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City of Refuge

Rav Yehudah said in the name of Rav: Yoav committed two mistakes at that time (when Shlomo Hamelech sent Benayahu to have him killed for killing Avner and Amasa). It is written: and Yoav fled into the tent of Hashem and took hold of the horns of the Altar. [He was attempting to escape execution by using the halachah that the top of the Altar is a safe haven for murderers.] Yoav erred by thinking that the horns can protect him, but in truth, it is only the Altar’s roof which provides refuge. Furthermore, this halachah applies only in the Altar of the Eternal Temple, but not in the Altar in Shiloh.

Abaye added that it only protects a Kohen while he is performing the service.

Rish Lakish said: At the End of Days, the angel of Rome will make three mistakes. It is written: Who is this that comes from Edom, with stained garments from Batzrah?

1. He will flee to Batzrah thinking that it provides refuge like Betzer, which is one of the six cities of refuge for inadvertent murderers.
2. One can find refuge in those cities if he has murdered inadvertently, but not one who murders intentionally.
3. He thought that he can be protected in a city of refuge. This is also a mistake, for the cities only protect humans, not angels.

Rabbi Avahu said: The Levites were not allowed to use the cities of refuge for burial. Only the inadvertent killer may be buried there.

Abaye qualifies the ruling of the Mishna by saying that the techum of the city of refuge provides protection for the killer, but he may not dwell there.

The Gemora asks: He cannot live there anyway, for there is a halachah that we do not make a field into open space and open space into a field, nor do we make an open space into a city and a city into an open space? [The Gemora is referring to the law that there should be one thousand amos of open fields around the city of the Levites, and one cannot dwell in such an area.]

Rav Sheishes answers: We are dealing here with the underground tunnels underneath the techum of the city (a Levi can dwell there, but not a killer).

The Gemora cites a braisa: Rabbi Yosi HaGelili says: It is a mitzvah of the redeemer of blood (to kill him) and if there is no redeemer of the blood, all others are allowed. Rabbi Akiva says: The redeemer of blood is allowed, and all others are liable for him. The Gemora cites the Scriptural sources for their halachos.

Mar Zutra bar Toviah said in the name of Rav: If the inadvertent killer left the techum of the city and the redeemer of the blood killed him, he is executed for killing him. This, is in accordance with the opinion of Rabbi Eliezer



who holds that the killer cannot be killed by the redeemer of blood when he leaves the city of refuge unless Beis Din warns the killer that he now may be killed by the redeemer of blood.

The Gemora cites two braisos which disagree regarding the halachah of the killer who inadvertently leaves the city of refuge. One braisa says the redeemer of blood may kill him, and the other braisa rules that he cannot.

The Gemora explains that the dispute is based upon the following: When the Torah uses a double phrasing, such as here – “if going out, he will go out” - does the Torah speak in the language of people (who do talk in such a manner)? If the Torah does not talk in such a manner, it is teaching us a novelty, and in our case, it is teaching us that he is liable to death even if he leaves the city inadvertently.

Abaye notes: It is logical to assume that the Torah speaks in the language of people, for this way, the law of the killer in the end (when he leaves the city) will not be stricter than the law in the beginning (when he killed). Just as in the beginning, the law is that if he kills deliberately he is killed, and if he kills inadvertently he is exiled, so too in the end, if he leaves deliberately he is killed, but if he leaves inadvertently he is re-exiled.

The Gemora, in order to resolve a contradiction amongst two braisos rules as following: If a father inadvertently kills his son, another son is not permitted to be the redeemer of blood and kill his own father (for he has an obligation to honor his father). However, if someone inadvertently kills his son, the victim's son (the killer's grandson) is permitted to be the redeemer of blood and kill his grandfather (for there is no mitzvah to honor him). (11b – 12a)

Mishna

A tree which stands inside the techum of the city of refuge and its branches extend beyond the techum, or if it stands

outside the techum and its branches extend within the city limit, everything is decided according to the branches. (12a)

Tree and its Branches

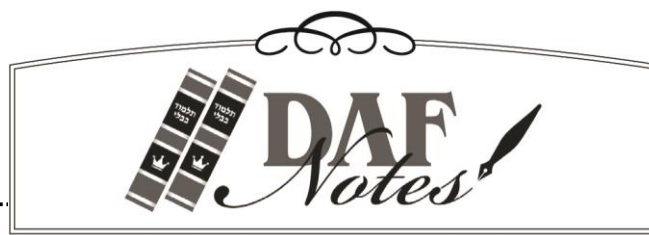
The Gemora asks a contradiction from a Mishna which rules that the wall of Yerushalayim is the deciding factor pertaining to the halachos of ma'aser sheini (a tenth of one's produce that he brings to Yerushalayim and eats there in the first, second, fourth and fifth years of the Shemita cycle; it can also be redeemed with money and the money is brought up to Yerushalayim, where he purchases animals for korbanos), and it makes no difference where the tree or its branches are located (and if he is inside the wall, he may eat the ma'aser sheini; if he is outside the wall, he may not).

The Gemora answers that the two cases are not comparable. Ma'aser sheini is dependent upon the wall - if he is inside the wall, he may eat the ma'aser sheini; if he is outside the wall, he may not. The protection of a city of refuge is dependent upon one's dwelling inside the city; one can dwell in the branches of a tree, but he cannot dwell on its trunk.

The Gemora, however, challenges this answer from another Mishna which states that the laws of ma'aser sheini are also dependent upon the tree's branches (so there is a contradiction as to the halachah of ma'aser sheini itself)!

Rav Kahana answers that one Mishna follows the opinion of Rabbi Yehudah, who maintains that the tree is judged by the location of its branches, and the other Mishna is in accordance to the Chachamim, who hold that the tree is judged according to its actual location.

The Gemora challenges this answer: We only heard that Rabbi Yehudah holds in this manner regarding a stringency (which applies in both cases by ma'aser sheini) – the Gemora explains: If the tree is located outside the city and its branches are inside the city, we rule that the entire tree



is inside of the city, and just as the ma'aser sheini produce cannot be redeemed by the branches (for once the produce enters Yerushalayim, it must be consumed there), so too it cannot be redeemed by its trunk. And if the tree is located inside the city and its branches are outside the city, we rule that the entire tree is outside of the city, and just as by the branches, the ma'aser sheini produce cannot be eaten without being redeemed first, so too by its trunk, it cannot be eaten unless it is redeemed first. However, let us consider the cases regarding the city of refuge (and see if we can rule stringently in both cases): If the tree is located outside the city and its branches are inside the city, we rule (stringently that the entire tree is judged by its branches) that just as if the killer is by the branches, the redeemer of blood cannot kill him, so too if the killer is by the trunk, the redeemer of blood cannot kill him. However, if the tree is located inside the city and its branches are outside the city (and we would rule that the tree is judged by its branches), the following would be the halachah: Just as if the killer is by the branches, the redeemer of blood is permitted to kill him, so too if the killer is by the trunk, the redeemer of blood would be permitted to kill him. But the killer is actually located inside the city!? [This would be a tremendous leniency, and Rabbi Yehudah would never have ruled in such a manner!]

Rava answers as follows: If the killer is by the trunk (which is inside the city), everyone agrees that the redeemer of blood would not be allowed to kill him. If the killer is by the branches, and the redeemer of blood is able to kill him with arrows and stones, he is permitted to do so. They argue regarding the permissibility of the redeemer of blood using the trunk of the tree as a stepladder to the branches (to climb up the trunk of the tree which is inside the city and continue to its branches which are outside the city) in order to kill the killer. Rabbi Yehudah holds that it is permitted (for the main part of a tree is its branches), and the Chachamim hold that it is forbidden. (12a – 12b)

Killing Again

If an inadvertent killer (who is already in a city of refuge) inadvertently kills someone else, he must go to a different neighborhood. If a Levite inadvertently kills (in his own city), he is exiled to another city.

The Gemora cites the Scriptural sources for these halachos. (12b)