



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o"n**

**Tzvi Gershon ben Yoel (Harvey Felsen) o"n**

May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

### **An Incorrect Ruling**

The *Mishnah* says that if the court incorrectly ruled leniently on one of the mitzvos of the Torah, and an individual mistakenly followed their ruling, he is exempt from an individual *chatas* sacrifice, whether he did it after them, with them, or without them, since he relied on their ruling. If one of the judges or a student who is fit to rule knew that they erred, but he followed their ruling, he is obligated in an individual *chatas* sacrifice, whether he did it after them, with the, or without them, since he didn't rely on their ruling. The *Mishnah* states the general rule that one who relies on himself is obligated in an individual *chatas*, while one who relies on the court is exempt. (2a1 – 2a2)

### **What is a Ruling?**

Shmuel says that the court is not obligated in the communal *chatas* unless they said, "it is permitted for you." Rav Dimi from Nehardea says that they must say, "it is permitted for you to do it." What is the reason? Since a ruling is not finished until they specify what is permitted.

Abaye supports Rav Dimi from the *Mishnah*, which says that if one returns to his town and taught and interpreted in the same manner as before, he is exempt; but if he rules to his community to act according to his opinion, he is liable.

Rabbi Abba supports Rav Dimi from the *Mishnah* which describes a court who allowed a woman to remarry since her husband died by saying that the court "permitted her to remarry," indicating that they must explicitly state what she is permitted to do.

Ravina supports it from the *Mishnah*, which states that the court

ruled "to violate" one of the *mitzvos*, indicating that the ruling includes exactly what is permitted.

Nothing more needs to be said. [The *Gemara* accepts these as final proofs to Rav Dimi.]

The *Gemara* cites another version (reversing Shmuel and Rav Dimi's statements, and with the sources being cited as irrefutable challenges to Rav Dimi): Shmuel said: A court is not responsible unless they ruled: You are permitted to act. Rav Dimi from Nehardea said: Even [if the ruling was], "You are permitted," the decision is [regarded as] final.

But surely, said Abaye, we have not so learned in a *Mishnah*: If he returned to his [home] town and continued to teach as he had taught he is exempt. If, however, he issued instructions [for the public] to act, he is liable!?

But surely, said Rabbi Abba: we have not so learned in a *Mishnah*: If the court decided that she may be married and she went and committed adultery, she must bring an offering, because the court permitted her only to be married!?

But surely, said Ravina: We have not so learned in the *Mishnah*: If the court incorrectly ruled leniently on one of the mitzvos of the Torah!? Nothing more [need be said about it]. (2a2 – 2a3)

### **Whose Mistake?**

The *Mishnah* says that if an individual followed the ruling and accidentally violated the transgression, they are exempt. The *Gemara* notes that the *Mishnah* says both that he followed the ruling and that he did it accidentally.



Rava says that this includes a case where the court allowed prohibited fats, and an individual ate those fats, but thinking that it was a different (*truly permitted*) fat. The *Mishnah's* additional description of “accidentally” includes such an individual, exempting him from a *chatas*, since even if he would have known which fats he was eating, he would have eaten them, relying on the court.

The *Gemara* cites an alternate version, where Rava says that the *Mishnah* indicates that such an individual is obligated in a *chatas*, since the *Mishnah* is stating that only accidentally eating, due to one's following the ruling, is exempt, but this individual would have eaten the fats even if the court had not ruled incorrectly.

The *Gemara* notes that the question that Rava resolved was a doubt for Rami bar Chama. For Rami bar Chama inquired: What [is the law where] the court ruled that a certain type of cheilev was permitted and a person mistook it for permissible fat and ate the cheilev?

Rava attempted to resolve that he is obligated, from (the extra description of “accidentally” in) our *Mishnah*: If an individual went and acted inadvertently, on their word etc. Why say: inadvertently, on their word? Is it not to include the case where the court ruled that a certain type of cheilev was permitted and a person mistook it for permissible fat and ate the cheilev? The *Gemara* deflects this by suggesting that the *Mishnah* is only obligating accidentally eating based on their ruling, but when he mistook cheilev for permissible fat and ate it, he is liable.

Others say that Rava said: Come and hear from our *Mishnah*: If an individual went and acted inadvertently, on their word etc. This surely implies that only when he acted inadvertently [namely] on their word, he is exempt, but when he mistook cheilev for permissible fat and ate it he is liable! — Perhaps [it was retorted, our *Mishnah* implies] either inadvertently or in accordance with their ruling.

[The following are] in dispute [on the case mentioned]: If the court ruled that cheilev was permitted and a person mistook

cheilev for permissible fat and ate it, Rav said: He is exempt, and Rabbi Yochanan said: He is liable.

The *Gemara* challenges Rabbi Yochanan from a *Baraisa*. The *Baraisa* exempts a *mumar* – one who disregards a prohibition from a *chatas* when he accidentally transgresses this prohibition. The first opinion excludes him from the verse which specifies that one who is *mai'am haaretz* – from the nation of the land offers a *chatas* when they accidentally transgress. The limiting clause of *mai* – from excludes a *mumar*. Rabbi Shimon ben Yossi quotes Rabbi Shimon who excludes him from the verse that says that the person did one of the *mitzvos asher lo sai'asena v'ashem* – which shall not be done, and he is 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. Similarly, the *Gemara* says that one who thought he was eating truly permitted fats would not have refrained had he known what he was eating, since the court permitted this fat as well.

Rav Pappa says that Rabbi Yochanan considers him one who would refrain, since once the court realizes their error, he would refrain.

Rava says that Rav agrees that such a person is not counted to reach a majority of the nation that followed the incorrect ruling, as the verse specifies that the nation transgressed *bishgagah* – in an error, requiring that they all had the same error. (2a3 – 2a5)

### **How Reliant**

The *Mishnah* stated that one who relied on the court is exempt, whether he did it after them, with them, or without them. The *Gemara* explains that if he did it after the court, this is most reliant on their ruling, while if the court did not do it all, this is least reliant on the ruling. Therefore, in the first case, where he is exempt since he relied on the court, this progression is from most obvious to least obvious, while in the second case, where he is obligated since he didn't rely on the court, this progression is from least obvious to most obvious. (2a6 – 2b1)



### **How Fit?**

The *Mishnah*'s second case listed one of the judges, or a student fit to rule, who realized the error.

Why are both cases necessary? Rava explains that although both people imply one who is knowledgeable and understands how to rule, the extra listing of both of them is listed to include even one who is only knowledgeable or only understands how to rule.

Abaye said to him: Surely, "worthy of ruling" implies the possession of knowledge and also capacity for logical reasoning! What I mean, the other replied, is this: If [the inference had to be derived] from that, it might have been assumed that the reference is only to one who possesses learning and is also capable of logical reasoning and deduction, but not to one possessing learning and no capacity for logical reasoning and deduction; hence it was taught: worthy of ruling, [so that] from the superfluous *Mishnah* [it may be inferred that the reference includes] even one who possesses learning only, though incapable of logical reasoning and deduction, [as well as] one who is only capable of logical reasoning and deduction though he possesses no learning.

Fit to rule etc. Like whom, for instance? — Rava says that an example of such a student is Shimon ben Azzai or Shimon ben Zoma.

Abaye challenges, saying that such a person who followed the errant ruling should be considered intentional, since they were outstanding scholars who knew how to rule.

And according to your argument, [the other replied, how will you explain] the following which was taught: In doing one, [implies that if] an individual acts on his own authority he is liable; if under the authority of the ruling of the court, he is exempt. How is this so? [In the case where] the court ruled that cheilev was permitted and it was known to one of them, or to a student sitting before them and capable of deciding matters of law, such for instance as Shimon ben Azzai, that they erred, it might have been assumed that he is exempt, hence it was

expressly taught: in doing one, [implying that if] an individual acts on his own authority he is liable. - If under the authority of the ruling of the court he is exempt!? How then could this be possible? [Obviously] in such a case as where [the scholar] knew that it was prohibited, but erred in the [interpretation of the] mitzvah of obeying the words of the Sages; according to my view also, it is a case where they erred in the [interpretation of the] mitzvah of obeying the words of the Sages. (2b1 – 2b2)

### **Relying or Not?**

The *Gemara* explains that the general rule in the *Mishnah* is listed to include two more cases. The category of one who is not relying on the court includes one who generally rebels against the court's rulings, and the category of one who is relying on the court includes one who followed the court's ruling even after they realized their mistake, which is discussed in greater detail later. (2b2 – 2b3)

### **Rabbi Yehudah and the Sages**

Rav Yehudah quotes Shmuel who says that the *Mishnah* follows Rabbi Yehudah, but the Sages say that if the nation did not follow the ruling, an individual who relied on the court is obligated in a *chatas*.

Which Rabbi Yehudah? The *Gemara* cites a *Baraisa* that is Rabbi Yehudah's opinion. The *Baraisa* says that the verse which specifies that if one soul sins by doing a prohibited act includes three exclusions, and teaches that one is only obligated in a *chatas* if he relied on himself, but not if he relied on the court.

Which Sages? The *Gemara* cites another *Baraisa* which is the Sages' opinion. The *Baraisa* explains the verses about the *chatas* sacrifice. The *Gemara* begins with a section of the *Baraisa* that says that even though we already know that a group of people who accidentally sinned must bring a *chatas*, I may still think a majority of the nation that sinned may be exempt, since the court would bring a communal sacrifice for them. Therefore, the verse says *mai'am ha'aretz* – from the nation of the land, including a majority of the nation.

Now, in what [circumstances was the sin spoken of committed]? If it be suggested through error in action, how [it may be asked] does the court enter at all into the question when [the commission of the sin] was not on the authority of any court ruling? Does then a court bring [a sacrifice] when [the commission of the sin] was not under the authority of their ruling! If, however, [it be suggested that the sin had been committed] under the authority of the ruling of the court, surely [it may be pointed out] the text: from the nation of the land, was written in reference to error in action! Consequently, [it must be concluded that] it is this that was meant: A minority of the congregation who committed a sin through error in action are liable, because the court does not bring a bull on their account in [the case where a sin was committed] on the authority of the ruling of the court, and yet they are liable. [Since, however,] one might assume that a majority of the congregation who committed [a sin] through error in action should be exempt because the court brings a bull on their account when [the sin was committed] under the authority of the ruling of the court, it was expressly taught: from the nation of the land, [to include] even a majority of them.

Rav Pappa challenges this implication, and suggests that perhaps the *Baraisa* means that if a minority follows an incorrect ruling, both they and the court are exempt. — If so, why should it be sought to prove that a majority is liable? Must it not then be concluded that [in the case of] a minority acting under a court's ruling it had been definitely established that they were liable, though they had acted under the authority of the ruling of a court; for [otherwise] it should have been sought first to prove that a minority is liable, when sinning through error of action, and then should have come the attempt to prove that a majority also is liable when sinning through error of action. Consequently, since the attempt has not been made [first] to prove that a minority is liable, when sinning through error of action, and only finally to prove that a majority [also] is liable when sinning through error of action, it must be concluded that a minority [committing a sin] under the ruling of the court are liable [to bring] a lamb or a goat, and likewise when they committed the sin under no authority from the ruling of a court,

through error of action, they are also liable.

The *Gemara* notes that both *Baraisos* cited are anonymous, and asks what indicates that the first is Rabbi Yehudah and the second is the Sages. Might not the reverse be suggested! — Who has been heard to make an exposition on limitations in such a manner? Surely it was Rabbi Yehudah: for it has been taught: Rabbi Yehudah said: This is the law of the olah offering, behold these are three exclusions. And if preferred, I might say, [the statement beginning] ‘Lest it be said’ cannot be attributed to Rabbi Yehudah, for in it was taught: Where a majority of the congregation committed a sin, the court brings a bull on their account, while Rabbi Yehudah had said: The congregation must bring [the sacrifice] but not the court; as we learned: Rabbi Yehudah said: Seven tribes who committed a sin bring seven bulls. (2b3 – 3a1)

## INSIGHTS TO THE DAF

### *Exempt from a Chatas*

The *Mishnah* says that if an individual transgressed, relying on the erroneous ruling of the court, he is exempt from the standard *chatas* sacrifice. The Rambam says that if a member of the court transgressed, he is obligated in an individual *chatas* sacrifice when the court realizes its error. Tosfos (2a Bain) raises the question of whether the court itself is obligated to bring an individual *chatas* sacrifice for the people who relied on their ruling, since they caused these individuals to accidentally sin.

### *How to Issue a Ruling*

The *Gemara* discusses how exactly the court must rule in order to be considered a bona fide ruling, exempting those who followed it. The *Gemara* distinguishes between the court saying, “you are permitted” or saying, “you are permitted to do it.”

The Rishonim discuss what each phrase exactly means. The Tosfos Harosh (2a Ain) says that if the court concluded a ruling in the course of learning, this is not considered any type of ruling. If people asked the court whether something was

permitted or prohibited, if the court responded, this is saying “you are permitted.” If people asked with a specific item (e.g. “Is it permitted to eat this type of fat, which we are about to eat?”), and the court permitted, this is saying “you are permitted to do it.” The Tosfos Harosh quotes the Rema, who says that if people asked the court how *they* should rule to others, and the court responded, this is “you are permitted,” but if they asked about doing it themselves, and the court responded, this is “you are permitted to do.” The Tosfos Harosh objects, since all agree that “you are permitted to do” is a more serious ruling than, “you are permitted,” but if someone asked the court how they can rule to others, the court should be even more careful than if they asked the court for an individual ruling.

The *Gemara* proves that the ruling must be “you are permitted to do,” from the *Mishnah* that states that if the court permitted a woman to remarry since her husband died, and she then was promiscuous, and her husband returned, she must bring a *chatas*, since they only permitted her to remarry. Rashi says the proof is from the fact that the *Mishnah* refers to the court having “ruled to her that she can remarry”, and not simply having “permitted her,” indicating that the court must verbalize exactly what she may do.

The Rema (cited by Tosfos Harosh 2a amar) says that the proof is from the fact that she must bring a *chatas*. She is obligated in a *chatas* since she cannot claim that she was relying on the court, which is only because the court explicitly stated *what* they were permitting, indicating that a ruling must be formulated in those terms.

### ***Is it Right or Left?***

Rava explains that the student or judge who knew the error still followed the ruling, since he mistakenly assumed that he should follow the court, even when they err. The Sifri says that the verse that says that one should not stray from the ruling of the court “right or left” teaches that one must follow the court even if they tell you that right is left and left is right.

The Tosfos Harosh (2b kgon, appearing on 3a) says that this only

means that if one would have clearly assumed one thing (e.g., that something is “left”), but the court teaches otherwise (it is really “right”), then one must follow the court. However, if one is *certain* that the court has erred, then he may not follow the court. He thus resolves the Sifri with another *Baraisa* which says that one must follow the court *only* if they tell you that right is right and left is left.

The Reshash, however, says that one must follow the court even if they have clearly erred, but one is obligated to speak up and notify the court of any error they observe in the ruling. The *Mishnah* is discussing a judge or student who sees the error, but does not notify the court.

### ***The Mitzvah to Obey the Wise***

Our *sugya* explains that if a *chacham* who can rule *halachah* hears a decision of the Sanhedrin that contradicts Torah, he mustn’t obey them. If he would do so, he errs in understanding the Torah’s command to obey the wise as this *mitzvah* was not given to transgress prohibitions. In contrast with our *Gemara*, the commentators present Sifrei’s interpretation of the verse “You shall not swerve from the thing that they tell you, right or left” – “Even if he tells that right is left or left is right.” It seems that one must obey the Sanhedrin, even if he believes that they completely erred.

The author of *Beer Sheva*“ (on our *sugya*) distinguishes between the case treated by our *sugya* and that addressed by Sifrei. Our *sugya* concerns someone who hears a ruling that clearly contradicts an explicit *halachah*. Sifrei refers to a *talmid chacham* who disagrees with the Sanhedrin because their ruling doesn’t appear to him to be **logical** and in that instance, he must obey them.

Still, according to the Rishonim, there is no disagreement between our *sugya* and Sifrei. Ramban (*Sefer HaMitzvos, shoresh 1*) and the *Ran* (on Sanhedrin 99a) state that our *Gemara* concerns a *chacham* who heard a ruling in the name of the Sanhedrin that appears to be in error. He should go to Yerushalayim to present his arguments to them and till he does



so, he should be stringent and ignore their ruling, lest they erred. But if he presents his arguments and proofs and his opinion is not accepted, he must obey the Sanhedrin. This is the instance referred to by Sifrei: "Even if he tells you that right is left or that left is right."

Some Acharonim suggested that the obligation to obey the Sanhedrin only forbids being more lenient than their ruling but a person may behave more strictly than their ruling. Therefore, our *sugya* rules that a *chacham* who believes that a lenient ruling of the Sanhedrin is incorrect should be strict with himself. Sifrei determines that a *chacham* who believes that a strict ruling of the Sanhedrin is incorrect must obey them. Nonetheless, this conjecture appears to be rejected by the Rishonim, who comment that one mustn't rule more strictly than the Sanhedrin and, as Rambam states (*Hilchos Maachalos Asuros*, 17:22), someone who forbids the oil of gentiles that Chazal permitted sins "because he disobeys the *beis din* that allowed it" (see Responsa *Yabia" Omer*, VI, Y.D. 7).

## DAILY MASHAL

### THE PLACEMENT OF THE CHAPTERS IN MASECHES HORAYOS

**QUESTION:** The Gemara in Sotah (2a) teaches that the order of two topics in a Mishnah should follow the order of those topics in the verses in the Torah. The **BE'ER SHEVA** asks that the Tana does not seem to follow this rule in Maseches Horayos. The first chapter of Horayos discusses the case of a mistaken ruling of Beis Din, and the second chapter discusses the case of a mistaken ruling of the Kohen Gadol. In the Torah, however, the verses first discuss the case of a mistaken ruling of a Kohen Gadol (Vayikra 4:3), and afterwards the case of a mistaken ruling of Beis Din (4:13). Why does the Mishnah change the order of these laws?

### ANSWERS:

**(a)** The **BE'ER SHEVA** answers that the Gemara later teaches that the Kohen Gadol's sin is tantamount to the entire Jewish people sinning as a result of a mistaken ruling of Beis Din. Accordingly, the Mishnah first discusses the laws of Beis Din's

mistaken ruling, and then it discusses the laws of the Kohen Gadol's mistaken ruling.

**(b)** In his second answer, the Be'er Sheva suggests that since the Torah states that if a Kohen Gadol makes a mistake it is "l'Ashmas ha'Am" -- "to the fault of the nation" (Vayikra 4:3), the Mishnah does not want to begin the Masechta with a topic which is denigrating to the Jewish people. Why, then, does the Torah itself mention this topic before the topic of the mistaken ruling of Beis Din? The Be'er Sheva answers that the Torah wants to teach that when there are two Korbanos which are waiting to be brought, a Par He'elem Davar and a Par Kohen Mashi'ach, the Par Kohen Mashi'ach is offered first.

**(c)** The Be'er Sheva gives a third answer which also explains the placement of Maseches Horayos in the order of the Masechtos. The **RAMBAM**, in his Introduction to Mishnahyos, writes that in the order of the Mishnahyos, Horayos is placed after Avos. (Although **TOSFOS** in Avodah Zarah (2a, DH Lifnei) argues and says that Horayos is placed after Avodah Zarah, as it is in our texts of the Gemara, the Be'er Sheva maintains that the Rambam's opinion is more accurate in this regard.) In what way is Horayos related to Avos? The Gemara often asks why a particular Masechta is placed after another Masechta. The Gemara assumes that the placement of the Masechtos expresses some logical continuation from one Masechta to the next. What is the logical connection between Avos and Horayos? Moreover, Horayos deals primarily with Korbanos, it should be placed in Seder Kodshim. Why is it placed in Seder Nezikim?

The Be'er Sheva quotes the Rambam who answers this question. The Rambam explains that the reason why Avos is placed after Sanhedrin is that the traits required of a Dayan (judge) are listed in Maseches Avos, which begins with the Mishnah, "Hevei Mesunim b'Din" -- "Be patient in judgment." After the traits of Dayanim are discussed, the Mishnah lists the possible errors a Dayan might make. Accordingly, the Be'er Sheva reasons, this also explains why the first chapter discusses with the mistaken ruling of the Dayanim and not the mistaken ruling of the Kohen Gadol.