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Mav the studying of the Daf Notes be a zechus for their neshamot and mav their souls find peace in Gan Eden and be bound up in the Bond of life

Disparage the Dead

Rabbi Yitzchak said: If one makes (*disparaging*) remarks about the dead, it is like making remarks about a stone (*as it has no affect upon them*).

Some say that this is because they do not know (*what is being said*), and others say that they do know, but they do not care.

The *Gemora* asks: Can that be so? But Rav Pappa said: A certain man made (*disparaging*) remarks about Mar Shmuel, and a log fell from the roof and broke the covering of his brain (*his skull*)? [*Evidently, his words did have an affect!?*]

The *Gemora* answers: A Rabbinical scholar is different, because the Holy One, Blessed be He, *avenges (on the account of the insult to) his honor*.

Rabbi Yehoshua ben Levi said: Whoever makes (*disparaging*) remarks about Torah scholars after their death will fall into *Gehinnom*, as it is written: *But as for those who turn to their crooked ways, Hashem will lead them away with the workers of iniquity [to Gehinnom]. Peace be upon Israel* – this means that even at a time when there is peace upon Israel (*the Torah scholar who died is resting in peace*), Hashem will lead them (*those who make disparaging remarks against a dead Torah scholar*) away with the workers of iniquity. (19a)

Disparaging a Torah Scholar

A *braisa* was taught in the school of Rabbi Yishmael: If you see a Torah scholar who has committed a sin by night, do not quibble about him by day, for perhaps he has repented.

The *Gemora* asks: ‘Perhaps,’ you say? Rather, he has certainly repented.

The *Gemora* qualifies: This applies only to bodily matters (*sins*), but if he has misappropriated money, (*you do not assume that he repented*) until he makes full restitution to its owner. (19a)

**Excommunication for Insulting
a Torah Scholar**

And Rabbi Yehoshua ben Levi said: In twenty-four places we find that the Court excommunicated someone for insulting a teacher, and they are all recorded in the *Mishna*. Rabbi Elozar asked him: Where are they? He replied: When you look for them, you will find them. He went out, searched and found three cases: one was pertaining to someone who cheapened (*the Rabbinical decree regarding*) the washing of the hands (*before eating*); another pertained to one who made disparaging remarks about scholars after their death; and a third was regarding one who acted insolently towards Heaven.

What is the case of making disparaging remarks about scholars after their death? It is as we have learned in a *Mishna*: He (*Akavyah ben Mahalalel*) used to say: The (*sotah*) waters (*for a suspected adulteress*) are not given to drink either to a convert or to an emancipated slavewoman (*these exclusions are based upon a Scriptural verse*); the Sages, however say that they are given to drink. They said to him: There is the case in Charkemis of an emancipated slavewoman in Yerushalayim, to whom Shemayah and Avtalyon administered the water! He replied: They gave her to drink, for she was (*a convert*) like themselves (*for they were*



descendents of Sancheriv). They, therefore, excommunicated him (*for of his disparaging remarks regarding Shemayah and Avtalyon*), and he died in excommunication, and the Court stoned his coffin.

What is the case of someone who cheapened (*the Rabbinical decree regarding*) the washing of the hands (*before eating*)? It is as we have learned in a *Mishna*: Rabbi Yehudah said: heaven forbid for us to think that Akavyah ben Mahalalel was excommunicated, for the doors of the Temple Courtyard did not close on any man in Israel - the equal of Akavyah ben Mahalalel - in wisdom, in purity and in fear of sin. Whom did they in fact excommunicate? It was Elozar ben Chanoch, who belittled (*the Rabbinical decree regarding*) the washing of the hands (*before eating*), and when he died, the Court sent and had a large stone placed on his coffin. This was to teach you that if a man is excommunicated and dies in his excommunication, the Court stones his coffin.

What is the case regarding one who acted insolently towards Heaven? It is as we have learned in a *Mishna*: [*The Mishnah there relates the story of Choni HaMa'agel. In the course of a year of drought, the Sages looked to Choni HaMa'agel and asked him to daven for rain. He instructed the people to bring their ovens inside in order that do not dissolve in the rain. When his first pleas did not produce rain, he drew a circle around himself and swore to Hashem that he would not leave that spot until Hashem showed compassion on His children by ending the drought. At first, rain began to trickle, and Choni insisted on rain that fill the water holes. When angry rains began to fall, Choni demanded rains of mercy and blessing. Finally, the rains fell until flooding began, and the people were compelled to leave Yerushalayim for the Temple Mount. They turned to Choni and asked him to pray that the rain should stop, which he was reluctant to do. He told them to go and see if the stone which was used to announce lost articles has been covered by water. This stone was so high, that if it was covered, he would have prayed for the rain to cease.*] The story concludes with the words of Shimon ben Shetach who said that Choni's words to Hashem were so presumptuous that he deserved to be excommunicated. But he cannot be punished since he has such a close, personal relationship with Hashem, that He fulfills your requests like a father to a son

even after the son sins towards the father, and regarding him it is written: *Let your father and your mother rejoice, and let her that bore you be glad.*

The *Gemora* asks: But are there no more (*instances of excommunication*)? Is not there the *braisa* taught by Rav Yosef: Todos of Rome instituted that the Jews of Rome should eat a kid that was roasted along with its entrails on Pesach night. Shimon ben Shetach sent Todos a message, saying: If you were not Todos (*a great scholar and respected personage in the community*), we would have excommunicated you because you are causing Jews to eat *kodashim* - sacrificial meat, outside of Yerushalayim. [*With this declaration the Sages meant that the roasted goats would be akin to sacrifices, and they should be prohibited to eat because people will mistakenly assume that one can bring an offering outside of Yerushalayim.*]

The *Gemora* answers: We were referring to a *Mishna* (*where cases of excommunication can be found*), and this is in a *braisa*.

The *Gemora* asks: But are there no other cases in a *Mishna*? Is there not this one, as we have learned in a *Mishna*: If an oven (*of earthenware*) was cut up into (*horizontal*) sections and sand (*used as cement*) was placed between the sections (*and then it came into contact with tumah*), Rabbi Eliezer declares it *tahor* (*for the sand was never fired in the kiln; it is therefore regarded as mudware, and not as an earthenware utensil, and therefore it is not susceptible to tumah*), and the Sages say it is *tamei* (*for the sections were made from hardened earthenware*). This is what was known as the oven of a coiled serpent.

The *Gemora* interrupts: Why was it called "the coiled serpent"? Rav Yehudah said in the name of Shmuel: It was because the Sages surrounded him (*R' Eliezer*) with proofs like a coiled snake, and then they ruled that it is susceptible to *tumah*.

The *Gemora* cites a *braisa*: On that day, they brought all the things that Rabbi Eliezer had declared *tahor* and burned them before him, and in the end they excommunicated him.



The *Gemora* answers: Even so, we did not find the excommunication stated in a *Mishna*.

The *Gemora* asks: How then do you find the twenty-four places?

The *Gemora* answers: Rabbi Yehoshua ben Levi compares one case to another (*he takes into account all the cases where the ruling of the Rabbis was disagreed with in a strenuous manner by an individual, or where someone spoke disparagingly against a sage greater than he, and excommunication should have been incurred, even if this is not mentioned*); Rabbi Elozar does not compare one case to another. (19a)

Coffin Carriers Exempt from Shema

The *Mishna* had stated: Those who are carrying the coffin, their replacements [*and their second level replacements, are exempt from Shema only while they are needed to carry*].

The *Gemora* cites a *braisa*: A dead body is not taken out (*for burial*) shortly before the time for the (*recital of*) *Shema* (*for this will cause that they will not recite it*), but if they began to take it, they do not discontinue.

The *Gemora* asks: Is that so? Wasn't the body of Rav Yosef taken out shortly before the time for the *Shema*?

The *Gemora* answers: An exception can be made for an important person. (19a)

Eulogies

The *Mishna* had stated: Those that are in front of the coffin, and those that are behind it.

The *Gemora* cites a *braisa*: Those who are occupied with the eulogies (*by listening to them*), the *halachah* is as follows: If the dead body is laying before them, they slip out one by one and recite the *Shema* (*for they cannot recite it there, for they would be "mocking" the dead*). If the body is not before them,

they sit and recite it, and he (*the mourner*) sits silent; they stand up and pray and he stands up and accepts the righteousness of God's judgment, and says: Master of the Universe, I have sinned much before You and You did not punish me one thousandth (*of the punishment that I truly deserve*). May it be Your will, Hashem, our God, that You close up our breaches and the breaches of all Your people the house of Israel in mercy!

Abaye said: A man should not speak in such a manner (*saying that You did not punish me sufficiently, for it is like a hint that he is asking to get punished*), since Rabbi Shimon ben Lakish said, and so a *braisa* was taught in the name of Rabbi Yosi: A man should never speak in such a way as to give an opening to Satan (*for it is as if he is admitting to the prosecutor that he deserves punishment*). And Rav Yosef said: What verse proves this? It is because it is written: *We were almost (destroyed) like Sodom*. What did the prophet reply to them? *Hear the word of Hashem, O rulers of Sodom*. (19a)

Entire Shema, Section or Verse?

The *Mishna* had stated: Once they buried the dead person and they returned [*if they have time to begin and complete the Shema before the mourners reach the line of consolers, they must do so; otherwise, they should not*].

The *Gemora* asks: [*It is evident from our Mishna that*] if they are able to begin and complete all of it, yes, but if they have only time for one section or one verse, no (*they should not begin it*). This ruling, however, is contradicted by the following *braisa*: When they have buried the body and returned, if they are able to begin and complete even one section or one verse, [*they do so*]!?

The *Gemora* answers: That is just what the *Mishna* is saying as well: If they are able to begin and complete - even one section or one verse before the mourners reach the line of consolers, they should begin, but otherwise, they should not begin. (19a)

Seeing the Mourners

The *Mishna* had stated: Those who are standing in the row etc. [the inner line of consolers are exempt, but those in the outer line are obligated].

The *Gemora* cites a *braisa*: The row which can see inside (to where the mourners are standing) is exempt (from reciting the *Shema*), but one (a row) which cannot see inside is not exempt. Rabbi Yehudah said: Those who come on account of the mourner (in order to comfort him) are exempt, but those who come for their own purposes (to see what is happening) are not exempt. (19b)

Human Dignity Overriding a Prohibition

Rav Yehudah said in the name of Rav: If one finds *kilayim* (*sha'atnez* – a mixture of wool and linen threads) in his garment, he must take it off - even if he is in the marketplace (and he will be embarrassed (for there is a Biblical prohibition against wearing such a garment). What is the reason for this? It is because it is written: *There is no wisdom nor understanding nor counsel against Hashem; [we derive from here that] wherever a desecration of God's name is involved, no respect is given to a teacher (which in our case means that we do not consider the human dignity involved, and we do not allow the sin to take place, for that will lead to the desecration of God's Name).*

The *Gemora* asks on this from a *braisa*: If they have buried the dead and are returning (together with the mourner), and there are two ways available to them, one *tahor* and the other *tamei*, if the mourner goes by the *tahor* one, they go along with him on the *tahor* one, and if he goes by the *tamei* one, they go with him on the *tamei* one (even if some of the consolers are *Kohanim*, who are prohibited from becoming *tamei* to corpse *tumah*), out of respect for him. Why should this be so? Let us say: *There is no wisdom nor understanding ... against Hashem?*

Rabbi Abba interpreted the *braisa* to be referring to a *beis haperas* (a field in which a grave had been plowed over) which

is declared to be *tamei* only by the Rabbis (and only then will it be permitted for the *Kohanim* to follow the mourner even on a road which is *tamei*), for Rav Yehudah has said in the name of Shmuel: The person blows on the *beis haperas* and then he can proceed through it. And Rav Yehudah bar Ashi said in the name of Rav: A *beis haperas* that has been sufficiently trampled on by many people is *tahor* (the bone pieces will be pushed to the side). [This is a leniency with respect to *korban pesach* and to allow a *Kohen* to walk through the area; it is not relied upon, however, regarding a *tamei* person eating *terumah*.]

The *Gemora* asks from a *braisa*: Rabbi Elozar bar Tzadok (who was a *Kohen*) said: We used to leap over coffins containing bodies to see the Israelite kings (and pay our respects to them). Nor did they mean this to apply only to Israelite kings, but also to idolatrous kings, so that if he should be privileged (to live at the time of the Messiah), he should be able to distinguish between the (tremendous honor which should be bestowed upon an) Israelite king and the (lesser honor which is bestowed upon the) idolatrous kings. Why should this be so? Let us say: *There is no wisdom nor understanding nor counsel against Hashem?*

The *Gemora* answers: It can be explained according to the dictum of Rava, for Rava said: It is a Biblical rule that an overhanging 'tent,' which has a hollow space of one *tefach* (handbreadth) forms a partition against corpse *tumah*, but if it does not have a hollow space of a *tefach*, it does not form a partition against *tumah*. Now, most coffins have a space of a *tefach* (and, therefore, it would serve as an interposition between the corpse and the space above it), but the Rabbis decreed that those which had such a space should not constitute a partition out of concern that they should be confused with those which had no space; but where respect to the kings was involved, they did not enforce the decree (and said that they could pass over a grave in order to greet a king).

The *Gemora* asks from another *braisa*: the human dignity of a man is so great that it overrides a negative precept of the Torah? Why should this be so? Let us say: *There is no wisdom nor understanding nor counsel against Hashem?*

Rav bar Shaba explained this before Rav Kahana: This only applies to the prohibition of “*You shall not deviate*” (which is the prohibition against deviating from that which the Rabbis decreed; such a prohibition is overridden by human dignity, but not a Biblical prohibition).

The *Gemora* relates that they laughed at him, for the negative prohibition of “*You shall not deviate*” is also Biblical!

Rav Kahana said: When a great man has said something, do not laugh at him. All the ordinances of the Rabbis were based by them on the commandment of “*You shall not deviate,*” but where the concern of human dignity arises, the Rabbis allowed the act. [They based on these words their authority to establish laws equally binding with those laid down in the Torah, and Rav

Bar Shaba interprets the words ‘negative precept of the Torah’ in the braisa quoted to mean: Rabbinical laws deriving their sanction from this negative commandment of the Torah.]

The *Gemora* asks from yet another braisa: *And you will look away*. This teaches that sometimes one looks away (from returning a lost article), and sometimes one cannot look away. What is the case? If a *Kohen* saw a lost object in the cemetery, or an elderly man saw an object that it was not honorable for him to carry, or if his work is more valuable than the lost object of his friend, this is why it says: *And you will turn away from them*. Why should this be so? Let us say: *There is no wisdom nor understanding nor counsel against Hashem?*

The *Gemora* answers: The case is different there, because it is written explicitly: *And you will turn away from them*.

The *Gemora* asks: Then let us derive from this (a rule that human dignity overrides even a Biblical prohibition)?

The *Gemora* answers: We do not derive a ruling pertaining to prohibitions from a ruling relating to property.

The *Gemora* asks from a braisa: *And to his sister* (which is written by nazir that he cannot make himself tamei for his father (if he dies) or his mother or his sister) 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 a *meis mitzvah* (a corpse found on the road) 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 a *meis mitzvah* (and we derive from here that this would apply to someone who is not a *nazir* as well). Why should this be so? Let us say: *There is no wisdom nor understanding nor counsel against Hashem?*

The *Gemora* answers: The case is different there, because it is written: *And to his sister*.

The *Gemora* asks: Then let us derive from this (a rule that human dignity overrides even a Biblical prohibition)?

The *Gemora* answers: Where it is a case of ‘sit still and refrain from acting’ it is different (and therefore, when there is a concern for human dignity, we allow someone to sit still and refrain from offering the *Pesach* or circumcising his son, but we do not allow him to actively wear *sha’atnez* on that account). (19b – 20a)

INSIGHTS TO THE DAF

The Nazir’s Allowance to Become Tamei

It is evident from the Rambam in *Hilchos Nezirus* (7:12) that the reason that a *nazir* may become *tamei* to a *meis mitzvah* is because of the *mitzvah* of burial. However, from Tosfos in *Nazir*, it would seem that there is a different reason. Tosfos writes that it is permitted for the *nazir* to move the corpse from the sun to the shade. This would indicate that the allowance for the *nazir* to become *tamei* is not on account of the *mitzvah* of burial, but rather it is due to the obligation of respecting the dead.



The Rogatchover Gaon notes the following distinction between the two reasons: If a father imposed *nezirus* upon his son, and the son, as a minor, comes upon a *meis mitzvah*. If the reason for the permission to becoming *tamei* is because of the *mitzvah* of burial, a minor who is not obligated in *mitzvos*, would not be allowed to become *tamei* to the corpse. However, if the allowance is based upon respecting the dead, the minor would also be obligated to bury him, for he is also responsible to see that a corpse does not lie in degradation.

HALACHAH ON THE DAF

When is One Exempt from Returning a Lost Item

It was taught in a *braisa*: *And you will look away*. This teaches that sometimes one looks away (*from returning a lost article*), and sometimes one cannot look away. What is the case? If a *Kohen* saw a lost object in the cemetery, or an elderly man saw an object that it was not honorable for him to carry, or if his work is more valuable than the lost object of his friend, this is why it says: *And you will turn away from them*.

The Shulchan Aruch (Choshen Mishpat 263:1) clarifies that even a young Torah scholar, or a well respected person (Aruch Hashulchan), is exempt from returning a lost item which is below their dignity to deal with, for example a bale of hay.

Although they are usually exempt from returning a lost item that is beneath their dignity to deal with, they will be required to do so if they actually moved or picked up the item, since they started the *mitzvah* (ibid 263:2).

The Shach directs us to a *halachah* (in 261:2) where the Shulchan Aruch rules that if one found an animal grazing in someone else's vineyard or field, then he is obligated to return it, because the animal is damaging that property. This is termed *aveidas karka* (*in other words, the owner of the vineyard is being caused a loss, so the person seeing the animal grazing has an obligation to return it to his owner, so as not to cause a loss to the owner of the field*).

At first glance it is difficult to see the apparent connection. Rabbi Akiva Eiger explains that the Shach is proving that since the Shulchan Aruch does not state that he should just simply move the animal to an ownerless field, that shows that once he moved the animal he is obligated to return to its owner. However, the Or Zerua cites Ritva who disagrees and maintains that it is enough if he merely moves it to an ownerless field.

The Shulchan Aruch (ibid 263:3) rules that if these people want to go beyond the call of duty and lower themselves to return the lost item, they may do so.

The Rema disagrees, and quotes Rosh that the most such people are allowed to do is to pay the owner for the lost item.

DAILY MASHAL

Todos' Retraction

The *Gemora* states that Rabbi Yosi said that Todos of Rome instituted that the Jews of Rome should eat a whole goat that was roasted along with its entrails on Pesach night. The Chachamim sent Todos a message, saying, "If you were not a great scholar and respected personage in the community, we would have excommunicated you because you are causing Jews to eat kodashim, sacrificial meat, outside of Jerusalem."

Why does the *Gemora* not record a response from Todos, if he was in violation of the words of the Chachamim?

Perhaps we see from here the precept that one who violates the words of the Chachamim is liable the death penalty.

In a figurative sense, we can suggest that this refers to the statement in the *Gemora* that wherever the Chachamim set their eyes, there was either poverty or death. We know that a pauper is akin to being dead. Thus, if the Chachamim were to set their eyes on someone, he would either be poor or dead. The *Gemora* also states that the true pauper is in knowledge, so if the Chachamim sent Todos a message informing him of his error, they rendered him a pauper in knowledge, and this was sufficient for Todos to understand his error and retract his position.