



Towards the beginning of Parashat Vayakhel (35:3), Moshe reiterates the obligation of Shabbat observance, emphasizing in particular the prohibition against kindling fire on Shabbat: "Do not burn fire in all your residences on the day of Shabbat." The Talmud (Yevamot 6b, Sanhedrin 35b) interprets this verse as a reference to *mitat beit din*, execution at the hands of the court. The Torah here forbids the courts from administering capital punishment on Shabbat; although the verse speaks explicitly only of *sereifa*, execution by fire, the principle applies equally to all forms of capital punishment.

Conceptually, one may approach this inference from the verse in one of two ways. Instinctively, perhaps, we would explain that the Torah here dispels the possible misconception that the *mitzva* to punish violators overrides the Shabbat prohibitions. Indeed, the Sages have explained that the mention of Shabbat in this context, which deals primarily with the *Mishkan*, is intended to clarify that the *Mishkan's* construction must give way to the laws of Shabbat. Similarly, it would seem, the prohibition against execution on Shabbat is simply a restatement of the prohibition against slaughtering on Shabbat, emphasizing that this applies even in cases where there is in fact a *mitzva* to take a life.

Alternatively, however, one might explain this verse not as a restatement of the Shabbat prohibitions, but rather as the introduction of a new prohibition. According to this approach, the Torah forbids administering punishment on Shabbat independently of the general prohibition against taking life on Shabbat; it establishes here an intrinsic provision that forbids punishing violators, irrespective of the familiar categories of *melakha* (forbidden activity) that apply on Shabbat.

Maimonides appears to have subscribed to the second of these two approaches, as evidenced by the fact that he lists this prohibition among the Torah's 613 commandments (*Sefer Ha-mitzvot, lo ta'aseh* 322). Had the Torah simply clarified that court execution does not override the Shabbat prohibitions, there would be no need to designate a separate prohibition for this law, as it would constitute simply an application of the Shabbat prohibitions. Evidently, Maimonides understood that the Torah introduces a separate prohibition against administering punishment, irrespective of all other laws of Shabbat.

Indeed, as a number of later writers have noted, in *Mishneh Torah* (Hilkhot Shabbat 24:7) Maimonides codifies a prohibition against administering any sort of court punishment on Shabbat, which would presumably include *malkot* (lashes). In his view,

the Torah here forbids not only execution, which would be forbidden in any event due to the prohibition of taking life, but also any court punishment. The *Magen Avraham* commentary the *Shulchan Arukh* (339:3) suggested that *malkot*, too, transgresses a Torah prohibition in that the lashing often causes bloody wounds, which is included under the Torah prohibition of "taking life." Others, however, including Rabbi Avraham Feintuch, in his work *Pikudei Yesharim* (Beer Sheva, 2000), understood that Maimonides forbids administering *malkot* regardless of the infliction of a wound. As mentioned, Maimonides' held that this prohibition is not merely a restatement and clarification of the Shabbat laws, but rather an independent *halakha* that forbids administering punishment on Shabbat.

A striking expression of this general approach can be found in the *Sefer Hachinukh* (114), which claims that this prohibition forbids the court to even convene on Shabbat for the purpose of sentencing a violator to punishment. Clearly, according to the *Chinukh*, this prohibition is not merely an application of the Shabbat laws, but rather a unique *halakha* that forbids judicial proceedings that are inconsonant with the spirit of Shabbat. Rabbi Avraham of Sochatchov, in his work *Avnei Neizer* (O.C. 46), claimed that Maimonides likewise held this view, while others, including Rabbi Menachem Kasher (*Torah Sheleima*, Shemot, chapter 35, note 27), demonstrated that Maimonides restricted this prohibition to executing court sentences. (This can be proven from Rabbi Yosef Kapach's translation of Maimonides' definition of this prohibition in *Sefer Hamitzvot*: "He forbade us to carry out the punishments of sinners and executing sentences on Shabbat.") In any event, Maimonides clearly accepted the premise that this prohibition constitutes an independent *halakha*, and not merely an application of the Shabbat laws.

Shabbat is commonly referred to as *me-ein olam ha-ba*, an experience that affords us a taste or glimpse of the world to come. It represents our hopes and aspirations for a more perfect world and a more perfect Jewish society. Administering punishment of any kind runs in direct contrast with this theme, with the optimism and hope for a brighter future which the Shabbat experience is to awaken within us. Shabbat is the time for focusing our minds and hearts and all that is good and promising in the world, even if we must continue to devote our energies during the week to confronting the many evils that unfortunately still abound.