

OVERVIEW of the Daf

1) Seven Noahide laws (cont.)

The Gemara presents the sources for the Yeshiva of Menashe's list of Noahide laws and explains why the Tanna of the original Baraisa disagrees with these expositions.

2) Violating Noahide law

R' Yosef in the name of Rav's Yeshiva claims that gentiles are killed for violating only three of the Noahide laws.

R' Sheishes challenges this position and maintains that of the Noahide laws, gentiles are killed for violating four of them.

This opinion is unsuccessfully challenged.

R' Huna, R' Yehudah and the rest of Rav's students maintain the gentiles are executed for violating any of the seven Noahide laws.

Whether a gentile is executed for theft is examined.

The Gemara searches for the case that is similar to theft mentioned by the Baraisa.

The case that is similar to the "beautiful captive" is identified.

Whether there is a case that is similar to murder is discussed.

3) Judicial procedure for gentiles

R' Yaakov bar Acha found in a book of agadata in the Yeshiva of Rav a list of rules for judicial procedure for gentiles.

R' Yehudah presents the sources for these procedures.

The dispute between R' Yishmael and Tanna Kamma is explained whether a gentile is executed for killing a fetus.

R' Hamnuna challenges the assertion that women are not part of the judicial procedure for gentiles.

Two unsuccessful challenges to the source that women are not part of judicial procedure are presented.

4) Illicit relations

A Baraisa cites the source that gentiles are warned against illicit relations.

The Gemara unsuccessfully challenges this as the source for the prohibition against illicit relations.

The Gemara wonders in what way is a gentile who has an adulterous affair with a married Jewish woman judged like a Jew.

R' Nachman in the name of Rabba bar Avuha suggests one explanation.

R' Yochanan challenges this explanation and offers his own explanation.

R' Yochanan's explanation is unsuccessfully challenged.

A Baraisa is cited that supports R' Yochanan's explanation.

An unsuccessful challenge to a ruling in the Baraisa is presented.

The Gemara begins to challenge the premise that gentiles are warned against any of the relationships for which a Beis Din would execute a Jew for having that relationship. ■

Distinctive INSIGHT

Is a gentile liable for violating his 7 mitzvos unintentionally?

בן נח נהרג בדיין אחד ובעד אחד שלא בהתראה...

Rashi (see Makkos 9a, ד"ה לפיכך) and Tosafos (65a, ד"ה יצאו) explain that a בן נח is liable for death for his violation of one of his seven mitzvos even without his being warned at the time of the violation that his actions are wrong and what the consequences would be. This is determined from our Gemara which says that a בן נח can be punished without his having been issued a warning. Sefer HaChinuch (Mitzvah 26) explains that the reason for this is that he is liable even for unintentional violation, and a warning is designed in order to discern whether a person is acting willingly or whether he is unaware of either what he is doing or of the consequences of his actions. Therefore, there is no need for him to be warned.

In his Chidushim on the Torah, the Gri"z notes that the words of Hashem to Avimelech seem to pose a difficulty to Rashi's understanding of this Gemara. After Avimelech took Sarah, Hashem came to him in a dream and warned him to release her back to her husband, Avraham (Bereshis 20:2-4). When Avimelech claimed innocence, Hashem reassured him and said, "I knew that it was in the innocence of your heart that you did this...return the man's wife...and he will pray for you and you will live. But if you do not return her you will surely die." This implies that Avimelech was not liable for death until this point, because he was acting without sinful intent, and that only from this point and further, that he was aware that she was a married woman, would he be liable for death.

Ramban also points out several questions against the approach of Rashi. First of all, he finds it unreasonable that a person could be put to death for an act which he does unintentionally. Second of all, if this were true, the Gemara should have clearly said that a בן נח can be put to death for an unintentional act, which is a more clear and stark statement, rather than to merely say that "he does not need to be warned." Therefore, Ramban contends that a בן נח is only liable for death if his actions were intentional, although he does not have to be warned before committing his crime.

Rambam (Hilchos Melachim 10:1) also rules that a בן נח who violates one of his mitzvos without intent is not put to death for his actions. Notwithstanding, Rambam states that it is not a legitimate excuse for a gentile to claim that he was not aware that a particular act was prohibited (אומר מותר), and that he therefore acted unintentionally. For example, if he sins with the wife of his neighbor, and he claims that he knows that it was not his wife, but he was unaware that this was a sin. Rambam rules that this "error" is close to being intentional. This is a situation where we say that he should have learned and been aware of the law, and ignorance of the law is inexcusable. ■

HALACHAH Highlight

Executing a gentile based on his own admission

בן נח נהרג בדיין א' ובעד א'

A gentile is executed by one judge and on the basis of the testimony of a single judge

Rav Meir Simcha of D'vinsk¹ cited the Mechilta in Parshas Beshalach which states that Dovid Hamelech killed the Amaleki convert after he recalled the halacha that we do not accept converts from the nation of Amalek. Consequently, Dovid Hamelech had the authority to execute him based on his own admission that he was an Amaleki convert. Teshuvos Kol Mevaser² challenges this ruling from an explicit ruling of Rambam. Rambam³ rules that Divine decree is that a person may not be executed or receive lashes based on his own admission; rather the testimony of two witnesses is necessary for any type of corporal or capital punishment. The fact that Yehoshua killed Achan and Dovid Hamelech killed the Amaleki convert were examples of exercising extraordinary authority because each was needed at that moment (הוראת שעה). Rambam did not write that Dovid Hamelech killed the Amaleki convert due to the prohibition against accepting converts from Amalek and that gentiles could be executed based on their own admission. Furthermore, points out Kol Mevaser, we do not find an explicit source in the Talmud or Rambam that a gentile could be punished based on his own admission. The closest that we find is our Gemara that rules that a gentile could be punished based on the testimony of a single witness or relatives. What,

REVIEW and Remember

1. What is the punishment for violating Noahide law?

2. What is an act that is similar to theft?

3. What are some of the procedural differences between Beis Din and secular court?

4. What is the method of execution of violating Noahide law?

then, was Dovid Hamelech's basis for killing the Amaleki based on his own admission?

Kol Mevaser suggests a rationale why it should be possible to punish a gentile based on his own admission. The Gemara earlier (9b) explains that a person cannot incriminate himself since a person is related to himself and is thus unfit to testify. Accordingly, a gentile who could be punished based on the testimony of a relative should also be able to be punished based on his own testimony. Support for this is found in Sefer HaChinuch⁴ where we find that a gentile could be killed based on his own admission, although he does not cite a source for this position. ■

1. משך חכמה סוף פרשת כי תצא.
2. שו"ת קול מבשר ח"ב סי' מ"ב.
3. רמב"ם סוף פ"י"ח מהל' סנהדרין.
4. ספר החינוך מצוה כ"ו וקצ"ב. ■

STORIES Off the Daf

Lessons from Berlin

"שפיכת דמים דכתיב..."

On today's daf we find that murder is one of the sheva mitzvos bnei Noach.

One time the Alter of Slobodka, zt"l, was sitting with his students, including Rav Aharon Kotler, zt"l, and they began speaking about whether Jews should learn from non-Jews. A certain bochur who came from Berlin immediately replied that they should certainly learn politeness from non-Jews. "For example, in Berlin where I come from, there is much that one could learn."

But the Alter disagreed. "The Jewish

people are so sanctified that there is really nothing they need to learn from non-Jewish culture."

As they were leaving, this bochur told Rav Aharon Kotler that the Alter had erred. "Although Jews are certainly from a high source, they still would do well to learn from the civilized behavior of Berlin."

Many years later, when Rav Aharon was the Rosh Yeshiva in Lakewood, someone asked to speak to him privately. It was this very bochur from Berlin and his words made an indelible impression on Rav Aharon. "Do you recall that the Alter said there is nothing to learn from the non-Jews and I disagreed? Well I now see with my own eyes that the Alter was correct. I was in Berlin, and they decided

to amputate my arm with no anesthetic at all. It was clear that the barbarians had pleasure from my cries of pain..."

Rav Aharon replied that when Rav Moshe Mordechai Epstein, zt"l, was in Berlin with students, long before the Holocaust, he saw a non-Jew petting and kissing his dog, and said, "Don't think that this is a sign of kindness or mercy towards human beings. On the contrary, the verse states, 'ובחי אדם עגלים ישקון' — 'Those who sacrifice men will kiss calves.' People who are overly affectionate with animals are often those who would kill a human being with the greatest of ease."¹ ■

■ לב שלום, פרשת וירא, ע"י קס"ה