A:** The Mishna is actually teaching one case – monetary cases may be reversed to make someone patur *even though it is a detriment to the other party*.
      - **Q:** This explanation would mean that the Mishna's discussion of capital cases, where it says that capital cases may be reversed to acquit but not to convict, must be explained in a similar way, that a decision may not be reversed for an acquittal that is detrimental to someone else. Now, who would find an acquittal to be detrimental!? **A:** The relatives of the murdered person will find it detrimental to have a conviction overturned.
      - **Q:** Would we not overturn a conviction, and thereby put someone to death, because it is a detriment to the relative!? Also, the Mishna's verbiage suggests that the Mishna allows a reversal from patur to chayuv and from chayuv to patur, not like **R' Chisda** said!? **A:** The Gemara says, this remains a KASHYEH. **Ravina** said, that the case could be that when the judge said the defendant was patur, he took away collateral that the plaintiff had been holding. In that way he has done something "with his hands" and therefore cannot reverse his decision. The case of him paskening that something was tamei would be where he took a sheretz and touched it to the object in question. The case of paskening that something was tahor would be where he took the object in question and mixed it with other tahor items.

#### DINEI NEFASHOS...

- A Braisa says, the pasuk of "naki ahl taharog" teaches that even if someone was convicted and was being taken to be put to death, and someone says he has an argument to acquit, we bring the defendant back into Beis Din to hear the argument. The pasuk of "tzadik ahl taharog" teaches that if a defendant was acquitted and someone then says he has an argument to convict, we do not bring the defendant back and do not listen to the argument. **R' Simi bar Ashi** says, the exact opposite is true for a defendant who convinced others to worship avodah zarah. He learns this from the pasuk that says we should not have mercy on someone like that. **R' Kahana** learns this same thing from another pasuk.
- **R' Zeira** asked **R' Sheishes**, can we reverse an acquittal of a defendant who was acquitted from having to go to galus (for having killed someone b'shogeg)? **R' Sheishes** said, a gezeira shava on the word "rotzei'ach" teaches that this acquittal can also not be reversed. **R' Zeira** asked, what about an acquittal from malkus? **R' Sheishes** said, a gezeirah shava on the word "rasha" teaches that this too may not be reversed. A Braisa says the same thing as **R' Sheishes**.

## V'EIN MACHZIRIN L'CHOVA

- **R' Chiya bar Abba in the name of R' Yochanan** said, this is only if the decision was not based on a mistake to which the Tzedukim would agree (something that is a clear and open pasuk in the Torah). If it was based on such a mistake, the decision may even be reversed from acquittal to conviction.
  - **Q: R' Chiya bar Abba** asked **R' Yochanan**, are matters of adultery considered to be something so clear that it could be reversed to convict? **A: R' Yochanan** answered with a statement that means that adultery is clear, and therefore a mistake based on it can be reversed even to convict.
    - **R' Avahu in the name of R' Yochanan** said, the case of adultery that could not be reversed based on mistake would be where he made a mistake regarding zenus done not in the normal way ("shelo kidarkah"). That is not something that is explicit in a pasuk and therefore not something that the Tzedukim would agree to. Therefore, a mistake based on this could not be reversed to convict.

## DINEI MAMANOS HAKOL...

- **Q:** The Mishna says that "anyone" can argue for acquittal in capital cases. This suggests that even the witnesses can do so. This would seem to only follow the view of **R' Yose the son of R' Yehuda** and not the **Rabanan** of a Braisa? **A: R' Pappa** said, our Mishna means that any of the *talmidim* can argue for acquittal, and our Mishna can therefore even follow the **Rabanan**.
  - **R' Yose the son of R' Yehuda** learns his view from a drasha of a pasuk. The **Rabanan** darshen that pasuk to teach that the talmidim can argue for acquittal, not the witnesses.