

Adjudication Withheld

Excerpted and adapted from a shiur by Rav Moshe Yitzchok Weg
February 24, 2022

https://baishavaad.org/wp-content/uploads/2022/02/SHE82_010_Vayakhel_Shabbos_a_Day_of_Rest-Din_Geirus_on_Shabbos.mp3

Do not kindle fire in all of your settlements on the day of Shabbos.

Shmos 35:3

The Yerushalmi (Sanhedrin 4:6) derives from this *pasuk* via a *gzeirah shavah* that bais din may not judge on Shabbos. This would make this a *din de'Oreisa*. But the Gemara in Beitzah 37a says it is a *gzeirah mideRabanan* due to concern that the bais din might write. How do we understand this discrepancy between the Bavli and the Yerushalmi?

The Aruch Hashulchan (O.C. 339:10) says the Bavli and Yerushalmi disagree. The Rambam (Sefer Hamitzvos, *Lavin* 322) holds they don't; there is an *issur de'Oreisa* to administer punishment on Shabbos and an *issur deRabanan* to judge on Shabbos.[1] The Chasam Sofer (Shabbos 157a) says that it is *asur mide'Oreisa* for bais din to administer punishment on Shabbos, but the *issur deRabanan* to judge on Shabbos is because judging on Shabbos may lead to punishing on Shabbos.[2]

[1] See also Rambam, *Hilchos Shabbos* 23:14 and 24:7, and Mishnah Brurah 339:11 and 13.

[2] According to the Chasam Sofer, no *gzeirah* intended to prevent writing applies to bais din, because each *dayan* will remind the others not to write. He interprets the Gemara in Beitzah concerning the *gzeirah* to prevent writing as referring only to a *yachid mumcheh* (an expert *dayan* judging alone).