



## OVERVIEW of the Daf

### 1) Invalid witnesses

An incident where witnesses were disqualified due to being related to the guarantor of a loan is recorded.

2) **MISHNAH:** The Mishnah begins with a discussion about a convict who flees and ends with matters related to Sanhedrin.

### 3) Overturning the decision of another Beis Din

A contradiction in the Mishnah is noted whether one Beis Din can overturn the decision of another Beis Din.

Abaye resolves the contradiction by distinguishing between a Beis Din in Eretz Yisroel and a Beis Din outside of Eretz Yisroel.

A Beraisa is cited that supports this distinction.

### 4) Sanhedrin outside of Eretz Yisroel

A Beraisa presents the exposition that teaches that Sanhedrin applies outside of Eretz Yisroel as well.

### 5) Clarifying the Mishnah

The Gemara inquires whether it is acceptable for Sanhedrin to execute a person once in seventy years and the matter is left unresolved.

The Gemara elaborates on how R' Tarfon and R' Akiva would question the witnesses in a way that would prevent the defendant from being executed.

The approach of the Chachamim who disagree is explained.

### הדרך עלך כיצד העדים

6) **MISHNAH:** The Mishnah presents the guidelines for when a person is sent to exile and offers different examples that illustrate these principles.

### 7) Expounding the relevant verses

Shmuel cites the pasuk that teaches that one is exiled only if he kills in a downward motion.

A Beraisa elaborates on the words בשגגה and בבלי דעת found in relevant verses.

The novelty that each of these verses teaches is explained.

Another Beraisa elaborates on more verses that discuss one who kills inadvertently.

(Continued on page 2)

## REVIEW and Remember

1. Why was R' Shimon ben Gamliel critical of R' Tarfon and R' Akiva's lenient approach?

2. What type of murderer goes to the city of refuge?

3. Explain אומר מותר.

4. What is the point of dispute between Rebbi and Chachamim?

## Distinctive INSIGHT

### אומר מותר—If he thinks that murder is not a crime

תנו רבנן בשגגה פרט למזיד וכו' מזיד פשיטא בר קטלא הוא! אמר רבא אימא פרט לאומר מותר, א"ל אביי אי אומר מותר אנוס הוא.

The Beraisa analyzes the words of the verses which detail the circumstances when a killer is to be sent to a city of refuge. The word "בשגגה" teaches us that one goes to a city of refuge only when the taking of another's life was done unintentionally, and not when it was done with intent. The Gemara clarifies that the verse is not coming to exclude a case of premeditated murder, as this obviously would be a capital case. Rather, the lesson of the verse is to exclude "אומר מותר," where the offender claims that he thought that it was permitted to kill another Jew.

Why is this person not to be sent to a city of refuge? According to Rashi, Rava explains that killing someone relying upon this mindset is not judged to be unintentional, but rather מזיד, intentional. We do not accept the excuse that the person believed that murder was permitted, and we interpret his actions to be close to intentional, and thus ineligible for גלות. Abaye agrees that the case of אומר מותר is not שוגג. Yet, the reason is that one who is אומר מותר is not eligible to go to גלות is that this is considered to be אנוס, where the degree of intent is less than שוגג, for which the person would have atonement in the city of refuge.

The Achronim note that the words of the Beraisa have to be understood according to Abaye. The Beraisa teaches that the word "שוגג" in the verse comes to exclude מזיד. The Gemara is forced to explain that this actually refers to a case of אומר מותר. Yet, according to Abaye, אומר מותר is not in the realm of מזיד, but rather אנוס. Nevertheless, as Tosafos (9a, ד"ה רב חסדא) explains, even according to Abaye this can be called מזיד because the person's act is done knowingly and intentionally. The act itself is not done accidentally or without intent, rather the person thinks that what he is doing is not a crime.

Ramban and Rashba explain that according to Rava, אומר מותר is considered close to being intentional because the person should have learned and therefore known that murder is a crime. Ritva notes that there are those who say that the case of אומר מותר is not where the person thought that murder was permitted, but it is a case where the person thought he was aiming to strike an animal, which is allowed to be killed, but he un-

(Continued on page 2)

Today's Daf Digest is dedicated  
 By Mr. & Mrs. Nosson Robeson in memory of  
 מרת יעטא איידל בת ר' יעקב, ע"ה  
 Mrs. Yetta Leider Feiger, a"l

Today's Daf Digest is dedicated  
 By Mr. & Mrs. David Friedman  
 לע"נ מרת רבקה בת ר' שרגא פאטעל, ע"ה

# HALACHAH Highlight

## Violating Shabbos while mistakenly thinking it is permitted

אייל שאני אומר האומר מותר קרוב למזיד הוא

He replied: I maintain that one who thinks his act is permitted is close to being deliberate

There was once an incident in which a man noticed that the flame on his gas lamp was larger than usual. He realized that the additional heat would cause the glass to shatter and the flame would fall and ignite the bed below. He quickly got up and extinguished the flame. Those who were present shouted at him that it is Shabbos and it is prohibited to extinguish a flame on Shabbos. He responded that he is aware that it is Shabbos but was concerned about the potential loss of property. The Mishnah in Shabbos (29b) teaches that one who extinguishes a flame out of concern for thieves is פטור - exempt. This indicates, he argued, that it is permitted to extinguish a flame to prevent a loss of property. They told him that he should have simply removed the bed from beneath the lamp and the bed would not have been damaged. His response was that in the rush of the moment he hadn't considered that option and turned to the author of Teshuvos Rav Pealim for guidance whether he must repent for violating Shabbos and if so, what should he do.

Teshuvos Rav Pealim<sup>1</sup> responded that according to all opinions it was prohibited to extinguish the flame. However, the person made in error in his understanding of the Mishnah, thinking that one could derive from the Mishnah that it is permitted to extinguish a flame to prevent a loss of property. Furthermore, he misunderstood the Mishnah's use of the term פטור - exempt - to mean that it is permitted. Exempt merely means that a person has not violated the Biblical command but it is still prohibited by virtue of Rabbinic decree. He then cites a disagreement between Taz<sup>2</sup> and others<sup>3</sup> whether one who mistakenly thinks something is

(Overview...continued from page 1)

### 8) Defining downward motion

R' Avahu and R' Yochanan discuss whether one who is ascending a ladder, and a rung gets dislodged and kills someone, is exiled. Is it considered a downward motion or not?

It is suggested that this issue was debated by Tannaim.

This suggestion is rejected and numerous alternative explanations for the dispute between the two Beraisos are offered.

9) **MISHNAH:** The Mishnah presents two disputes between Rebbi and Chachamim regarding two scenarios and whether exile is warranted.

### 10) Clarifying the dispute between Rebbi and Chachamim

A Beraisla elaborates on the discussion between Rebbi and Chachamim.

R' Chiya bar Ashi in the name of Rav offers a suggestion regarding the point of dispute between Rebbi and the Chachamim. ■

(Insight...continued from page 1)

knowingly killed a person instead. This is also close to being intentional according to Rava, because we hold the person responsible to check and ascertain the nature of what he was doing before he shot what he thought to be an animal. ■

permitted is considered a שוגג – inadvertent violator – or קרוב למזיד – borderline intentional violator. Much of the debate revolves around Rava's statement in our Gemara that one who thinks that he was permitted to kill another person is קרוב למזיד. In his conclusion he follows the opinion of Taz that he is considered a שוגג and as such he is technically obligated to offer a Korban Chatas. He then gives an elaborate description of the steps this fellow should take to achieve atonement being that it is not possible to bring a Korban Chatas. ■

1. שו"ת רב פעלים ח"ג או"ח סי' י"ט.

2. ט"ז יו"ד סי' צ"ט סק"י.

3. ע"י פמ"ג שם שפי"ד ס"ק י"ב. ■

# STORIES Off the Daf

## "A Bloody Court"

סנהדרין ההורגת אחד בשבוע נקראת חבלנית

Rav Tzadok Hakohein of Lublin, zt"l, explains a famously troubling statement on today's daf. "One must be very careful to avoid causing even the slightest pain to any person even for a mitzvah. The proof of this is the verse, 'על כל חולציו — I will punish all who oppress him.'<sup>1</sup> The sages taught that even a gabbai tzedakah may not cause pain to another.<sup>2</sup>

"Tana D'vei Eliyahu writes that even the stone used for סקילה and the tree a

person was crucified upon will be judged for being the vehicle of such pain.<sup>3</sup> This also means in a case where one was rightly sentenced to capital punishment in beis din. This explains why the Sanhedrin must fast on the day their sentence is carried out.<sup>4</sup> They fast to atone for causing pain, even though it is deserved.

"Now we can better understand the statement that a Sanhedrin which kills more often than once in seven years is considered 'bloody.' Even if their ruling was in exact accordance with the halachah, this does not mitigate their status. Similarly, we find that one who accidentally kills someone who deserved to die must nevertheless

also be exiled to the city of refuge, as we find in Makos 10."

He concluded, "The pain he must atone for in such cases is that of Hashem Himself. As we find in Megillah 10, Hashem is not happy with the suffering of the wicked. And in Sanhedrin 46 we find that when the wicked suffer, Hashem also suffers. How much more so does Hashem suffer, as it were, for the pain of tzaddikim who experience pain to fulfill the mitzvos!"<sup>5</sup> ■

1. ירמיהו ל' כ"ו

2. ב"ב ח ע"ב

3. תנא דבי אליהו רבה, פרק כ"ד

4. סנהדרין ס"ג ע"א

5. צדקת הצדיק, אות קע"ה ■