

## OVERVIEW of the Daf

1) **MISHNAH (cont.):** The Mishnah concludes its contrast between the betrothed slavewoman and the other arayos and then defines slavewoman.

### 2) Lashes

The source that only the betrothed slavewoman receives lashes is presented.

The Gemara explains the meaning of the term בקרת.

Another Baraisa explains the relationship between the betrothed slavewoman's punishment and the punishment of the man who was with her.

The conclusion of the Baraisa is unsuccessfully challenged.

R' Yitzchok derives another halacha regarding the status of the betrothed slavewoman and two interpretations of the term נחרפת are presented.

Tangentially R' Chisda explains a pasuk as referring to betrothed slavewomen.

### 3) Betrothed slavewoman

A Baraisa elaborates on the disagreement in the Mishnah.

R' Yishmael's position is unsuccessfully challenged.

R' Elazar ben Azaryah's position is clarified.

Acheirim's position is clarified.

4) **MISHNAH:** The Mishnah continues to contrast the laws of the betrothed slavewoman and the other arayos.

### 5) Clarifying the Mishnah

R' Yehudah clarifies the Mishnah's first ruling related to a minor.

R' Yehudah in the name of Rav clarifies the Mishnah's ruling regarding one who was sleeping.

A vague Baraisa is cited and then an explanation is suggested.

R' Sheishes offers another explanation of the Baraisa.

הדרן עלך ארבעה מחוסרי כפרה

6) **MISHNAH:** The Mishnah first discusses the evidence necessary to obligate one to bring a Chatas and then discusses the parameters for determining whether one must bring a single korban or multiple korbanos for multiple transgressions.

### 7) Clarifying the Mishnah

The Gemara clarifies the exact details of the Mishnah's first case.

An alternative explanation of the Mishnah is presented.

The source that one witness can obligate someone to offer a chattas if he does not deny the accusation is presented.

The Gemara begins to clarify this Baraisa. ■

## Distinctive INSIGHT

*A single witness says he sinned, and he is silent*

עד אומר אכל והוא אומר לא אכלתי טעמא דמכחיש ליה אכל שתיק מיחייב

If a sin deserving of kareis was violated unknowingly, the one who committed the misdeed must bring a chattas offering. If he realizes that he has done this act, he brings a chattas, but if he is not sure whether he violated the sin, he brings an asham talui until he can resolve his uncertainty. For example, if a person realized that he ate cheilev unknowingly, he would bring a chattas. If a person ate one of two pieces of fat that were in front of him, and he finds out that one of them was cheilev, if he cannot determine which of the two pieces remains, he might never know if he committed this sin or not. In this case, he would bring an asham talui until he would be able to solve his dilemma.

The Mishnah at the beginning of the perek presents the guidelines regarding the degree of awareness a person must have before bringing a chattas offering. If a person did not realize that he committed a sin, but someone else, or two witnesses, later approach him and tell him that they saw that he committed this sin. This awareness, despite being told to him by others, is adequate for him to now bring a chattas for his unintentional act.

If a single witness tells him he sinned, but he is certain that he did not do it, the Mishnah rules that he does not bring a chattas. A single witness is not credible to establish that he did the sin. The Gemara notes that the reason the person is exempt from a chattas is that he challenges the single witness and claims that he did not sin. However, this implies that if the person was silent that he would bring a chattas. Tosafos explains that the underlying principle is that "silence is tantamount to a confession." If the person felt he had not done the sin, he would not remain silent when being

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## REVIEW and Remember

1. What is the meaning of the term בקרת?
2. What is derived from the phrase והפדה לא נפדתה?
3. What is the point of dispute between R' Meir and Chachamim?
4. What is the source that if one does not contradict a single witness that he must offer a chattas?

# HALACHAH Highlight

## Reciting **והוא רחום** in *ma'ariv* on Shabbos

גדול הדיינין מקרא

The most prominent of the judges reads

**T**ur<sup>1</sup> writes that before beginning maariv we recite the pasuk **והוא רחום**. One explanation for the practice is that they had the custom to administer lashes before davening to atone for the transgressions of the day. Since the lashes would provide atonement they would read the pasuk of **והוא רחום** that the Merciful One should provide atonement for the transgressions for which they received lashes. Another connection between lashes and the pasuk of **והוא רחום** is that Chazal enacted the reading of this pasuk three times while administering lashes. The reason is that the pasuk has thirteen words and when it is read three times one reads a total of 39 words equal to the number of lashes that are administered. Therefore, in maariv after the administering of lashes it is appropriate to read this pasuk. Another rationale for the practice of reciting **והוא רחום** is that in the morning and afternoon we read korbanos before davening and those korbanos provide atonement. In maariv there is no recitation of korbanos so they instituted the recitation of **והוא רחום** to provide atonement.

There is a practical difference between these two explanations. This difference is mentioned by Tur when he reports that Minhag Sefard is to say **והוא רחום** even on Shabbos whereas Minhag Ashkenaz is not to recite **והוא רחום** on Shabbos. Tur<sup>2</sup> suggests that the custom to not recite **והוא רחום** on Shabbos seems to follow the explanation that **והוא רחום** is related to lashes and lashes are not administered on

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accused of this sin. We therefore assume that the person himself admits that he is guilty. The Gemara in Kiddushin (66a) elaborates and says that the sinner realizes that if he was not guilty he will be illegally bringing an unnecessary offering to the courtyard of the Mikdash, so his silent acceptance of guilt is compelling. Ramah explains that nonetheless, the person did not admit outright, due to his embarrassment.

Tosafos adds that if the person would have even said, "I do not know if I sinned," he would not bring a chattas. His lack of acceptance of the witness's word is enough to lose the ability to bring an offering, which is only done when a sinner "realizes his error," but not when he expresses reasonable doubt about it.

Tosafos does not say that the single witness is believed in this case when he is not contradicted. The Rishonim argue against Tosafos, and they note that the Gemara in Kiddushin (65b) implies that when the accused is silent it is the credibility of the single witness which is affirmed, and a chattas would be appropriate even if the sinner says that he does not know if he sinned. ■

Shabbos. Elya Rabba<sup>3</sup> then notes that according to the suggestion that **והוא רחום** is recited as a replacement for the fact that there is no korban recitation it follows that it should be recited even on Shabbos. Kol Bo<sup>4</sup> suggests another reason why **והוא רחום** is not recited on Shabbos. He maintains that the pasuk is a supplication and it is prohibited for one to make personal requests on Shabbos since it could make one sad and it is prohibited to be sad on Shabbos. ■

1. טור או"ח סי' רל"ז.

2. טור שם סי' רס"ז.

3. אליה רבה סי' רל"ז אות א'.

# STORIES Off the Daf

## The Missing Husband

בא בעלה תצא מזה ומזה

**T**here is a Yiddish saying: "פון א קשיא – שטארבט מען נישט פון א קשיא" – One doesn't die from asking a question." This expression is a pithy way to explain to someone who has questions that having a question – or many – is no big deal. As one gets older and wiser, he has a broader perspective and realizes that questions are a part of life and that we make choices despite questions all the time.

On today's daf we find the horrific story of an agunah who remarried, whose husband subsequently returned home. A certain agunah was sadly unable to remarry for several years. This troubled all the greatest scholars of her city, who naturally wished to find a way to help her. After much consideration, one of the scholars had what he thought was an excellent solution to her problem. He mentioned an extremely difficult Tosafos and said a very brilliant answer based on a novel concept. "According to this, there is no question whatsoever on an apparently impossible Tosafos. But if one accepts my chiddush, this agunah is permitted..."

This brilliant way to circumvent her difficulty amazed the other scholars; yet they wondered whether it really permitted the poor agunah. After all, there was no source for his chiddush.

When they consulted with Rav Chaim Volozhiner, zt"l, he voiced his opinion concisely. "פון א קשיא שטארבט מען נישט פון א קשיא" – one does not die from a question." A chiddush is nice, but the kashah on Tosafos is not going to make the missing husband lie down dead.

To everyone's shock, the woman's husband finally returned home a few weeks later!<sup>1</sup> ■

1. כן שמעתי מהרב יהושע כהן, שליט"א