

OVERVIEW of the Daf

1) R' Yehudah's position (cont.)

A Baraisa is cited that supports Rava's source for R' Yehudah's position that one is not liable for the transgression of cohabiting with one's father's wife when one cohabits with his mother.

Rabanan's response to R' Yehudah's position is recorded.

2) Sodomizing a father

R' Yehudah is cited as ruling that an idolater who sodomizes his father is liable for two transgressions as is one who sodomizes his father's brother.

Rava qualifies this ruling.

A Baraisa is cited that supports R' Yehudah's ruling.

A debate is presented regarding the author of the Baraisa and the Gemara explains that the debate relates to an issue debated by Abaye and Rava whether we punish based on logical reasonings.

3) R' Yehudah's position (cont.)

The Gemara continues to present the exchange between R' Yehudah and Rabanan.

4) Incest with a daughter-in-law

The reason the Mishnah does not include the prohibition against cohabiting with one's son's wife is that it is the same as one's daughter-in-law.

5) **MISHNAH:** The Mishnah lists three additional cases in which the transgressor is stoned and explains why the animal involved in bestiality is killed.

6) Stoning for cohabiting with another man

A Baraisa is cited to demonstrate that the punishment for cohabiting with a man is stoning.

Another Baraisa is cited to demonstrate that the punishment for bestiality is stoning.

R' Avahu presents a practical difference between R' Yishmael's and R' Akiva's opinions concerning the number of transgressions for cohabiting with a male and bringing a male upon himself. He makes a similar assertion regarding the transgression of bestiality.

Abaye disagrees with R' Avahu's understanding of R' Yishmael.

The Gemara continues to analyze the dispute between R' Akiva and R' Yishmael.

7) Sodomizing the young

A Baraisa distinguishes between sodomizing a young male and sodomizing a young animal.

Rav and Shmuel disagree about the meaning of the Baraisa.

The point of dispute between Rav and Shmuel is explained.

A Baraisa is cited that supports Rav's explanation. ■

Distinctive INSIGHT

Why is the animal destroyed, when it was the man who sinned?

אם אדם חטא בהמה מה חטאה? אלא לפי שבאה לאדם תקלה על ידה... דבר אחר שלא תהא בהמה עוברת בשוק ויאמרו זו היא שנסקל פלוני על ידה

The Torah teaches that if an animal is used in an act of sodomy, the animal must be destroyed. The Mishnah lists two reasons why the animal must be destroyed, although it was only the person who acted sinfully, and the animal was only a victim in this repulsive act. One reason is that a person was brought to sin because of this animal (תקלה). Tiferes Yisroel explains that this means that we are afraid that this same animal might be used for someone else to sin, as well. Another reason is that we do not want the person who sinned to be killed, while the animal which was involved in the sin to walk around in the market where people will point to it and say, "That is the animal which caused So-and-so to be killed." This would be a further disgrace for the unfortunate sinner, even after he was already punished for his sin.

The Gemara (55a-b) explains that both of these reasons are essential to the halacha of destroying the animal. Therefore, in a case where a non-Jew sins with an animal, the only reason which is relevant is the first one, that another person might also sin with this animal. Non-Jews are also commanded not to sodomize animals, but we would not kill the animal in order to spare a non-Jew of the disgrace of people who might associate the animal with his sin. Nevertheless, the animal must still be destroyed because of the reason of תקלה alone. Another situation would be where a Jew participated in an act of sodomy with an animal, but he did it unintentionally. Similarly, if the act is committed by a minor, who, by definition, lacks sinful intent. In both of these cases sinful intent is lacking, so we are lacking תקלה, while we do have the factor of disgrace, as a person was involved in a despicable act with

(Continued on page 2)

REVIEW and Remember

1. How do we know that the phrase ערות אביך refers to one's father's wife?

2. Why is an animal killed if it copulated with a person?

3. What two meanings are derived from the words תשכב?

4. What is the point of dispute between Rav and Shmuel?

HALACHAH Highlight

Liability for causing another to sin

אלא לפי שבאה לאדם תקלה על ידה

Rather it is because a person's downfall came through it

The Gemara Kiddushin (43a) presents a disagreement between Tanna Kamma and Shammai the Elder concerning the liability for one who instructs another person to commit murder. According to one explanation of the dispute both opinions agree that the one who sent the murderer is liable in Heaven for instructing someone to murder and the difference between their positions is the degree of liability. According to Shammai the Elder he is liable **דינא רבה** – a large judgment whereas according to Tanna Kamma he is only liable **דינא זוטא** – a small judgment. Chavos Yair¹ explains the difference between **דינא רבה** and **דינא זוטא** as follows. **דינא רבה** applies when one is held fully responsible for what occurred. For example, in the Gemara in Kiddushin (ibid.) we are taught that Dovid Hamelech was held fully responsible for the death of Uriah even though he never laid a hand on him. The reason he was held fully accountable is that there was no one else to bear responsibility for Uriah's death. **דינא זוטא** applies when one is an indirect cause for what occurred. When the murderer could be held accountable for the murder the one who advised the murderer is only an indirect cause for the murder and therefore does not bear the same degree of responsibility.

Sefer Mishpatim L'Yisroel² cites the Sifra³ that also discusses the liability for one who is the indirect cause of another's sin. The Midrash asks the same question recorded in our Mishnah,

(Insight...continued from page 1)

the animal. Nevertheless, the animal would be destroyed due to the one factor alone.

Aruch LaNer asks why the Mishnah searches for reasons for the statute of the Torah that the animal be killed when it is involved in a case of sodomy. The Mishnah presents two reasons for this law, and it arrives at practical applications using these reasons, but we hold according to R' Yehuda (21a) who says that we do not search for reasons for halachos of the Torah. He answers that we do not look for reasons for mitzvos when our reasoning would lead us to conclusions which are contrary to the simple reading of the verse. For example, the Torah says not to take a pledge from a widow, which implies whether she is wealthy or poor. If we apply a reason and say that the Torah does not want to oppress a poor and helpless woman, we would allow the pledge to be taken from a wealthy widow, which is contrary to the simple reading of the verse. Here, we can apply a reason to destroying the animal to understand it properly. ■

why is the animal that copulated with a woman killed? The answer is that a person's downfall came through it. From this principle the Midrash draws the following conclusion. If an animal that made no conscious decision is held accountable for being the cause of a person's downfall all the more so is a person accountable if he causes or encourages another person to sin and deviate from the path of Hashem. ■

1. שו"ת חות יאיר סי' קס"ו.
2. ספר משפטים לישראל פ"ו עמ' קס"ב.
3. ספרא לפרשת קדושים אות קט"ו. ■

STORIES Off the Daf

A prized possession

"שלא תהא בהמה עוברת בשוק ויאמרו זו היא שנסקל פלוני על ידו..."

One of the most prized possessions of the Maharash of Slonim, zt"l, was a snuff box that had originally been the property of Rav Avraham of Kalisk, zt"l, one of the prize students of the Maggid of Mezeritch, zt"l. He valued this snuff box to such a degree that he was never seen anywhere without it. It was clear from the look on his face that he was thrilled to have this ornate snuff box that had been the possession of such a great tzaddik.

One day, the box disappeared. Although a very thorough search was instituted, nothing was found. After numerous

searches, it was clear that the box was definitely not to be found in the house, the shul, or anywhere else the rebbe had been. It was as if the box had vanished into thin air.

One day, Reb Zelig Lieder, z"l, a Slonimer chassid visiting Eretz Yisrael, paid a surprise visit to the home of a local Jew who had visited the Maharash in Slonim. As the two were speaking of old times, Rav Zelig noticed on a high shelf what could only be the priceless box of the Maharash! It was obvious that he had failed to overcome the obvious temptation and taken it for himself. Reb Zelig, who had not come alone, asked if he could take the box back to the rebbe and the man agreed.

When Reb Zelig returned to Slonim, he was thrilled to present the long-lost box to his rebbe, explaining how it had come into his possession. To his shock, Maha-

rash did not seem glad to see it. "Why don't you keep it?" he offered.

The rebbe then explained, "The Torah tells us that one must kill an animal that has been used for committing a capital sin, even though the animal cannot be blamed—it is the fault of the person who used it. This is because the person who used the animal is executed himself, and if the animal were to be left alive, people would be reminded of him. Whenever they saw the animal they would say, 'There is the animal that caused the sinner's death.' I am afraid that seeing this snuff box back in my possession could damage the reputation of the Jews of Eretz Yisrael, since it will remind the chassidim here of this person's failing. I am not willing to be the cause of this for any price!"¹ ■

1. מאמר מרדכי, ח"ב, ע' ד"יש. ■