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Sanhedrin Daf 47

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Daf Notes is currently being dedicated to the neshamot of

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

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

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### **THE REASON FOR EULOGIES**

(a) Answer #5 (Beraisa): "Nivzeh b'Einav Nim'as" refers to Chizkiyah, who dragged his father's bones on a bed of ropes.

1. If (eulogies or other honor shown to the dead) were to honor the living, he would not have done so (to disgrace the living)!

(b) Rejection: He did so in order that the disgrace would atone for his father.

1. Question: If it is to honor the living, he should not have delayed the honor of Yisrael (the eulogy) for the sake of his father!

2. Answer: Yisrael pardoned their honor to him.

(c) Answer #6: Before Rebbi died, he instructed 'do not eulogize me in cities.'

1. If it is to honor the living, what difference does it make to him?

(d) Rejection: He wanted Yisrael to get more honor through himself.

(e) Answer #7 (Mishnah): If he left him for his honor, to bring a coffin or shrouds, he does not transgress.

1. Suggestion: it means, for the deceased's honor.

(f) Rejection: No, it means for the honor of the living.

1. Question: Do we leave the deceased overnight in order to honor the living?!

2. Answer: Yes! The Isur "Lo Salin" resembles leaving a person hanging, which is a disgrace. Here, it is not a

disgrace.

(g) Answer #8 (Beraisa): If he left him for his honor, for eulogizers to gather in cities, to bring women to wail over him, to bring a coffin or shrouds, he does not transgress, for these are purely to honor the deceased.

(h) Rejection: It means, whatever is purely to honor the living, this is not a disgrace to the deceased.

(i) Answer #9 (Beraisa - R. Nasan): It is a good sign for the deceased if he is punished in this world, e.g. if he was not eulogized, was not buried, was dragged around by an animal, or it was raining on him.

1. Since it is an atonement if he was not eulogized, this shows that the eulogy is to honor the deceased.

### **BURIAL OF SOMEONE EXECUTED**

(a) (Mishnah): Someone executed is not buried with his family.

(b) Question: What is the reason?

(c) Answer: We do not bury a Rasha next to a Tzadik.

1. (R. Acha bar Chanina): We learn from "va'Yashilchu Es ha'Ish b'Kever Elisha va'Yiga ha'Ish b'Atzmos Elisha va'Ychi va'Yakam Al Raglav." (A Rasha was buried in Elisha's grave. The man revived and walked out.)

2. Question (Rav Papa): You assume that he was revived because a Rasha may not be buried near a Tzadik;

i. Perhaps he was revived to fulfill "vi'Hi Na Pi Shenayim b'Ruchacha Alai"! (Elisha requested to have twice the Ru'ach ha'Kodesh that Eliyahu had, and Eliyahu agreed. Eliyahu revived one Mes, and this was Elisha's second.)

3. Answer (Rav Acha): If so, he should have lived longer;  
i. (Beraisa): He stood on his legs, but he did not even



reach his house.

4. Question: If so, when did Elisha revive another person, to fulfill Eliyahu's blessing?

5. Answer (R. Yochanan): He cured Na'aman's Tzara'as;

i. A Metzora is considered to be dead - "Al Na Sehi ka'Mes."

(d) Similarly, we do not bury a severe Rasha near a less severe Rasha.

(e) Question: Beis Din should have four cemeteries, one for each death penalty!

(f) Answer: A tradition from Moshe from Sinai teaches that Beis Din has two cemeteries.

### **IS DEATH AN ATONEMENT?**

(a) (Ula citing R. Yochanan): If one (mistakenly) ate Chelev, was Makdish a Korban to atone for this, became a Mumar (idolater, who may not offer a Korban) and repented, since the animal was once Nidcheh (unable to be offered), it can never be offered.

(b) (R. Yirmiyah citing R. Yochanan): If one ate Chelev, was Makdish a Korban, went crazy and regained sanity, since the animal was once Nidcheh, it can never be offered.

(c) He needed to teach both cases.

1. Had he taught only the first case, one might have thought that there it can never be offered, because he actively was Docheh the Korban, but insanity happens by itself, so he is like one who goes to sleep (the Korban is not (permanently) Nidcheh);

2. Had he taught only the second case, one might have thought that there it can never be offered, because he cannot restore his sanity, but a Mumar can always repent (so his Korban is not Nidcheh).

(d) Support (Rav Yosef - Mishnah): If there were Kodshei Mizbe'ach in an Ir ha'Nidachas, we do not burn them with the rest of the city, we precipitate their death;

1. If there were Kodshei Bedek ha'Bayis, we redeem them.

2. Question: Why do we kill Kodshei Mizbe'ach? Once the owners die, that is an atonement for them. The Korbanos (are no longer "Zevach Resha'im", so they) should be

offered!

3. Answer #1: This is because once a Korban was Nidcheh, it is permanently Nidcheh.

(e) Objection (and Answer #2 - Abaye): No, death is not an atonement for one who died without Teshuvah.

1. Suggestion: Perhaps a Kohen becomes Tamei to bury a relative who separated from the ways of the Tzibur (e.g. a Mumar)!

2. Rejection: (Rav Shemayah): He is Mitamei "b'Amav", only for one who acted like your people.

(f) Objection (against Abaye - Rava): There is a difference between one who died without Teshuvah and one who was executed without Teshuvah. Since the latter did not die naturally, his death atones for him!

(g) Support (Rava, for himself) Question: "...Nivlas Avadecha... Besar Chasidecha" - what do these refer to?

1. Answer: "Chasidecha" are the true Tzadikim. "Avadecha (Your servants)" are those who were Chayav Misah. Since they were killed, they are called "Your servants."

(h) Rejection (Abaye): Death at the hands of the king is different than execution by Beis Din;

1. Those killed by the king were not killed according to law, therefore it atones for them;

2. Those killed by Beis Din were killed according to law, therefore it does not atone for them (without Teshuvah).

(i) Support (Abaye, for himself - Mishnah): Someone executed is not buried with his family.

1. If Misas Beis Din is an atonement, he should be buried with his family right away!

(j) Rejection (Rava): Death and the burial together bring atonement.

(k) Question (Rav Ada bar Ahavah - Mishnah): The relatives do not mourn. They conduct Aninus, for this is not apparent to others.

1. If death and the burial bring atonement, they should mourn!

(l) Answer #1: Decomposition of the flesh is also needed for atonement.

1. Support (Mishnah): After the flesh has decomposed, his bones are buried with his family.



(m) Answer #2 (Rav Ashi): Really, death and the burial bring atonement by themselves;

1. Mourning should begin from Stimas ha'Golel (Rashi - sealing of the coffin; R. Tam - placing a stone to mark off the grave), atonement is only after suffering pain of burial;

2. Since they were Nidchim (disqualified) from beginning mourning at the proper time, they are permanently Nidchim.

(n) Question: If so, why do we wait until the flesh decomposes before burying the bones with his family?

(o) Answer: It is not feasible to collect the bones while the flesh is rotting.

#### **BENEFIT FROM GRAVES AND SHROUDS**

(a) People would take dirt from Rav's grave to cure a fever on the first day.

(b) Shmuel: It is permitted. The ground does not become forbidden.

1. "Va'Yashlach Es Afarah (of the Asheirah) Al Kever Bnei ha'Am" equates a grave to idolatry:

2. Idolatry attached to the ground is permitted. The Torah forbids "Eloheim Al he'Harim" (their gods on the mountains), but the mountains are not their gods;

i. Likewise, attached dirt of a grave is permitted.

(c) Question (Beraisa): If one dug a grave for his father (or anyone else, after his death) and buried him elsewhere, no one else may be buried in the first grave.

(d) Answer: The case is, he made a tomb above ground (since it was originally detached, it becomes forbidden).

(e) Question (Beraisa): One may benefit from a new grave;

1. If a Nefel (stillborn baby) was put inside, one may not benefit from it;

(f) Answer: Here also, the tomb is above ground.

(g) Question (Beraisa): There are three types of graves: a found grave, a known grave, and a grave that harms the public.

1. If one finds a grave on his property that he did not authorize, he may move it. After he does so, its place is

Tahor and one may benefit from it;

2. One may not move a known grave (the owner of the property authorized it). If he moved it, its place is Tamei and one may not benefit from it;

3. If a grave harms the public, one may move it. After he does so, its place is Tamei and one may benefit from it.

(h) Answer: Here also, the tomb is above ground.

(i) Question: Why may one move a found grave? Perhaps it was a Mes Mitzvah, which acquires (the right to remain in) its place!

(j) Answer: A Mes Mitzvah becomes known. (Since we did not hear about it, we are not concerned for this.)

(k) (Abaye): If one wove a garment for a Mes, one may not benefit from it;

(l) (Rava): One may benefit from it.

1. Abaye forbids, because designation takes effect;

2. Rava permits, because designation has no effect.

(m) Question: What is Abaye's reason?

(n) Answer: He learns a Gezeirah Shavah "Sham-Sham" from Eglah Arufah. Just like the calf is forbidden through designation (being taken to the Nachal (valley or river)), also designation for a Mes.

(o) Rava learns the Gezeirah Shavah "Sham-Sham" from idolatry. Just like (a Keli to serve) idolatry is not forbidden through designation (until he serves with it), also designation for a Mes.

(p) Question: Why doesn't Rava learn from Eglah Arufah?

#### **INSIGHTS TO THE DAF**

##### **OBSERVING THE LAWS OF MOURNING AT A LATER TIME**

QUESTION: The Mishnah (46a-b) states that when a person is executed by Beis Din, his relatives are not to mourn for him. He is buried in a special section of the cemetery, and after the body has decomposed the bones are removed and buried in his family's burial plot. Rav Ada bar Ahavah asks that the death and burial of the sinner should atone for his sins, and once his sins have been atoned for his relatives should be required to mourn for him!

The Gemara first answers that the sinner attains atonement only after his body decomposes. Rav Ashi then answers that it is true that a sinner achieves atonement shortly after burial. Nevertheless, the relatives do not mourn for him because the laws of mourning normally take effect at the moment that the grave is closed. When their relative's grave is closed, the sinner still has not achieved atonement. He achieves atonement only once he has been in the ground for a few minutes. Since the Aveilus does not take effect at the time that it is supposed to start, it never takes effect; once it has been deferred, it remains deferred. The Gemara implies that whenever Aveilus does not start at the time that the relative died, it is not observed at all. Accordingly, if a child had not yet reached the age of adulthood at the time that his relative died but he reached that age immediately afterwards, he should be exempt from observing the laws of Aveilus. On the other hand, the Gemara in Moed Katan teaches that when a person does not find out about his relative's death immediately but he finds out within thirty days of the death, he observes the laws of Aveilus as usual. This implies that Aveilus *can* start at a later date.

Moreover, as Rashi cites from Moed Katan (19a), when a relative dies during the festival, the laws of Aveilus are not observed immediately but are postponed until after the festival. This implies that if the relative of a Katan dies and the Katan becomes a Gadol immediately after the burial, he *should* observe Aveilus for seven days. How is the Gemara here to be reconciled with the Gemara in Moed Katan, and what is the Halachah in the case of a Katan who reached adulthood ("Katan she'Higdil") with regard to observing Aveilus?

ANSWERS:

(a) The Rishonim disagree about the Halachah in the case of a Katan she'Higdil. The ROSH (Moed Katan 3:96) rules that a Katan she'Higdil does *not* observe Aveilus since the Aveilus did not take effect at the time of the death of his relative. Although the Katan has now become a Gadol, since the Aveilus did not take effect at the time of death it

cannot be compensated for at a later time. The TAZ (YD 396:2) cites proof for the ruling of the Rosh from the Gemara here which says that once the obligation of Aveilus has been deferred, it is deferred forever.

Why does a person observe Aveilus when he hears about the death within thirty days? The Rosh explains that in such a case the Aveilus takes effect immediately at the time of the relative's death. Therefore, even the survivor who did not know about the death is given a chance to make up for the Aveilus as long as it is still within thirty days. In the case of the Gemara here, in contrast, the Aveilus did not yet take effect at the moment of death of the sinner (since he was a sinner at that time), and therefore it cannot be compensated for because of the rule that if it does not take effect initially, it cannot take effect at a later time.

What is the answer to the question from the case of a relative who dies during the festival? That case should be comparable to the case of the Gemara here in which the Aveilus does not take effect at all at the time of the death. RASHI here explains that the Aveilus *does* take effect during the festival with regard to how the public interacts with the mourner.

The Rosh in Moed Katan proposes a different distinction which answers this question as well. The Rosh explains that when the mourner (such as a Katan) or the deceased (such as a Rasha) are not fit for the obligation of Aveilus to take effect, the Aveilus is not observed even at a later time, as the Gemara here says. However, when the Aveilus cannot be observed because of an external factor -- such as the time of the death (during the festival) -- the obligation to observe Aveilus is not suspended. Rather, the moment of death puts into effect the laws of Aveilus which require that in a certain number of days the mourners observe seven days of mourning. It takes effect in such a way that it should start only later. When the delay depends on the Avel or on the Mes, that is a reason for the Aveilus not to take effect at all. The Rosh rules, therefore, that a Katan she'Higdil is exempt from Aveilus.

(b) The MAHARAM MI'ROTEMBURG, the teacher of the Rosh, rules differently. The Maharam explains that when a



Katan becomes a Gadol during the first thirty days after the death of his relative, he must observe Aveilus just like an adult relative who was unaware of the death but who heard about it within thirty days ("Shemu'ah Kerovah"). The Maharam cites proof from the Gemara in Yevamos (33a) which says that when a Katan becomes a Gadol in the middle of Shabbos, all of the laws of Shabbos take effect immediately. Similarly, if a Katan becomes a Gadol during the time that Aveilus should take effect, he observes Aveilus just as an adult observes Aveilus in a case of a Shemu'ah Kerovah and in a case in which a relative dies during the festival.

How can the Maharam's ruling be reconciled with the Gemara here which says that once the Aveilus has been postponed, it is postponed indefinitely? The NEKUDAS HA'KESEF explains that the only time that Aveilus is postponed indefinitely is when there is something about the death which prevents the obligation of Aveilus from taking effect. For example, in the case of the Gemara here, the relative was a Rasha, in which case there is no obligation of Aveilus at all at the time of the death since the death of a Rasha does not warrant Aveilus. In such a case, even if the dead man achieves atonement posthumously, the fact that a righteous man is now missing from the world cannot obligate Aveilus, since that righteous man did not leave and pass from the world. In contrast, in the case of a person who dies during the festival, there is an external factor (i.e. the festival) that prevents the Aveilus, and thus the Aveilus is observed later when it can take effect. Similarly, when the relative of the deceased is a Katan, his age is an external factor that prevents the Aveilus from being practiced; the death itself was one which should have caused Aveilus to take effect, and thus it takes effect later when it is able to be observed. (A similar answer is given by the TESHUVOS YAD ELIYAHU #93 and the KEHILOS YAKOV #9.)

The underlying argument between the Maharam and the Rosh seems to be how to view the obligation of Aveilus in the case of a Shemu'ah Kerovah.

The Rosh maintains that the Aveilus observed in the case of a Shemu'ah Kerovah is only a compensatory Aveilus, and thus it may be observed later only if it could have been observed by this person originally but for some reason he did not observe it (for example, he was a Katan).

The Maharam, in contrast, compares Aveilus in the case of a Shemu'ah Kerovah to the case of a Katan who becomes a Gadol on Shabbos. Just as every moment of Shabbos obligates a person to observe the laws of Shabbos, the knowledge of the death of a relative obligates a person to observe Aveilus throughout the first thirty days after the death, at any moment that he might learn of it. The Aveilus that is observed later is not observed to make up for what was missed, but rather the same obligation applies throughout the thirty days.

The BACH cited by the Taz (ibid.) points out that the Rosh and Maharam have a similar argument elsewhere, as cited by the Rosh in Berachos (3:2), in which each one is consistent with his own opinion. The discussion there involves a person who is an Onen on Motza'i Shabbos and thus he does not recite Havdalah (since he is exempt from Mitzvos). Should he recite Havdalah the next day, when he is no longer an Onen? The Maharam rules that until the Tuesday after Shabbos a person may still recite Havdalah if he did not do so on Motza'i Shabbos. Therefore, an Onen should recite Havdalah if his deceased relative is buried before Tuesday night. The Rosh, on the other hand, rules that when the Torah gives extra time to recite Havdalah, it is not because the obligation of Havdalah applies throughout that time, from Motza'i Shabbos until Tuesday night. Rather, the obligation of Havdalah comes at a particular time -- the night after Shabbos. Until Tuesday, a person is granted the right to make up for what he missed if he did not recite Havdalah on Motza'i Shabbos. Therefore, an Onen who was not obligated to recite Havdalah on Motza'i Shabbos does not have to make up later for what he did not do.

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