

This month's Daf Digest is dedicated
לעילוי נשמת צבי בן יחזקאל יוסף גרין, מחסידי דעעש
From the Grin family, Sao Paulo, Brazil

OVERVIEW of the Daf

1) Killing one who pursues relations punishable with כרת (cont.)

Two additional resolutions to the contradiction between our Mishnah and the Mishnah in Kesubos whether one who pursues relations punishable with כרת are recorded.

The source for R' Yonason ben Shaul's ruling about one who kills a pursuer when he could have disabled him is presented.

This source is unsuccessfully challenged.

2) Financial liability

Rava presents the halachos of whether the pursuer, the pursued or a rescuer are liable for property that he damages.

3) Killing one who pursues a sin

A Beraisa presents R' Shimon ben Yochai's position that one may kill someone about to engage in idolatry which is at odds with the position of our Mishnah.

Another Beraisa presents the position of R' Elazar the son of R' Shimon that one could kill someone about to desecrate Shabbos which is at odds with our Mishnah's ruling about this point.

4) Sacrificing one's life

R' Yochanan in the name of R' Shimon ben Yehotzadak rules that one should transgress the Torah rather than be killed except for idolatry, illicit relations and murder.

The ruling that one must allow himself to be killed rather than worship idolatry is unsuccessfully challenged and the source that one must sacrifice his life rather than worship idolatry is presented.

The sources that one must sacrifice his life rather than have illicit relations or commit murder are presented.

R' Dimi and Ravin in the name of R' Yochanan qualify R' Yochanan's ruling that one should sin rather than be killed.

An example of an easy mitzvah is presented.

R' Yochanan is cited as defining "public" as in the presence of ten people.

R' Yirmiyah asks whether nine Jews and a gentile make something "public."

It is demonstrated that ten Jews are necessary for something to be considered "public."

The premise that one must give up his life rather than sin in public is challenged from the Esther story.

Abaye and Rava offer different resolutions to this challenge.

Rava cites support for the principle behind his explanation.

5) A gentile sanctifying Hashem's name

R' Ami was asked whether gentiles are commanded to sanctify Hashem's name.

Abaye asserted that they are not obligated but this assertion was rejected by Rava.

Another unsuccessful attempt to resolve this inquiry is presented and the matter is left unresolved. ■

Distinctive INSIGHT

Saving a victim by stopping the attacker with excessive force

אביי אמר ביכול להציל באחד מאבריו

Abaye cites the opinion of R' Yonasan who says that if someone is pursuing someone else to kill him, an observer may intervene to stop the pursuer. However, if the attacker can be stopped by simply immobilizing the attacker, Rambam writes (Hilchos Rotzei'ach 1:13) that if the one who intervened used excessive, deadly force instead, he is held responsible for murder. Nevertheless, Rambam rules that a beis din would not kill him. Tur (C.M. 425) wonders why Rambam stops short of saying that this person could be executed by the court. If he is guilty of murder, why should the court not be able to exact punishment from him for his crime? Several answers have been offered to explain the ruling of Rambam.

Beis Yosef explains that Rambam holds that the one who advanced to save his fellow man initially acted lawfully in his attempt to stop the attacker. It is not fitting therefore that the Jewish court should put him to death, although his actual response went beyond that which was justified.

Beis Yosef adds that no warning could be given to this man as he intervened to physically stop the attacker. Anyone observing this intervention would not be able to warn him not to stop the attacker, because his intent was to save the victim, and not to kill the criminal. Kesef Mishnah says that Rambam understood that in the Beraisa, the intent of R' Yonasan ben Shaul when he says that the one who stopped the attacker with excessive force was only that he is liable for death from heaven, but not that the court would put him to death.

רדב" (to Hilchos Melachim 9:4) notes that as soon as someone chases after someone else to kill him, this pursuer has forfeited his life. He knows that not only will the person being chased try to defend himself, but others may also step forward to save the intended victim. Therefore, even if someone kills this pursuer, albeit with excessive force, the court cannot implement capital punishment as a response to the killing of someone whose life was already surrendered.

חוות יאיר answers that even if the one who intervened used excessive force in stopping the pursuer, he can always argue in court in his own defense that it was not possible to use less force

(Continued on page 2)

Today's Daf Digest is dedicated
By Rabbi & Mrs. Shmuel Kurtz in memory of their mother
מרת זיסל בת ר' חיים נחמן, ע"ה

Today's Daf Digest is dedicated
By Mr. & Mrs. Joey Stern in memory of their father
ר' חיים משה בן ר' אברהם הלוי, ע"ה

HALACHAH Highlight

Are Shabbos desecrators included in a minyan?

מה להלן עשרה וכולהו ישראל אף כאן עשרה וכולהו ישראל

Just like there, there were ten and they were all Jewish so too here there must be ten and they must be Jewish

Rav Moshe Feinstein¹ was asked whether people who do not observe Shabbos could be included in a minyan if one cannot find a minyan of Shabbos observers. Initially he suggests that the matter may be subject to a dispute but by the end of his response he writes that one may include people who do not observe Shabbos in a minyan. He cites our Gemara as proof to this conclusion. The Gemara discusses what qualifies as “public” for matters of sanctification of Hashem’s name. R’ Yaakov in the name of R’ Yochanan states that there must be at least ten people present for something to be considered public and they must all be Jewish. The requirement that all ten people must be Jewish is derived from the verse **ונקדשתי בתוך בני ישראל** – And I will be sanctified in the midst of the Bnai Yisroel. The Gemara then makes a gezairah shava using the word **תוך** to connect this verse with a verse discussing the spies. The gezairah shava teaches that just as the spies numbered ten and were Jewish, so too, in order to sanctify Hashem’s name we require ten people who are Jewish. The fact that we derive the requirement for a minyan from the spies is significant for another reason. The spies were considered apostates – **כופרים** – who are worse than Shabbos desecrators and nevertheless we use them as the model that teaches that the sanctification of Hashem’s name requires the presence of ten Jews.

Teshuvos Or L’tzion² adopts a more stringent position on this matter. He writes that people who intentionally and knowingly desecrate Shabbos are categorized as gentiles and cannot be counted towards any matter of sanctity. This is also the position cited

STORIES Off the Daf

“And you shall live by them”

”יעבור ואל יהרג...”

Rav Shach, zt”l, would explain how one can fulfill the mitzvah of Kiddush Hashem his entire life. “People mistakenly believe that sacrificing oneself to sanctify Hashem’s Name only applies to actual martyrdom. This is based on the well known Gemara in Sanhedrin 74: If one must either transgress the mitzvos of the Torah or die, he should transgress except for the three cardinal sins for which one must give up his life. Rav Yochanan adds that during a time of religious persecution, even if they demand one to violate a minor mitzvah he must die.

“Yet one who delves a bit deeper will realize that self-sacrifice has a much more common application: to live a life through which one sanctifies Hashem’s Name. Although dying to sanctify the Name is a very great merit, we are also required to sanctify His name every instant of our life by living with self-sacrifice. The proof to this is from the verse, **וחי בהם** —‘And you shall live by them.’ Our sages learn from this that one should live through the mitzvos, not die on account of them. We see from here that Hashem wants one to live fulfilling the mitzvos, not die in their fulfillment. The Torah values life to such a great extent that our sages tell us that one who commits suicide forfeits his portion in the next world.

“But how can one live a life of self sacrifice? Life is filled with tests, especially for

those who keep Torah and mitzvos. We have a clear precedent for virtually every step of life. What we can and cannot do, and how to do that which we must. Those who withstand the many trials of life and fulfill Torah as it should be kept live with self-sacrifice. We have six hundred and thirteen mitzvos which teach us how to live our lives. How to eat and how to sleep; every detail is explained. Non-Jews are free to do as they please. Nevertheless, a Jew who overcomes his base urges feels filled with joy. Like a general returning from a victorious battle, he sees the positive and rejoices in his success. Most importantly, he rejoices in his portion as one of the chosen of Hashem, a son of the King.”¹ ■

1. אורחות חיים, עי לייג-לייד, וליז ■

REVIEW and Remember

1. Explain R’ Yonasan ben Shaul’s qualification to the ruling that one may kill a pursuer.
2. When is one obligated to sacrifice his life rather than commit a sin?
3. Why didn’t Esther give up her life rather than sin publicly?
4. How does a gentile sanctify Hashem’s name?

(Insight...continued from page 1)

than was actually applied. In other words, even if the pursuer could have been stopped by his being injured, this is something which is practically impossible to prove in court. It may very well be that in heaven it is known that he acted far beyond what was necessary, and he might be liable for death from heaven, but Rambam rules that a court here on earth will not be able to put him to death. ■

by Mishnah Berurah³. The reason why the spies do not serve as an example that any Jew could be included in a minyan is that the Gemara never states explicitly that they were apostates and thus for the purpose of this teaching we do not consider them to be wicked and thus the precedent to which Rav Feinstein refers is invalid. ■

1. שו"ת אג"מ אורח ח"א סי' כ"ג וח"ב סי' י"ט.

2. שו"ת אור לציון ח"ב פ"כ סי' ה' בהע"י.

3. מ"ב סי' נ"יה ס"יק מ"י. ■