

How Poskim Come to Know Reality 2 - Drisha Fall 2025

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1. Sanhedrin 5a-b

פי הנה נחית רב לבבך אמר ליה רבי חייה לרבי בן אחותי יורד לבבך יורה יורה ידיו ידיו יתיר בכורות אל יתיר . מאי שנא למר דקא קרי בן אחי ומאי שנא למר דקא קרי בן אחותי וכי תימא הכי הנה מעשה והאמר מר איבו וסנה ושילא ומרתא ורבי חייה כולהו בני אבא בר אחא כרסלא מכפרי הווי רב בר אחוה דהנה בר אחתיה רבה בר חנה בר אחוה דלאו בר אחתיה . ואי בעית אימא על שם חקמתו דכתיב {משלי ז:ד'} אמור לחכמה אחותי את . יתיר בכורות אל יתיר מאי טעמא אילימא משום דלא חכים הא קא אמרין דחכים טובא אלא משום דלא בקיע במומי . והאמר רב שמונה עשר חדשים גדלתי אצל רועה בהמה לידע איזה מום קבוע ואיזה מום עובר אלא לחלק לו פבד לרבה בר חנה . ואיבעית אימא משום הא גופיה דרב בקיע במומי טפי ושרי מומי דלא ידעי אינשי ואמרי פי האי גוונא שרא רב ואתו למשרי מום עובר .

יורה יורה אי גמיר רשותא למה לי למישקל משום מעשה שהיה . דתניא פעם אחת הלך רבי למקום אחד וראה בני אדם שגבלין עיסותיהם בטומאה אמר להם מפני מה אתם מגבלין עיסותיכם בטומאה אמרו לו תלמיד אחד בא לבאן והורה לנו מי בצעים אין מכשירין והוא מי ביצים דרש להו ואינהו סבור מי בצעים קאמר .

Similarly, **when Rav**, who was also Rabbi Ḥiyya's nephew, **descended to Babylonia**, **Rabbi Ḥiyya said to Rabbi Yehuda HaNasi: My sister's son is descending to Babylonia. May he teach** people and issue rulings with regard to what is prohibited and what is permitted? Rabbi Yehuda HaNasi said to him: **He may teach**. Rabbi Ḥiyya then asked: **May he also adjudicate** cases of monetary law, and be absolved from payment if he errs? Rabbi Yehuda HaNasi responded: **He may adjudicate**. Rabbi Ḥiyya continued: **May he declare a firstborn animal permitted?** Rabbi Yehuda HaNasi said to him: **He may not declare** such an animal **permitted**. This incident raises several questions, which the Gemara asks in sequence. **What is different concerning this Sage, Rabba bar Ḥana, that Rabbi Ḥiyya called him: My brother's son, and what is different concerning that Sage, Rav, that Rabbi Ḥiyya called him: My sister's son? And if you would say that this was the situation:** Rabba bar Ḥana was his brother's son and Rav was his sister's son, **but doesn't the Master say: Aivu, Rav's father, and Ḥana, the father of Rabba bar Ḥana, and Sheila, and Marta, and Rabbi Ḥiyya, were all sons of Abba bar Aḥa Karsala from Kafrei?** Consequently, Rav would also be Rabbi Ḥiyya's brother's son. The Gemara answers: **Rav was his brother's son who was also his sister's son**, as Rabbi Ḥiyya's half-brother married Rabbi Ḥiyya's half-sister; while **Rabba bar Ḥana was his brother's son who was not his sister's son**. Therefore, he referred to Rav in a manner that emphasized the additional relationship. **And if you wish, say** instead that he called him: My sister's son, for a different reason:

It was **due to his extraordinary wisdom, as it is written: "Say to wisdom: You are my sister"** ([Proverbs 7:4](#)). Therefore, calling him: My sister's son, was an indication of his great wisdom. The Gemara had related that Rabbi Ḥiyya asked Rabbi Yehuda HaNasi: May Rav **declare a firstborn animal permitted**, and that Rabbi Yehuda HaNasi had responded: **He may not declare** such an animal **permitted**. The Gemara asks: **What is the reason** that he

denied him this permission? **If we say** that it was **because Rav was not** sufficiently wise and learned, **but** that is difficult, as **we already said that he was exceedingly wise. Rather**, it must be that it was **because**, although he was quite knowledgeable about the halakha, **he was not an expert with regard to blemishes**, meaning that he lacked the practical expertise to apply the halakha to actual cases. The Gemara rejects this answer. **But didn't Rav say: I apprenticed with a shepherd for eighteen months in order to be able to know which blemish is a permanent blemish, and which is a temporary blemish?** Evidently, he had a high level of practical expertise in this matter. The Gemara explains: **Rather**, it was in order **to bestow honor upon Rabba bar Hana**. Rabbi Yehuda HaNasi wanted to ensure that Rabba bar Hana would be treated with respect, so he made sure that there was an area of halakha with regard to which the people would not be able to consult with Rav and would need to consult with Rabba bar Hana instead. **And if you wish, say instead: It is due to this fact itself: Since Rav was a great expert with regard to blemishes, he would permit blemishes that average people do not know about. And as a result, they would erroneously say with regard to a different blemish: In a case like this Rav declared the animal permitted, and in this way they would come to erroneously permit an animal with a temporary blemish, believing it to be identical to the blemish that Rav had declared permitted. Due to this concern, Rav was denied the authority to declare firstborn animals permitted on the basis of a blemish.**

With regard to the permission granted to Rabba bar Hana and Rav, the Gemara had related that Rabbi Hiyya asked Rabbi Yehuda HaNasi: **May he teach** people and issue rulings concerning what is prohibited and what is permitted? And Rabbi Yehuda HaNasi responded: **He may teach**. The Gemara asks: **If he had studied** and mastered the relevant halakhot, **why do I need him to receive permission?** The need for formal authority is understandable when it comes to serving on a court to judge cases of monetary law, but any knowledgeable person should be qualified to answer questions about ritual law. The Gemara explains: The need for such permission is **due to an incident that took place. As it is taught** in a baraita: **Rabbi Yehuda HaNasi once went to a certain place, and he saw people there kneading dough while they were in a state of ritual impurity, and they believed that nevertheless, the dough remained ritually pure. Rabbi Yehuda HaNasi said to them: For what reason are you kneading your dough in a state of ritual impurity? They said to him: A certain Torah scholar came here and taught us that water from swamps [mei betza'im] does not render food susceptible to contract ritual impurity. Therefore, they would take water from swamps and knead dough with it, in the mistaken belief that such dough would not be susceptible to ritual impurity. But in reality, what he taught them was that water of eggs [mei beitzim], i.e., the albumin of eggs, does not render food susceptible to impurity, as it is not considered water. But they thought he said: Water from swamps.**

2. Devar HaMishpat Sanhedrin 2:1, Rabbi Chaim Dovid HaLevi

שהצריכה שהיושבים על מדין יכירו בעצמם את עיקרי החכמות, ומה נפלאה חכמת תורתנו הקדושה ובשעה שיבואו, (הכלליות) (שכן כתב רבינו "יודעים קצת משאר חכמות", ונראה לי שכונתו היא עיקרי החכמות לא יצטרכו להסתייע בעדויות של מומחים, שלא תמיד - לדון בפניהם בענינים שידיעת אותן חכמות כלליות נחוצה כאשר יזכנו ה' לשיבת, הן משוללות נטיות שאינם עולות בקנה אחד עם מטרות הצדק המשפטי הצרוף. ולפי זה

שופטינו כבראשונה ויועצנו כבתחלה - יהא מן ההכרח שאותם אשר יתמנו לחברי הסנהדרין יהיו יודעים את עקרונות המדע המודרני אשר החיים על סבך בעיותיהם עשויים להעמידם בפניהם, אם בשבתם כפוסקי הלכה והוראה לבית ישראל, ואם בשבתם כבית דין העליון של האומה על כס המשפט.

וכמה נכונים הדברים גם עתה בזמננו, כאשר נדרשים תופסי התורה מורי הוראה ויושבי על מדין לפסוק בשאלות הקשורות בעצם מהותן בסבך בעיות חדשות, ולא פעם נזקקים להדרכה מקצועית - מדעית שלא תמיד אפשר לסמוך על אותם מומחים, וכבר אירע שנתגלו סתירות מהותיות בעדויות מומחים, וכמה פעמים נפסקו הלכות על יסודות מוטעים שלנשאל לא היתה כל ידיעה מוקדמת בנושא הנדון, ולכן ברור שידיעת העקרונות היסודיים של החכמות הכלליות גם בזמננו היא רצויה ואולי אף הכרחית. והי"ת יזכנו לשיבת שופטינו כבראשונה ויועצנו כבתחלה ומלאה הארץ דעה את ה' כמים לים מכסים.

How wondrous is the wisdom of our holy Torah, which requires that those who sit in judgment to recognize the principles of general knowledge (as Rambam wrote: "they know some of the other sciences," and it seems to me that his intention is the principles of those sciences). When they come to judge matters where knowledge of these general sciences is necessary, they will not need to rely on expert testimony, which is not always free from biases that do not align with the goals of pure legal justice. According to this, when the Lord will bless us with the return of our judges as of old and with our counselors as at the beginning, it will be essential that those appointed to the Sanhedrin be knowledgeable in the principles of modern science, which the complexities of life and its problems may present to them, whether in their role as halakhic adjudicators for the people of Israel, or in their role as the supreme court of the nation on the seat of justice. How true these words are even today, when Torah scholars, rabbis, and those who sit in judgment are required to rule on questions that are inherently connected to new and complex problems, and often must turn to professional—scientific—guidance. However, this guidance cannot always be relied upon, as there have been cases where contradictions in expert testimony have emerged, and numerous times halakhic rulings have been made based on mistaken foundations where the inquirer had no prior knowledge of the matter under discussion. Therefore, it is clear that knowledge of the fundamental principles of general sciences, even in our time, is desirable, and perhaps even necessary. May the Lord grant us the return of our judges as of old, and our counselors as at the beginning, and may the earth be filled with the knowledge of the Lord, as the waters cover the sea.

3. Rabbi Aharon Lichtenstein: "Legitimization of Modernity: Classical and Contemporary," in *Engaging Modernity: Rabbinic Leaders and the Challenge of the Twentieth Century*, edited by Moshe Z. Sokol, Aronson, 1997, pp. 3-33. Reprinted in *Leaves of Faith*, volume 2 (2004), pp. 279-308.

"The Rav once quoted his father, Rav Moshe Z"l, to the effect that the nature of pesak had altered drastically when formal classical semikhah had been terminated. Originally, a samukh— at least on the Rambam's view, that semikhah applies to hora'at issur ve-heter as well as to din— would pronounce a decision which was binding by dint of his authoritative fiat. Subsequently, however, a posek's personal status was vitiated, and with it, the standing of his decisions. Now, he essentially serves as a reference guide, providing reliable information about what the tradition and its sources, properly understood and interpreted, state; but, it is in turn, they, rather than he, which bind authoritatively.

4. R. Lichtenstein ibid

...the same concept can be advanced with hatimat haTalmud as the cut-off point.

[See Chazon Ish Shechita 5:3 and Introduction to Dor Revii of Rabbi Shmuel Dovid Glazner for alternative models.]

5. Rav Lichtenstein's own position, ibid

This is a radical thesis, both conceptually and practically, with potentially momentous implications for the implementation of Halakhah. Legal decisions obviously entail two components: elucidation of the code or the rule and assessment of the particular situation to which it is to be applied. Juridic authority is ordinarily empowered to deal with both components; and the obligation to submit to its dicta encompasses both. One violates לא תסור מן הדבר אשר יגידו לך ימין ושמאל, "Thou shalt not deviate from the injunction from the sentence which they shall declare unto thee, to the right or to the left," by challenging the Sanhedrin's factual determination no less than by rejecting its theoretical conclusion. Yet if one accepts Rav Moshe's contention, this ought not to be the case with respect to late periods. If a posek is only an interpretive reference guide to halakhic sources, one might accept his rendering of the content of the halakhic corpus, but rely upon one's own judgment in evaluating the facts...

The application of this dichotomy to the contemporary scene would neutralize much of the critique of modern Orthodoxy...

But it would also neutralize much else, and I think that one should be reluctant to ground legitimization upon so radical a thesis.

6. Rabbi Aharon Lichtenstein, Chapter 6: Get You Wise Men: Marshalling the Rabbinic Alumni to Meet Contemporary Halakhic Problems," Leaves of Faith, volume 1, 2003, pp. 119-134

It is not enough to know ideal principles; one must also know the reality to which these must be applied. I need hardly point out that, in modern times, this has become increasingly difficult. I am not thinking so much, as perhaps most of you are, of technological questions. These, while often complex, are generally well defined in scope, and in dealing with them, one can usually obtain authoritative guidance from a competent consultant. I am thinking primarily of social issues (which, to be sure, may often be the result of technological change). In a highly mobile and interdependent society, the origins and ramifications of a problem are not easily defined, and the posek who would grapple with it must have a clear sociological and historical perspective.

[T]he very devotion to Torah that enables the posek to develop authoritative knowledge of Halakhah militates against his attaining the broad awareness of his social and natural milieu that alone can enable him to apply it meaningfully in all areas of life. This conflict derives, in part, from the real difficulty of insufficient time and in part, albeit unfortunately so, from lack of initiative and inclination. Talmidei hakhamim are disinclined to involve themselves too deeply in mundane affairs. How many would emulate Rav and spend eighteen months on a far in order to study animal physiology? Rav's was perhaps a radical example, but even far more modest tasks – say, some basic reading in economics or chemistry – frequently go untended.