

The Weekly Daf



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Sanhedrin 79-85

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Rav Weinbach's insights, explanations and comments for the 7 pages of Talmud studied in the course of the worldwide Daf Yomi cycle

A Different Murder Mystery

<p>The Cases:</p>	<p>A man intends to kill Reuven with a stone and the stone kills Shimon instead.</p>	<p>A man sees Reuven and Shimon standing together and throws a stone with an intention to kill either of them.</p>	<p>A man sees a man who he believes is Reuven and throws a stone to kill him because he wants to kill Reuven and the victim turns out to be Shimon.</p>
<p>The Dispute:</p>	<p>In all of these cases the majority opinion of the Sages is that he is guilty of murder and liable for capital punishment because he had an intention to murder. Rabbi Shimon, however, deduces from a Torah passage that he is only liable for capital punishment when he explicitly declares that he intends to kill a specific victim and does so. He therefore rules that in all three cases there will be no death penalty for murder.</p>		
<p>The Problem:</p>	<p>The Rambam (Laws of Murder and Life Preservation 4:1) rules that if a man indiscriminately throws a stone into a crowd of people and kills one of them he does not receive the death penalty. Is the Rambam ruling like the Sages or like Rabbi Shimon? If he follows the Sages' view it would seem that the stone thrower should be guilty even in such a case because he intended murder. If he follows Rabbi Shimon's view the Rambam should have cited the three cases listed above as well to let us know that even in such cases he is exonerated.</p>		
<p>The Resolution:</p>	<p>Rabbi Yossef Caro, in his "Kessef Mishneh" commentary, explains that the Rambam follows the majority opinion of the Sages and the stone thrower will therefore be guilty in all of the above three cases. In the particular situation described by the Rambam he is exonerated not because of a lack of intention to murder but because of a technical inability to issue the warning which must precede any crime in order for it to be punishable by a human court. This warning must be specific to the act he is about to commit and this is lacking when someone throws a stone indiscriminately.</p>		

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How to Correct a Parent

If someone sees his father transgressing a Torah commandment he should not say to him: "Father, you have transgressed the words of the Torah!" He should rather say: "Father, this is what it says in the Torah."

The first approach is ruled out because it embarrasses the father, whose honor he is obliged to respect. In regard to the proper approach there are two opinions as to how it is applied:

<p>Statement:</p>	<p>Question:</p>
<p>"Father, this is what it says in the Torah."</p> <p>By being reminded that there is such a passage the father will realize the practical application to his situation. — <i>Rashi</i></p>	<p>"Father, this is what it says in the Torah???"</p> <p>By asking rather than reprimanding he avoids embarrassing his father. — <i>Rambam</i></p> <p>The same caution in how to address a father applies to a situation in which he has made an error in citing a Torah source. The son must avoid saying "Father, don't say it that way" in order to avoid embarrassing him. He must use the indirect form, either as a statement (<i>Rashi</i>) or as a question (<i>Rambam</i>)</p>

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