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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

It is written: And Hashem said to Moshe, Take all the chiefs of the people. If the people had sinned (regarding idolatry), where had the chiefs sinned? — Rav Yehudah said in Rav's name: The Holy One, Blessed be He, said to Moshe: Divide them into [many] courts. (to judge them and execute them for worshipping Peor) Why (were many courts necessary)? Shall we say, because two [men] may not be tried [and sentenced] on the same day? But Rav Chisda said: This was taught only with reference to [charges involving] two different types of capital cases; whereas one type of capital case may be tried? — Rather, that the fierce anger of God may be removed from Israel.

The Mishnah had stated: Monetary cases may be concluded on the same day etc. . . . [The Mishnah continued: Capital cases may be concluded on that same day for acquittal, but only on the following day for conviction.]

The Gemora asks: From where is this derived?

Rabbi Chanina said: The Torah says: It [Yerushalayim] was full of justice, righteousness lodged [yalin] in it, but now, murderers. Rava derived it from the following: Encourage the oppressed, i.e., encourage the judge who delays his verdict. And the other (R' Chanina) [interprets it thus:] Encourage the oppressed (the victim of the theft), not the oppressor (the thief). And the latter [Rava]: how does he utilize the verse: And it was full of

justice? [He learns from it] as Rabbi Elozar said in the name of Rabbi Yitzchak, viz.: If on a fast day, the distribution of charity is delayed overnight, it is just as though blood were shed (for the poor would go hungry, and possibly die of hunger), as it is written: It was full of justice, charity, etc. This, however, applies only to bread and dates; but in the case of money, wheat or barley, [postponement] does not matter.

The Mishnah had stated: Therefore (because we were restricted from handing down a conviction in capital cases on the same day that the arguments for conviction were heard) trials are not held [on the eve of Shabbos or Yom Tov].

Why so? — Because it is impossible, for how could it be done? Should they try him [the accused] on the eve of Shabbos and pronounce judgment on the same day; perhaps they may find cause for conviction, and judgment will then have to be postponed overnight. Or again, if they try him on the eve of Shabbos, and pronounce judgment on Shabbos, and execute him on that day, but execution cannot supersede the Shabbos laws. Again, should he be executed in the evening; execution must be carried out 'against the sun' (by day). On the other hand, if judgment is pronounced on Shabbos while he is executed on the first day of the week [Sunday], it will emerge that you have cause him (the defendant) agony in his judgment. If he be tried on Shabbos, and the matter concluded on the first day of



the week, they might have forgotten their reasons by then, for although two judicial scribes stand before them and write down the arguments of those who would acquit and those who would convict, they can but record the spoken words, yet the heart of a man (i.e., his reasoning – is not recorded, and could be) forgotten. Hence this is impossible.

Rish Lakish said to Rabbi Yochanan: Why shouldn't the burial of an unattended corpse supersede [the laws of] Shabbos, based on the following kal vachomer: if the Temple service, which overrides the Shabbos (laws) is itself suspended for the burial of an unattended corpse, as it was taught in the following braisa: *To his sister (which is written by nazir)* teaches us that which we learned in the following braisa: If someone was traveling to bring his *korban pesach* or to circumcise his son, and he heard that one of his close relatives died, the *halachah* is that he should not become *tamei* to them (*for one who fails to perform the positive commandment of the korban pesach or circumcision will receive the penalty of kares*). Perhaps he should not become *tamei* to an unattended corpse either. The Torah writes to his sister to teach us that a *nazir* cannot become *tamei* to his sister, but he may become *tamei* to an unattended corpse (*and we derive from here that this would apply to someone who is not a nazir as well*). Then Shabbos, which is overridden in favor of the Temple service, should surely be set aside for the burial of an unattended corpse!?

He said to him: Execution (of a murderer) can prove it [the contrary], as it supersedes the Temple service, and yet does not set aside the Shabbos (laws).

The Gemora counters: But let execution itself supersede the Shabbos, based on the following kal vachomer: If the Temple service, which supersedes the Shabbos, is itself

set aside for execution, as it is written: You shall take him from

My altar that he may die; then the Shabbos, which the Temple service sets aside, should surely be set aside by execution!?

Rava said: A braisa of Rabbi Yishmael's academy has already decided this, for a braisa of the academy of Rabbi Yishmael taught: You shall not kindle a fire; what does this teach?

The Gemora asks: How can you ask what is learned from this verse? There is a braisa that presents a dispute between Rabbi Yosi and Rabbi Nosson regarding this verse. It was taught in a braisa: Rabbi Yosi said that this verse teaches us that kindling on Shabbos is merely a prohibition (*and incurs lashes for violating it and not kares or stoning*). Rabbi Nosson said: It is to teach us that one is liable for punishment for violating one *melochah* (labor) on Shabbos. (*Otherwise, we would have thought that one incurs a punishment only if he violates all thirty-nine melochos.*)

Rava answers: The Tanna was questioning the word "dwellings." Why was it necessary for the Torah to write that one cannot kindle in any of your dwellings, indicating that it is forbidden outside of Eretz Yisroel, as well; Shabbos is a personal obligation, and personal obligations apply even outside Eretz Yisroel (*unlike a mitzvah which is dependent on land, where the obligation will only be in Eretz Yisroel*)?

A student answered in the name of Rabbi Yishmael: Since it is written: And if a man has committed a sin worthy of death and he is put to death. I [might] understand it to mean both on weekdays and on Shabbos. How then should I interpret: He that profanes it (the Shabbos) shall surely be put to death? — As



referring to other forms of work, but not judicial execution. Or perhaps that is not so, and it does indeed include judicial execution; and how am I to interpret: And he is put to death? — as applying only to weekdays, but not to Shabbos! Or perhaps, on the contrary, even Shabbos is meant? — Therefore the Torah teaches: You shall not kindle a fire throughout your dwellings, and elsewhere it says: And these things shall be for a statute of judgment for you throughout your generations in all your dwellings. Just as the word ‘dwellings’ found there, refers to [matters concerning] a court, so the word ‘dwellings’ found here refers to [work entailed by] a court. And regarding it the Merciful One states: You shall not kindle a fire in all your dwellings.

Abaye said: Now that you have concluded that execution does not supersede Shabbos, it [necessarily] follows that execution does not suspend the Temple service, through the following kal vachomer: If Shabbos, which is abrogated in favor of the Temple service, is not set aside for execution; then the Temple service, which supersedes Shabbos, is surely not suspended by execution! And as to the Scriptural verse: You shall take him from My altar that he may die? — This refers only to a private sacrifice, which does not suspend the Shabbos.

Rava said: But execution should not suspend [attendance even upon] a private sacrifice, based upon the following kal vachomer: If a festival, which is superseded by a private offering, is not abrogated for an execution; then a private offering, which supersedes the festival, is surely not to be suspended by an execution?

Rava explains: Now, according to the one who holds that vows and donated offerings [i.e., private offerings] may not be sacrificed on festival days, it is understandable; but according to the one who holds that vows and

donated offerings may be sacrificed on Festivals, what can you say?

Therefore Rava said: It goes without saying that [Abaye's reasoning is unacceptable] not only according to the one who holds that vows and donated offerings can be sacrificed on a festival, — since in that case, [the verse]: From My altar etc. has no applicability at all, — but even according to the one who holds that vows and donated offerings cannot be sacrificed on festivals. For, is it not written: From My altar, [implying,] My altar, viz., that which is peculiarly mine; and which sacrifice is that? The tamid. And the Merciful One writes: You shall take him from My altar that he may die.

#### DAILY MASHAL

#### Truth Is the Foundation of All

Rabbi Bunim of Pshischa once said that the means used when pursuing justice must also be just, not false. The Chiddushei HaRim says in his name that we do not find that the Torah warns us to keep far from prohibitions. Our sages are the ones who instituted decrees to safeguard our behavior. This does not pertain, though, to truth and falsification. About lies the Torah says “Keep far from a lie” and about truth and justice we are told “Justice, justice pursue”. Truth, justice and the avoidance of lies and falsification are the foundation of all (Sefas Emes).