

Masseches Horayos has ben dedicated in memory of Rabbi Simchah Freedman z"l, 3rd of Nissan 5778

## OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah presents guidelines for when a person who followed an erroneous ruling of Beis Din regarding a transgression that is punishable by kares is obligated to offer a Korban Chatas and when he is not obligated to bring a Korban Chatas.

### 2) Court ruling

Shmuel and R' Dimi disagree what pronouncement of Beis Din constitutes a ruling for the halachos of the Mishnah.

Abaye cites a Baraisa that supports R' Dimi's position that Beis Din must say, "You are permitted to do."

R' Abba and Ravina cite additional proofs in support of R' Dimi's position.

According to a second version R' Dimi was the one who said that even if Beis Din merely said, "You are permitted" it is a ruling.

The sources that were cited as a source for R' Dimi are now cited as a challenge to the second version of his position.

### 3) Clarifying the Mishnah

Rava explains why the Mishnah adds the word שוגג.

A second version of Rava's explanation is presented.

It is noted that what seemed obvious to Rava was doubtful to Rami bar Chama.

Rava suggests a resolution to Rami bar Chama's inquiry but it is rejected.

A second version of this exchange is presented.

The Gemara notes that Rami bar Chama's inquiry was disputed by Rav and R' Yochanan.

R' Yochanan's stringent position is unsuccessfully challenged.

Rava points out a case to which even Rav would agree with R' Yochanan.

The Gemara explains why the Mishnah mentions so many

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## REVIEW and Remember

1. What is the point of dispute between Shmuel and R' Dimi of Nehardea?
2. What principle is derived from the phrase מעם הארץ בעשותה?
3. According to Rava, what type of person is worthy of rendering halachic rulings?
4. What is the issue debated by R' Yehudah and Chachamim?

## Distinctive INSIGHT

*It is permitted for you to do it!*

עד שיאמרו להם מותרים אתם לעשות

Under certain circumstances an individual who acts according to a mistaken ruling of the court will be exempt from having to bring an offering of a sheep or goat for a chattas, and in other cases he will be obligated to bring his own individual offering.

In the Gemara, Shmuel states that if the beis din issued a mistaken ruling, and the nation or the majority of the people followed their ruling, the court only has responsibility to offer a single bull on the behalf of everyone if their ruling was accompanied with the instructions, "מותרין אתם—You are permitted." Rav Dimi adds that the instructions have to be even more specific, and the court must say, "מותרין אתם לעשות—You are permitted to do this!" Without this clear statement of instruction, anyone who acts according to the ruling of the court would have to bring his own individual offering for having sinned.

Tosafos HaRosh cites Ramah who asks why Rav Dimi would say that if the people were told, "You are permitted," that it would be inadequate. What is the difference whether the instructions were that the people were "permitted" or "permitted to do"?

Ramah explains that the words of the beis din are not what make a difference, but it is rather the manner in which the question was worded by the questioner. If the question is, "What is the ruling for us?" and the court said, "It is permitted," this means that the court has authorized the people to act accordingly. This is as if the court clearly said, "It is permitted for you to do it." If, however, the question was "How should we rule if others come to us for a ruling?" then the court only needs to say, "It is permitted." This would indicate that the answer to be given to others is that it is permitted. According to Ramah, there is no disagreement between Shmuel and Rav Dimi; it is only that their responses are how the court responds to different questions.

Tosafos HaRosh refutes the explanation of Ramah, and he explains that according to Rav Dimi, beis din might have said the words, "It is permitted" while learning and reviewing the case, but this might not be interpreted as a final ruling, unless they formally declare, "It is permitted to do." It is only this expression which is in the form of a clear directive which may be understood as a final conclusion.

This also seems to be how Rambam (Hilchos Shgagos 13:6) understood the difference in the wording of the court. "It is permitted" sounds like a comment made while studying, while "It is permitted to do" indicates a final decision. ■

# HALACHAH Highlight

## Following a mistaken ruling of Beis Din

הורו בית דין וידע אחד מהן שטעו וכי'

If Beis Din ruled and one of the members knows that they erred etc.

The Mishnah and Gemara teaches that if Beis Din issues a ruling and a member of the Beis Din or someone capable of issuing halachic rulings knows that the ruling is erroneous but follows their ruling anyways, he must bring a Korban Chatas for his transgression. Rashi<sup>1</sup> explains that he is considered שוגג because he misunderstood the obligation to listen to the words of the sages and followed their ruling even though they erred. There are contradictory sources concerning the matter of listening to the sages even when their ruling is incorrect. Yerushalmi (Horayos 1:1) teaches that one is obligated to listen to the sages only when they tell the right is right and the left is left. When they declare that the right is left one is not obligated to listen. Sifrei (Shoftim 11) writes that one is obligated to listen to the sages even if they declare that the right is left and the left is right. These sources seem contradictory and many commentators have suggested different resolutions to the contradiction.

Ramban<sup>2</sup> writes that when an individual did not have a chance to discuss the matter with Beis Din he should follow his own ruling even though it is against the ruling of Beis Din. If after discussing the matter he was not able to convince Beis Din that his position is correct he should follow their ruling. Chasdei Dovid<sup>3</sup> observes that Ramban's comment provides an approach to resolve the contradiction between the two sources cited earlier. Yerushalmi refers to a circumstance in which one did not have the opportunity to present his argument to Beis Din and as Ramban mentioned one must maintain his position even though it is inconsistent with Beis Din's ruling. Sifrei, on the other hand,

different cases.

Rava and Abaye discuss another phrase of the Mishnah that seems superfluous.

Rava gives examples of people who are fit to issue halachic rulings.

Abaye unsuccessfully challenges this interpretation.

The implications of each phrase of the Mishnah's summary are explained.

### 4) An individual who relied on Beis Din's ruling

R' Yehudah in the name of Shmuel asserts that the Mishnah that exempts a person who follows Beis Din reflects the position of R' Yehudah but Chachamim maintain that someone who follows a ruling of Beis Din is obligated to bring a Korban Chatas.

A Baraisa is presented that records the position of R' Yehudah.

A second Baraisa is presented that R' Yehudah (the Amora) interprets in a way that is consistent with the position of Rababan.

R' Pappa offers an alternative interpretation of the Baraisa.

This interpretation is rejected.

The Gemara challenges how we know the first Baraisa was R' Yehudah and the second Baraisa was Rabanan since both are anonymous.

The Gemara begins an explanation how we know the first Baraisa was authored by R' Yehudah. ■

refers to a circumstance in which one presented his perspective to the Beis Din and they rejected his position. In such a case one is obligated to follow their ruling even though it seems as though they have erred. ■

1. רש"י דברים י"ז:י"א.

2. רמב"ן השגות לספר המצוות שורש א.

3. חסדי דוד על התוספתא הוריות פ"א ה"א. ■

# STORIES Off the Daf

## Inadvertent Sin

"הורו בית דין לעבור..."

A certain shochet was very well loved in his community. He was known to be a meticulous yarei shamayim, always the first to attend minyan and shiurim. He was a baal chesed without rival, who also had impeccable qualifications for his position of responsibility for the community.

It was therefore appalling to the entire city when he was caught selling treifos. After his slip, the community investigated carefully and found that it was likely that

he had fed them all treifos for many long years. Obviously he was shamefully deposed, but many were not satisfied with merely finding a new shochet and koshering their kitchen. What about the treifos they had eaten? Were they not obligated to do something to atone for their many inadvertent sins?

When the rav of their community asked the Ben Ish Chai, zt"l, about this, he ruled that they were not obligated to do anything to atone for this. "This shochet definitely had a chezkas kashrus, since he was ordained and appointed to his job by chachomin and even dayanim. The moment one has ordination as an expert in shechitah and bedikah and there is no

discernable flaw in his emunah, it is certainly permitted to eat from his shechitah. So what could the community have done that they failed to do? Should we prohibit ever eating meat because the shochet might be a rasha who slaughters with a blemished knife or the like? The Torah permits this and the chachomim never prohibited.

"Even if the transgression had been one that is chayav kares and requires a sacrifice if done unintentionally as we find in Horayos 2, if there was nothing plausible they should have done to prevent the sin, no sacrifice is required, since no atonement is necessary!"<sup>1</sup> ■

1. שו"ת תורה לשמה, ס' תקי"ד ■

