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Moed Katan Daf 16

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Daf Notes is currently being dedicated to the neshamah of

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May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

The Gemora cites Scriptural sources for the following halachos: It is proper practice to send an emissary from the court and summon the defendant to appear before the Beis Din; we compel the defendant to come before Beis Din (*and not that the Beis Din goes to him*); we notify the defendant that the judge is a great man; we notify the defendant that so-and-so the plaintiff will be appearing in the Beis Din; we set a precise date to appear in Beis Din; we establish another date if the defendant does not come to Beis Din the first time he was called; the agent of the Beis Din is permitted to report back to the Beis Din the derogatory words of the defendant and it is not considered *loshon horah* (slander); we excommunicate the defendant if he does not pay attention to the summons; we notify the defendant that he has been excommunicated; we can curse the defendant with a *cheirem* (the highest level of excommunication); one is not allowed to eat, drink or stand within four amos of one who has been excommunicated; we publicize the transgression of the one who has been excommunicated; we may pronounce his property ownerless if he doesn't listen to the Beis Din; we are permitted to argue with noncompliant individuals, curse, hit, pull out their hair and force them to swear that they will not commit this transgression again; we can bind his hands and feet and tie him to a post in order to administer lashes to him; we can repeat the

excommunication (after thirty days) and place him in *cheirem* (after sixty days) if he still refuses to abide by the Beis Din's instructions. Rav Chisda says that we warn him on Monday (and place him immediately under a ban); we warn him again on Thursday (and if he is still does not repent, we excommunicate him again); and the following Monday we place him in *cheirem*. The Gemora notes that Rav chisda's ruling is for monetary matters, but if he shows contempt (to the Torah or to scholars), we excommunicate him immediately (without any warning). (16a)

The Gemora relates that there was a certain butcher who had been insolent to Rav Tovi bar Masnah. Abaye and Rava were appointed to investigate and they excommunicated him. In the end, the fellow went and appeased his litigant. Abaye said: What is one to do? Should we release him now? The shamta had not been in effect for thirty days. Shall we not release him? The Rabbis need to go in to him (to purchase meat)! Abaye said to Rav Idi bar Avin: Have you heard anything bearing on this? He replied: Thus said Rav Tachlifa bar Avimi in the name of Shmuel: A toot (from a shofar) restricts and a toot releases (even though it was less than thirty days).

Abaye said to him: A Beis Din can release an individual who is a noncompliant regarding a monetary case with the sounding of a shofar even if the ban was not in effect for thirty days, but one who



shows disrespect to the Torah or a Torah scholar must remain in a state of excommunication for thirty days.

From the previous incident, it shows that Abaye was of opinion that if three people had excommunicated a man three others cannot come and release him! For the question was raised: If three people had excommunicated a man, can three others come and release him?

Come and hear from a braisa: One who has been excommunicated (only) to the teacher is deemed as excommunicated from the (teacher's) student(s) as well, but one who has been excommunicated to the student is not deemed as excommunicated from the teacher. One who is excommunicated to his own town is also excommunicated from another town; but one who is excommunicated to another town is not deemed as excommunicated from his own town. One who is excommunicated by the Nasi is excommunicated to all of Israel; but one who is excommunicated to all of Israel is not excommunicated from the Nasi. Rabban Shimon ben Gamliel says that if one of the students had excommunicated someone and died, his part cannot be released.

The Gemora notes: From this you derive three points: 1. That if a student excommunicated someone in defense of his own personal dignity, the excommunication lies, and 2. You may infer that each person (who administered the ban) revokes his own part, and 3. you infer that if a body of three have pronounced a shamta on a person, three others may not come and release him.

Ameimar said: The rule in practice is that if three judges have pronounced a shamta on a person, three others may come and release him.

Rav Ashi said to Ameimar: But it was taught: Rabban Shimon ben Gamliel says that if one of the students had excommunicated someone and died, his part cannot be released. Does not this mean that it cannot be nullified at all?

Ameimar answers: No, it means (that it is in effect) until three others judges come and release him. (16a)

The Gemora cites a braisa: An excommunication stays in effect for a minimum of thirty days and a *nezifah* (a student who causes his teacher displeasure places himself in a state of rebuke, i.e. confining himself to his room, refraining from contact or business with other people) must be for at least seven days.

Rav Chisda says: Our excommunication (in Bavel) corresponds to their rebuke (in Eretz Yisroel), and their rebuke lasts for seven days.

The Gemora asks: But is their rebuke of only seven days' duration, and not more? Is it not a fact that Rabbi Shimon, Rebbe's son, and Bar Kappara were once sitting and learning the lesson together when a difficulty arose about a certain passage, and Rabbi Shimon said to Bar Kappara: This matter needs Rebbe to explain it, and Bar Kappara replied: And what can Rebbe possibly say on this? He went and (innocently) repeated it to his father, at which Rebbe



was indignant. At a later date, Bar Kappara presented himself before Rebbe, he said: Bar Kappara, I do not recognize you! He realized that Rebbe had taken the matter to heart and submitted himself to the restrictions of rebuke for thirty days.

On a different occasion, Rebbe issued an order that they should not teach disciples in the open public marketplace (to which the Gemora provide a Scriptural source that Torah should be studied in a private setting). Rabbi Chiya went out and taught Torah to the sons of his two brothers in the public marketplace. This was Rav and Rabbah bar Chanah. Rebbe heard of this and became upset. When Rabbi Chiya next presented himself before him, Rebbe said to him: Iya (as a disparaging nickname), who is calling you outside? He realized that Rebbe had taken the matter to heart, and submitted himself to the restrictions of rebuke for thirty days. On the thirtieth day, Rebbe sent him a message saying: Come! Later he sent him a message not to come! (

The Gemora explains his thought process: At first he thought that part of the day may be deemed equivalent to the entire day, and in the end he thought that we do not say part of the day may be deemed equivalent to the entire day.

In the end he came. Rebbe said to him: Why have you come? Rabbi Chiya replied: Because you, master, sent for me to come. Rebbe asked: But then I sent to you not to come? He replied: The one (messenger) I saw and the other I have not seen. Thereupon, Rebbe cited the text: When a man's ways please Hashem, he makes even his enemies to be at peace with him.

The story continues: Rebbe asked him: Why did you act like that (teaching Torah in public, contrary to my order)? Because, replied Rabbi Chiya, it is written: Wisdom cries out in the street: Rebbe said to him: If you read this verse once, you have not read it a second time; if you have read it a second time, you have not read it a third time; and if you have read it a third time, they (who taught you) have not explained it to you. The verse; Wisdom cries out in the streets is to be understood in the sense in which Rava explained it; for Rava said: If one studies the Torah indoors (inside the Study Hall), the Torah proclaims him abroad.

The Gemora asks: But then is it not written (otherwise): From the beginning (at Mount Sinai), I have not spoken in secret (indicating that Torah should be studied in a public place)?

The Gemora answers: That has special reference to the 'Kallah' (public lectures) days.

The Gemora explains that Rabbi Chiya uses Rebbe's verse (which he used for the decree against learning Torah in public) to teach us that charity and acts of lovingkindness should be performed in secret.

The Gemora concludes its question: Thus it is evident that the duration of their rebuke (in Eretz Yisroel) lasts thirty days (challenging Rav Chisda, who said that it lasts only seven days)!

The Gemora answers: The rebuke of a Nasi is different.

The Gemora asks: And our rebuke (in Bavel), how long does it last?

The Gemora answers: One day, as in the incident of Shmuel and Mar Ukva. When they were sitting together studying Torah, Mar Ukva (the student) sat before Shmuel (the teacher) at a distance of four cubits; and when they sat together at a judicial session, Shmuel sat before Mar Ukva (the head of the court) at a distance of four cubits, and nevertheless, a place was dug out for Mar Ukva where he sat on a mat, so that what he (Shmuel) said should be heard (to advise Mar Ukva). Every day Mar Ukva accompanied Shmuel to his house. One day he (Mar Ukva) was engrossed in judgment, and Shmuel walked behind him. When they had reached his house, Shmuel said to him: Are your actions not clear to you (and you delayed me)? Let the master release me from his dispute! Mar Ukva then realized that Shmuel took the matter to heart, and submitted himself to the disability of a rebuke for one day.

The Gemora records an incident: There was this woman who was sitting in a pathway gathering sheaves, and stretched out her leg. A rabbinic scholar passed by and she did not move it out of his way. He said, "How rude is this woman!" She came before Rav Nachman. He said to her, "Did you hear *shamta* come from his mouth?" She said to him, "No." He said to her, "Go and practice rebuke regarding yourself for one day."

Zutra bar Toviah was once expounding Scriptural verses in the presence of Rav Yehudah. Coming to the verse: And these are the last words of David; he said to Rav Yehudah: 'Last words': this implies that

there were first words (prophecies); which are those first words? He (Rav Yehudah) kept silent, without saying anything. Again, Zutra said: 'Last words': this implies that there were first words (prophecies); which are those first words? He then replied: Do you think that one who does not know an explanation of that text is not an eminent man? Zutra realized that Rav Yehudah had taken the matter to heart submitted himself to the disability of a rebuke for one day.

The Gemora asks: Now, however, that we have come upon this question: 'Last words': this implies that there were first words (prophecies); which are those first words?

The Gemora answers: And David spoke to Hashem the words of this song on the day that Hashem delivered him out of the hand of all his enemies and out of the hand of Shaul. The Holy One, Blessed be He, said to David: David, you are composing a song on the downfall of Shaul. Had you been Shaul and he David, I would have annihilated many Davids out of regard for him. Hence it is written: A shiggayion (an error) of David, which he said to Hashem, concerning Cush ben Yemini (referring to Shaul).

The Gemora asks: Was Cush his name? Wasn't his name Shaul?

The Gemora answers: But, just as a Cushite (who is darkskinned) is distinguishable by his skin, so was Shaul distinguished by his deeds.

Similarly, the Torah refers to Tziporah, the wife of Moshe Rabeinu, as a "Cushis" (Shemos 12:1). The

Gemora explains that the verse does not mean that her skin color was black, but that she was outstanding in her deeds. (16b)

Rabbi Shmuel bar Nachmeini in the name of Rabbi Yonasan said: What does the verse mean when it says: *These are the words of David son of Yishai, and the words of the man who established a yoke?* This means that these are the words of David son of Yishai who established the benefit of repentance. (16b)

DAILY MASHAL

BLASPHEMOUS WORDS REGARDING A BEIS DIN

The Gemora states: The agent of the Beis Din is permitted to report back to the Beis Din the derogatory words of the defendant and it is not considered *loshon horah* (slander). Scriptural proof is cited from the fact that Dasan and Aviram's words were reported back to Moshe and Moshe accepted the report as true.

The Chasam Sofer asks: The Yerushalmi states: One is permitted to speak *loshon horah* on *baalei machlokes* (people causing arguments); what is the proof that one is allowed to repeat the blasphemous words of the defendant from the fact that the agent informed Moshe regarding Dasan and Aviram's words; they were involved in an argument and it would be permitted for anyone to speak about them?

Gilyon Hashas answers: The reason why the Yerushalmi permits one to talk about people stirring a dispute is only if it is for the sake of quieting the argument; it is obvious that it is forbidden to talk about them if the intention is to arouse more strife. The agent who told over to Moshe the offensive words of Dasan and Aviram was causing the quarrel to become stronger and therefore it would have been forbidden to repeat if not for the fact that there is a special permission granted to an emissary from Beis Din.

The Ritva explains that the reason for this authorization is because people will become careful not to insult Beis Din and to refrain from saying disparaging remarks regarding the Beis Din.