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DAF KESHER

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This Daf Kesher is dedicated for the zechut of Aviva Hannah Miriam bat Yoel and for arichut yamim.

DVAR TORAH GOOD JUDGMENT

Immediately after our Parshah opens with commands to appoint judges, not accept bribes, and pursue justice, comes an extremely specific detail of the rules of idolatry: "Do not plant for yourself an asheirah (a tree used for idolatry), any tree (not only one used for idolatry), next to the altar of Hashem your G-d" (Devarim 16:21). The Amora Reish Lakish, building on this juxtaposition, says, "Anyone who appoints a **דיין שאינו הגון** – an improper judge – is as if he had planted an asheirah tree" (Sanhedrin 7a and Avodah Zarah 52a). Reish Lakish's statement explains why Hashem put them next to each other in the Torah, but gives us a new question: Why is appointing an improper judge like planting an asheirah tree?

The author of the Meshech Chochmah (Harav Meir Simchah of Dvinsk, **זצ"ל**, 1843–1926) explains Reish Lakish's statement in the context of his presentation of the rationale behind the Torah's prohibition against planting any tree – not only a tree worshipped as idolatry – next to the altar.

Hashem lacks nothing and needs nothing. He is totally independent. Yet sacrifices could, G-d forbid, be grossly misinterpreted as food serving some Divine hunger. In reality, says Reb Meir Simchah, drawing on the teachings of the Ramban, Rav Saadiah Gaon, and the Kabbalists, **עבודת הקרבנות** – the sacrificial service – is a lofty and wondrous aspect of our connection with Hashem. Sacrifices brings completion to man and are a powerful way to come close to Hashem and bring all of existence close to Him.

In order to avoid any misunderstanding of sacrifices only the four letter Name of Hashem appears in conjunction with sacrifices. It is this Name that indicates that Hashem's existence is necessary and that He brings everything into existence. That is why trees cannot be planted next to the altar. Trees grow; stones do not. The altar is made of stones while trees are distanced from it. That avoids any association between sacrifices and nourishment; for trees need nourishment and stones do not. The word **אשירה** is used for the idolatrous tree cult because, says the Midrash (Torat Kohanim, Parshah 11), **מתאשרים מאחרים** – they are strengthened by others. Trees symbolize dependence on the nourishment that sustains them.

True judgment demands emulating G-d's independence. To judge justly and truthfully, the judge must be free of any dependence and of any agenda. He must not be swayed by fear, money, or favoritism. A judge who judges **דין אמת לאמתו** – seeking out pure truth – becomes a partner with Hashem in Creation (Shabbat 10a). That is because just as Hashem was totally unchanged through Creation – He was complete before and complete after – so the judge must remain totally unaffected by outside influences during the judgment process.

This explains why appointing an unjust judge is like planting a tree next to the altar. For just as a tree next to the altar associates sacrifices with the pagan notion of divine dependency; so appointing unjust judges creates a dependent justice system. The improper judge does not pursue truth independently; he is pulled off track by other forces, coarse and subtle, bribery and fear, self-interest and lazy thinking. **כי המשפט לאלקים הוא** – Judgment is G-d's" (Devarim 1:17). True judgment (for judges and for the rest of us) can only be attained by a G-d-like independence that leads to His Truth.

SOURCE GUIDE: WARY OF WAR BY RABBI AVRAHAM FISCHER

Before going into battle, Israel's troops were addressed by one of the Kohanim, referred to as the "Mashuach Milchamah," the Kohen anointed for service in battle. He spoke to the troops twice, once at the border of the Land of Israel and again at the battlefield. Rashi and the Rambam, each drawing on different Tannaitic sources, differ on what he told the troops in each of these two locations. In this source guide Rabbi Fischer takes a close look at this passage in the Torah to explain this dispute.

A. Israel's Troops Are Addressed by the Mashuach Milchamah

Judges and the judiciary system, the king, the Kohanim (priests), and the prophet – each contributes to the nation, each interacts with the other, so that the Children of Israel can function as the nation of the Torah. When the Children of Israel goes to war, all segments of the realm are involved, both on the military and the spiritual level. Before the battle, the Kohen (priest) who has been anointed for war (Mashuach Milchamah) addresses the troops:

<p>1. Devarim 20:1-4</p> <p>(1) When you go out to battle against your enemy and see horses and chariots, a people more numerous than you, do not be afraid of them, for Hashem your G-d is with you, Who brought you up from the land of Egypt.</p> <p>(2) And it shall be, when you come near unto (פְּקַרְבְּכֶם אֶל) the battle, that the priest shall approach and speak to the people.</p> <p>(3) And he shall say to them: "Hear, Israel, you are coming near to (לְ) the battle today against your enemies, let not your hearts falter, fear not, do not panic nor become terrified before them.</p> <p>(4) For Hashem your G-d is He Who goes with you, to fight for you against your enemies, to save you."</p>	<p>דברים כ: א-ד</p> <p>(א) כִּי תֵצֵא לְמִלְחָמָה עַל אִיבֶיךָ וְרָאִיתָ סוּס וְרֶכֶב עִם רַב מִמֶּךָ לֹא תִירָא מֵהֶם כִּי יְדוּד אֱלֹהֶיךָ עִמָּךְ הַמַּעֲלֶיךָ מֵאֶרֶץ מִצְרַיִם.</p> <p>(ב) וְהָיָה פְּקַרְבְּכֶם אֶל הַמִּלְחָמָה וְנִגַּשׁ הַכֹּהֵן וְדַבֵּר אֶל הָעָם.</p> <p>(ג) וְאָמַר אֵלֵיהֶם שְׁמַע יִשְׂרָאֵל אַתֶּם קָרְבִים הַיּוֹם לְמִלְחָמָה עַל אִיבֵיכֶם אֵל יְרֵךְ לְבַבְכֶם אֵל תִּירְאוּ וְאֵל תַּחֲפוּזוּ וְאֵל תַּעֲרֹצוּ מִפְּנֵיהֶם.</p> <p>(ד) כִּי ה' אֱלֹהֵיכֶם הֵהָלֵךְ עִמָּכֶם לְהִלָּחֵם לָכֶם עִם אִיבֵיכֶם לְהוֹשִׁיעַ אֶתְכֶם.</p>
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In the verses that follow (5-8), the Mashuach Milchamah instructs those who had "unfinished business" back home – which might distract them from fighting whole-heartedly – to return and provide service from behind the fighting lines:

<p>2. Devarim 20:5-8</p> <p>(5) And the officers shall speak to the people, saying, "What man is there who has built a new house and has not [yet] inaugurated it? Let him go and return to his house, lest he die in the war, and another man inaugurate it.</p> <p>(6) And what man is there who has planted a vineyard, and has not [yet] redeemed it? Let him go and return to his house, lest he die in the war, and another man redeem it.</p> <p>(7) And what man is there who has betrothed a woman and has not [yet] married her? Let him go and return to his house, lest he die in the war, and another man marry her."</p> <p>(8) And the officers shall continue to speak to the people and say, "What man is there who is fearful and fainthearted? Let him go and return to his house, that he should not cause the heart of his brothers to melt, as his heart."</p>	<p>דברים כ: ה-ח</p> <p>(ה) וְדַבְּרוּ הַשְּׂטָרִים אֶל הָעָם לֵאמֹר מִי הָאִישׁ אֲשֶׁר בָּנָה בַּיִת חֲדָשׁ וְלֹא חֲנִכּוֹ יֵלֶךְ וַיֵּשֶׁב לְבֵיתוֹ פֶּן יָמוּת בַּמִּלְחָמָה וְאִישׁ אֲחֵר יַחְנִכֶנּוּ.</p> <p>(ו) וּמִי הָאִישׁ אֲשֶׁר נָטַע כַּרְם וְלֹא חָלְלוֹ יֵלֶךְ וַיֵּשֶׁב לְבֵיתוֹ פֶּן יָמוּת בַּמִּלְחָמָה וְאִישׁ אֲחֵר יַחְלִלֶנּוּ.</p> <p>(ז) וּמִי הָאִישׁ אֲשֶׁר אָרַשׁ אִשָּׁה וְלֹא לָקַחָהּ יֵלֶךְ וַיֵּשֶׁב לְבֵיתוֹ פֶּן יָמוּת בַּמִּלְחָמָה וְאִישׁ אֲחֵר יִקְחֶנָּה.</p> <p>(ח) וַיְסַפּוּ הַשְּׂטָרִים לְדַבֵּר אֶל הָעָם וְאָמְרוּ מִי הָאִישׁ הַיָּרֵא וְרֵף הַלֵּבָב יֵלֶךְ וַיֵּשֶׁב לְבֵיתוֹ וְלֹא יַמַּס אֶת לֵבָב אֶחָיו כִּלְכָבוֹ.</p>
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Thus, one who had either: 1) acquired a new house but had not yet occupied it; 2) acquired a vineyard but had not yet eaten of its produce; 3) betrothed a wife but had not yet married her; or 4) one who was, despite the Mashuach Milchamah's words of motivation, fearful and fainthearted – would bring supplies, water and food, and repair the roads.

The Sifrei (Tannaitic Midrash on Bamidbar and Devarim) and the Talmud (Sotah 42a-b) insist that the Mashuach Milchamah addressed the troops twice:

<p>3. Sotah 42a and 42b The Rabbis learned: Twice he spoke with them, once at the border and once at the battlefield. What did he say at the border? "Listen to the criteria of those who wage war and return." What did he say at the battlefield? "Let not your hearts falter, fear not, do not panic, nor become terrified before them."</p>	<p>טוטה מב. ומב: תנו רבנן: פעמיים מדבר עמם, אחת בקֶפֶר ואחת במלחמה. בספר מה הוא אומר? "שמעו דברי מערכי המלחמה וחזרו." במלחמה מה הוא אומר? "אל ירך לבבכם אל תיראו ואל תחפזו ואל תערצו."</p>
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The source for this law is the repetition of the root "קרב – coming near," in verses 2 and 3: since the text refers to "coming near" twice, it connotes that the Mashuach Milchamah spoke to them twice, once at the border before leaving the Land of Israel, and once before preparing for battle.

B. Rashi vs. the Rambam

According to Rashi's reading of the Talmud and the Sifrei, the command delineated in verses 5-8 (house-builders, etc.) was uttered at the border, while verses 3-4 were said immediately before the battle. According to his approach, the Torah first presents the verses that were said only later. Why?

Harav Shimshon Raphael Hirsch, זצ"ל (Germany, 1808-1888), explains this change in the order of the verses as follows: In verse 1, Moshe reminds the people, in a general sense, that Hashem will always protect them, just as He did in Egypt, so they must not fear in time of war; and therefore, before each battle, the Mashuach Milchamah will reassure them (verses 3-4). However, this reassurance will be preceded by the command to the house-builders and the others to return home (verses 5-8). Rav Hirsch adds:

<p>4. Rav Hirsch's Commentary on Devarim 20:2 When the leaders of the Jewish State decide they have to go to war they must be conscious beforehand of the support of G-d in taking that serious step, and not make the main issue the size of their army ...</p>

The Rambam understands the Talmud differently because, as the author of the Or Sameach (Harav Meir Simchah of Dvinsk, זצ"ל, 1843–1926) writes, Rambam relies not on the Sifrei, but on the Tosefta (Sotah 7:10). According to the Rambam's reading and ruling, the Mashuach Milchamah repeats the same address (verses 3-8) on both occasions, once at the border and once before the battle.

Harav Zvi Magence, זצ"ל (rabbi and educator in St. Louis, Missouri, 1914-1989), in Magen Tzvi, Sefer Kedushat Ha'aretz, reminds us that the primary reason for turning these people back is so that their own fear of dying will not affect the others. Therefore, he suggests, since some people did not feel afraid when they first left Israel but then realize they are when they approach the battle, they are given a second opportunity to return.

But, the fundamental question remains: On what basis do all our sources insist that the Mashuach Milchamah addresses the troops twice? The repeating of the verb קרב alone is insufficient an explanation, since verse 2 is an introduction and verses 3 and 4 are a quote, so the verb is mentioned in two different, and thus justifiable, ways.

Malbim (Harav Meir Leibush ben Yechiel Michel, זצ"ל, 1809-1879) proposes a novel solution to the problem. He notes that there is a difference between when the verb קרב (come near) is used with the preposition word אֶל or the prefix preposition לְ. Although both mean "to," they are not used in the same way: אֶל קרב is used with nouns, for example:

<p>5. I Melachim 5:7 ... And all those who come near to King Solomon's table ...</p>	<p>מלכים א' ה:ז ... וְאֵת כָּל הַקָּרֵב אֶל שְׁלֹחַן הַמֶּלֶךְ שְׁלֹמֹה ...</p>
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לִּקְרֹב is used with verbs, for example:

6. Shemot 12:48 ... And then shall he come near to do it ...	שמות יב:מח ... וְאָז יִקְרַב לַעֲשׂוֹתוֹ ...
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In our passage, however, we have both prepositions. In verse 2, which reads “הַמִּלְחָמָה – When you come near unto the battle,” Malbim understands “battle” as a noun, meaning the place of battle. Consequently, this refers to the address made to the troops when they are about to leave the Land of Israel, crossing the border to enter the place where the war will occur. On the other hand, in verse 3 where the Mashuach Milchamah says: “שָׁמַע יִשְׂרָאֵל אֲתֶם קְרֹבִים הַיּוֹם לַמִּלְחָמָה – Hear, Israel, you are coming near to the battle,” Malbim understands “battle” in a verbal sense, meaning to wage war. Thus, this is a second address delivered as the troops are about to enter the battle.

War from a distance looks very different from war when it is near at hand.

THE SEFER TORAH ON THE KING'S ARM

Hashem commands the king of Israel to write two Torah scrolls. The first Sefer Torah is the one that every Jew is commanded to write (the 613th mitzvah, usually fulfilled through having Jewish books to learn with or participating in the writing of a Torah scroll), and the second is unique to the king. Its purpose: **“And it shall be with him**, and he shall read it all the days of his life, so that he may learn to fear Hashem his G-d, to keep all the words of this Torah and these laws, to perform them, so that his heart will not be haughty over his brothers, and so that he will not turn away from the commandment, either to the right or to the left, in order that he may prolong his days in his kingdom, he and his sons, among Israel” (Devarim 17:19-20).

Based on the words, “והיתה עמו – it shall be with him” the Gemara tells us that the king’s second Sefer Torah was small, and was constantly attached to his arm, like an amulet.

In his Mishneh Sachir, Harav Yisachar Shlomo Teichtal, זצ”ל (1885-1945, murdered in the Holocaust, best known for his work *אם הבנים שמחה*), connects this passage in the Gemara with something Harav Avraham ben Harambam, זצ”ל (Egypt, 1186–1237) writes in a letter (Letter 7 of his collected letters). He mentions that a leader would hold on to a Sefer Torah when he takes office, as it says in Mishlei, “בי מלכים ימלוכו – Kings rule through me (the Torah)” (Mishlei 8:15). This custom made it clear that their leadership was to be rooted in Torah. This is especially important for the king, the People’s most powerful leader.

Leaders, says Rav Teichtel, have a tendency to begin their term in office promising they will be just, good, and upright – but later lose the resolve they began with and their standards deteriorate. The king cannot let that happen. When the Torah mentions the mitzvah to write a Sefer Torah, it says, “והיה כשבתו על כסא ממלכתו – It will be **when** he sits on his royal throne” (Devarim 17:18). Instead of writing **כשבתו** – **while** he is sitting – the Torah says **כשבתו** – **just as** he first sits on his throne. Hashem thus hints to the Jewish king that he should always have the sense that he has just taken to the throne and never let his commitment to truth, justice, and goodness wane.

שבת שלום ומבורך

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The following digital Torah resources have been extremely helpful in researching and preparing the Shapell's Daf Keshet:
DBS – Hataklitor Hatorani, Otzar Hachochmah, the Bar Ilan Responsa Project, and Hebrewbooks.org.

We continue to pray for a refuah shleimah, a complete healing, for all those wounded in the attacks against our People.