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Inadvertence Regarding a Chatas

[The braisa had stated that Munbaz even considers a case where a person knew some of the nature of his transgression at the time when he transgressed to be considered a shogeg and one would be liable to a chatas offering.] The Gemora asks: According to Munbaz, what indeed was the “inadvertence” (for a chatas is offered only for an inadvertent transgression)?

The Gemora answers: He refers to a case where one was ignorant in respect of the sacrifice. [He knew that the act was prohibited and punishable by kares, but he did not know that the inadvertent transgression involved a chatas offering.]

The Gemora notes that the Rabbis hold that ignorance in respect of the sacrifice does not constitute ignorance.

The Gemora asks: Now according to the Rabbis, in respect to what is ignorance required?

Rabbi Yochanan said: As long as one errs in respect to kares, even if he deliberately sins in respect of the negative command; while Rish Lakish maintained: He must act inadvertently in respect of the prohibition and kares (and then he will be liable to a chatas).

Rava said: What is Rabbi Shimon ben Lakish’s reason? It is written: [And if any one of the common people sin, in doing any of the things which Hashem has commanded] not to be done inadvertently, and he becomes guilty; therefore he

must act inadvertently in respect of the prohibition and kares (and then he will be liable to a chatas).

The Gemora asks: And Rabbi Yochanan; how does he employ this verse expounded by Rabbi Shimon ben Lakish?

The Gemora answers: He utilizes it for what was taught in the following braisa: [The braisa exempts a mumar – a renegade, from bringing a chatas when he accidentally transgresses this prohibition.] The first opinion excludes him from the verse which specifies that one who is ‘mei’am haaretz’ – from the people of the land, offers a chatas when they accidentally transgress. The limiting clause of mei – from, excludes a mumar. Rabbi Shimon ben Elozar quotes Rabbi Shimon who excludes him from the verse that says that the person sinned ‘asher lo sai’asena v’ashem’ – not to be done inadvertently, and he becomes guilty. This verse limits the chatas to one who would have refrained from his act had he known what he was doing, excluding a mumar who would have done it anyway.

The Gemora attempts a proof for R’ Yochanan: We learned in a Mishna: The primary forms of labor are forty minus one. Now we asked regarding this: Why state the number (if the Mishna proceeds to enumerate them all anyway)? And Rabbi Yochanan replied: It is to teach us that if one performs all of them in a single lapse of awareness, he is liable to a chatas offering for each (thirty-nine in total). Now, our Gemora asks, how is this possible? Surely only where he is aware of the Shabbos, but unaware of the forbidden nature of his labors (and that when he is liable to a chatas for each and every melachah; however, if he

knew the melachos were forbidden, but he was unaware that it was Shabbos, he would be liable to only one chatas). As for Rabbi Yochanan, who maintained that since he acted inadvertently in respect of *kares*, though fully aware of the prohibition (*he will be liable to a chatas*) it is well, for it is conceivable e.g., where he knew that labor is forbidden on Shabbos by a negative command (*but since he did not know that it was punishable by kares, he is liable to a chatas for each and every melachah*); But according to Rabbi Shimon ben Lakish, who maintained that he must be unaware of the negative injunction and of *kares* (*and only then will he be liable to a chatas*), regarding what did he know of the Shabbos?

The Gemora answers: He knew of the law of boundaries (*the techum - that one may not go on the Shabbos more than a certain distance beyond the town limits; and violation of this law does not entail a sacrifice*); this being in accordance with Rabbi Akiva (*who maintains that this prohibition is Biblical*).

The Gemora asks: Who is the one who taught the following which was taught in a *braisa*: If one acted inadvertently with respect of both (*the Shabbos and the melachos*), this is the erring sinner mentioned in the Torah (*and he is liable to a chatas*). If one acted deliberately in respect of both (*the Shabbos and the melachos*), this is the deliberate offender mentioned in the Torah. If one acted inadvertently with respect of the Shabbos, but acted deliberately in respect of the forbidden labor, or (*the reverse*) if he acted inadvertently with respect of the forbidden labor, but acted deliberately in respect of the Shabbos, or if he declares, "I know that this labor is forbidden, but I do not know whether it entails a sacrifice or not, he is liable (*to a chatas*). [*Evidently, he can still be liable to a chatas even if he is conscious of the prohibition, as long as he was not aware that its violation is subject to a chatas!*]

The Gemora notes: With whom does this agree? With Munbaz. (69a)

Sacrifice by an "Oath of Utterance"

Abaye said: All agree in respect to an 'oath of utterance' (*where one swears that he will eat and he does not, or if he swears that he ate when he truly did not eat*) that a sacrifice is not incurred on its account unless one acted inadvertently with respect of its prohibition. [*In order to be liable a korban, the oath must have been "concealed" from him. If he swore that he will not eat and he does, he is not liable to a korban unless he forgot about the oath when he ate, for then he is acting inadvertently with respect of the prohibition.*]

The Gemora comments: 'All agree' - who is that? It is Rabbi Yochanan? [*For although he maintains that the Rabbis hold that one may be liable to a chatas even if he aware of the prohibition, nevertheless, he will not be obligated to bring a sacrifice by a case of a false oath unless he acted inadvertently regarding the prohibition.*]

The Gemora asks: But that is obvious! When did Rabbi Yochanan say otherwise? [*He said it*] where there is the penalty of *kares*; but here (*in the case of an 'oath of utterance'*), where there is no penalty of *kares*, he did not state his ruling!?

The Gemora answers: One might have thought that since liability to a sacrifice (*here, in the case of an 'oath of utterance'*) is a novelty, for we do not find in the entire Torah that for a mere prohibition (*which does not entail kares*) one must bring a sacrifice, while here it is brought; therefore even if he acted inadvertently with respect of the liability to a sacrifice, he (*still*) should be liable to a sacrifice; therefore he (*Abaye*) teaches us otherwise.

The Gemora asks on Abaye from a *braisa*: What is an inadvertent offense in respect of an 'oath of utterance' relating to the past (*where one falsely swears that he has eaten*)? [*Regarding the future, it is easy to find a case, for if he swore that he will not eat, and subsequently forgot*

that he took an oath and ate, this is an inadvertent offense in respect of an ‘oath of utterance’ relating to the future; however, if he swore that he ate, and at the time that he took the oath, he had forgotten that he truly had not eaten, he would not be liable, for it is derived through a verse that one must be completely aware of the circumstances at the time of his oath (thus exempting a case where he thought that he was swearing truthfully).] It is where one says, “I know that this oath is forbidden, but I do not know whether it entails a sacrifice or not,” he is liable. [This contradicts Abaye!?!]

The Gemora answers: This braisa agrees with Munbaz (who always maintains that an inadvertent act with respect of a sacrifice obligates one in a chatas; therefore, there is no difference between Shabbos and an “oath of utterance”).

The Gemora cites another version (of the answer): Who is the Tanna of this braisa? Shall we say it is Munbaz? But then is it not obvious? If in the entire Torah, where it (the liability to a sacrifice) is not a novelty, Munbaz rules that inadvertence regarding the sacrifice constitutes unawareness, how much more so here (by an “oath of utterance”) that it is a novelty!?! Therefore, it must surely be the Rabbis, and this refutation of Abaye is indeed a refutation! [Rashi writes that this version cannot be authentic, for in fact the ruling is necessary according to Munbaz as well, for whereas elsewhere, ignorance is constituted even when there is unawareness regarding the forbidden nature of the act and of the sacrifice it entails, here, by an “oath of utterance,” there must be some sort of awareness regarding the prohibition of swearing falsely, for otherwise, he would not be liable to a sacrifice. This does not follow from Munbaz’s other ruling, and so, it must be stated.] (69a – 69b)

Inadvertence Regarding the “Additional Fifth”

Abaye also said: All agree in respect to *terumah* that one is not liable to the addition of a fifth (when a non-Kohen eats *terumah* inadvertently, he must indemnify the Kohen for its value and add a fifth) unless he is unaware of its prohibition. [The case of liability for the “fifth” is where he thought he was eating *chulin*. If, however, he knew it was *terumah*, but he was unaware that that the penalty is death be Heaven, he would not be liable for the additional fifth.]

The Gemora comments: ‘All agree’ - who is that? It is Rabbi Yochanan? [For although he maintains that the Rabbis hold that one may be liable to a chatas even if he aware of the prohibition, nevertheless, he will not be obligated to pay the additional fifth by a case of eating *terumah* unless he acted inadvertently regarding the prohibition.]

The Gemora asks: But that is obvious! When did Rabbi Yochanan say otherwise? [He said it] where there is the penalty of *kares*; but here (in the case of eating *terumah*), where there is no penalty of *kares*, he did not state his ruling!?

The Gemora answers: You might have thought that death stands in the place of *kares*, and therefore if one is ignorant of the Heavenly death penalty, he is liable; therefore, he teaches us otherwise.

Rava said: Death stands in the place of *kares*, and the fifth stands in the place of a sacrifice. [Accordingly, if a non-Kohen eats *terumah* without being aware that it carries a Heavenly death penalty, he is regarded as an inadvertent transgressor, and he would be liable to pay the additional fifth.] (69b)

Lost Track of Days of the Week

Rav Huna said: If one is travelling on a road or in the wilderness and does not know when *Shabbos* is, he must



count six days and observe one. Chiya bar Rav said: He must observe one and then count six weekdays.

The *Gemora* notes the point of difference between them: One master (*Rav Huna*) holds that it (*his counting*) is as the world's Creation (*which was six days and then Shabbos*); the other master (*Chiya bar Rav*) maintains that it is like Adam, the first man (*who was created on Friday, and his first day was Shabbos*).

The *Gemora* asks from a *braisa*: If one is travelling on a road and does not know when *Shabbos* is, he must observe one day for (*every*) six (*days*). Surely that means that he counts six days and observes one?

The *Gemora* answers: No! He observes one day and counts six.

The *Gemora* persists: If so, (*instead of*) 'he must observe one day for six,' the Tanna should have stated, 'he must observe one day and count six'? And furthermore, it was taught in a *braisa*: If one is travelling on a road or in a wilderness and does not know when *Shabbos* is, he must count six and observe one day. This refutation of Chiya bar Rav is indeed a refutation.

Rava said: Every day (*of the six*) he does sufficient for his requirements only (*i.e., enough to stay alive*) except on that day.

The *Gemora* asks: And on that day, he is to die?

The *Gemora* answers: He prepared double his requirements on the previous day.

The *Gemora* asks: But perhaps the previous day was the *Shabbos*?

The *Gemora* retracts: Every day he does sufficient for his requirements, and even on that day.

The *Gemora* asks: Then how will that day (*the day he is counting as Shabbos*) be recognized?

The *Gemora* answers: By *kiddush* and *havdalah*. [*Kiddush – the Sanctification is a prayer recited at the beginning of the Shabbos; havdalah is recited at the end of Shabbos, and thanks God for making a distinction between the sanctity of the Shabbos and the secular nature of the other days of the week.*]

Rava said: If he recognizes the relationship to the day of his departure (*that it was not Shabbos*), he may do work on that entire day.

The *Gemora* asks: But is that not obvious?

The *Gemora* answers: You might have said that since he did not set out on *Shabbos*, he did not set out on the eve of *Shabbos* either (*Friday*); and therefore, this man, even if he set out on Thursday, it shall be permitted for him to do work on two days. Therefore, Rava teaches us that sometimes one may come across a caravan (*that is leaving*) and chance to set out (*even on a Friday*). (69b)