



OVERVIEW of the Daf

1) **A prohibition remedied by a positive commandment**
 Rabbah bar bar Chana in the name of R' Yochanan asserts that the rule that lashes are not given when a prohibition is remedied by a positive commandment does not apply when the positive commandment appears first.
 When asked, R' Yochanan denied having issued this ruling but Rabbah asserted that he issued the ruling and it is supported by a verse and a Mishnah.
 The Gemara explains why R' Yochanan retracted his ruling.
 Ulla asserts that the cited Beraisa that led R' Yochanan to retract his ruling does not, in fact, refute his original position.
 This explanation is refuted and a number of modified versions are suggested and rejected until one is found.

2) **Lashes for an אונס who divorces his wife**
 Rava explains that an oneis does not receive lashes since he retains the option to remarry her.
 Ravin in the name of R' Yochanan echoes this same explanation.
 R' Pappa unsuccessfully challenges Rava's explanation.
 Rava and Ravin's explanation is unsuccessfully challenged.
 The point of dispute between R' Yochanan and Reish Lakish whether the correct reading of the Beraisa is בטלו or לא בטלו is explained to revolve around whether an uncertain warning is acceptable or not.
 The Gemara connects this dispute with another dispute between R' Yochanan and Reish Lakish. ■

REVIEW and Remember

1. In what way is מוציא שם רע more severe than אונס?

2. Why doesn't an ones who divorces his wife receive lashes?

3. What is the point of dispute between R' Yochanan and Reish Lakish concerning lashes for violating a prohibition?

4. Does one receive lashes for failing to fulfill an oath to eat a loaf of bread on a particular day?

Distinctive INSIGHT

Why does אונס שגירש not get lashes?
 הניחא למאן דאמר ביטלו ולא ביטלו, אלא למאן דאמר קיימו ולא קיימו מאי איכא למימר?

The rule is that a לאו הניתק לעשה does not get lashes. This is only true when the positive commandment does not have any independent application other than as a follow up to having done the negative commandment. For example, if one violates the sin of stealing (לא תגזול), he does not get lashes because the Torah provides him with the mitzvah of returning a stolen object (והשיב את הגזילה). This mitzvah is seen as a correction to fix the wrong which was done. In fact, it is impossible to perform the mitzvah of returning a stolen object unless one has first perpetrated the sin of stealing.

As the sugya began, R' Yochanan stated that a negative commandment can receive lashes even if it is associated with a positive commandment, provided that the positive commandment precedes the prohibition (לאו שקדמו עשה). In other words, if the positive commandment can be performed independently of having committed the sin in the first place, it is not seen to be the correction of the sin, and lashes are appropriate.

When R' Yochanan was asked about this view, he retracted his opinion, and he stated that a לאו שקדמו עשה does not get lashes. Rabbah explained that the reason R' Yochanan retracted his view was due to the law of אונס שגירש. The Beraisa teaches that a non-kohen who rapes a woman must subsequently marry her (if she wishes), and he is not allowed to divorce her. If he violates this prohibition and divorces her, he does not receive lashes, and he has an obligation to remarry her.

The Gemara concludes that the case of אונס שגירש is not a genuine לאו שניתק לעשה, but it is rather a לאו שקדמו עשה, and this is why it does not get lashes. Accordingly, the Gemara notes that it was not necessary for R' Yochanan to have retracted his earlier statement about the rule of לאו שקדמו עשה.

According to Rashi, the Gemara then notes that this analysis regarding אונס שגירש is only valid according to the view that the mechanism of לאו שניתק לעשה is due to ביטלו ולא ביטלו. This view holds that the negative commandment is not fully complete as long as the possibility to correct it is

(Continued on page 2)

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HALACHAH Highlight

Does denying a statement that was made constitute a lie?

אמרו לו אמרת אמר להו לא

They said to him, "Did you say this?" and he responded, "No."

There was once an aguna who went searching for her missing husband. As she was travelling she came upon a traveler who assured her that her husband was dead. Upon hearing this report she returned home and instructed her son to begin saying kaddish. A few weeks later another traveler saw the son saying kaddish and told him that he should cease saying kaddish since he knows that his father is still alive. Neighbors said that the report of the second fellow should be ignored since he is a drunk and others reported that the second fellow himself now claims that he never made the statement. Someone familiar with the story¹ suggested that the second fellow's second statement should be ignored. Even though Ran² ruled that a person may retract a statement that is made outside of Bais Din, this is only true where he states explicitly that he lied. In our case he is not telling us that he lied, he is claiming that he never made that statement. Since we have witnesses who can confirm that he did make that statement his retraction is not accepted.

Maharal Tzintz³ expressed great astonishment regarding this approach. He asserts that when a man makes a statement denying that he ever made an earlier statement what he is essentially saying is that he knows nothing about the facts of the case and thus his earlier statement should be completely ignored. Conceptually, there is no difference between a person who explicitly states that an earlier statement was a lie and when he claims to

(Insight...continued from page 1)

available. Of course there are no lashes in this case, as the sin is not finished. There is also a different approach, that of קיימו ולא קיימו, which explains that the sin is absolutely complete, and the positive commandment which is available is a function of the lashes. In other words, after having done the sin, the sinner is told that he deserves lashes, but he can choose to do the positive mitzvah to correct for his ways, instead of the lashes. According to this view, אונס שגירש should be judged to get lashes, with the option of remarrying the woman instead if he wishes. The Gemara concludes that our sugya follows the view of R' Yochanan, and he holds ביטלו ולא ביטלו, so our resolution regarding אונס שגירש is valid. ■

have never made the earlier statement in the first place. In both cases it constitutes a contraction. Proof to this concept is found in our Gemara. R' Yochanan was quoted as making a statement regarding a prohibition preceded by a positive command. When asked whether he made that statement he responded that he did not. Rashi⁴ explains that he had in fact made the statement attributed to him and denied having made the statement since he now retracted his original opinion. Obviously, Amoraim are not going to say something that is a lie so we are forced to accept that a statement, "I never said that," is to be interpreted as though he is saying consider it as though I never made the statement in the first place. ■

1. מובא דבריו בשו"ת מהרא"ל צינץ דלקמן.
2. שו"ת הר"ן סי' מ"ז.
3. שו"ת מהרא"ל צינץ סי' ט"ז.
4. רש"י ד"ה אמר להם לא. ■

STORIES Off the Daf

תתן אמת לעקב — Give Truth to Yaakov

"אמר להו לא..."

Rashi learns on today's daf that when Rabbi Yochanan was asked if he held an opinion he had changed his mind about, he replied in the negative. The Ritva argues that if Rabbi Yochanan himself had been asked he would have simply admitted that he changed his mind. He explains that it was really Rabbah bar Chanah who misleadingly said this about his rebbe, since one is permitted to lie to protect the honor of his teacher.

Rav Yitzchak Zilberstein, shlit"a, once discussed how exceedingly careful Rav

Yaakov Kaminetzky, ז"ל, was to always tell the truth. "On Rav Yaakov's final visit to Eretz Yisrael, his students asked him in what merit he had lived such a long life. He answered, 'I never allowed a false word to pass my lips.'

"His students explained that by saying the word 'never' the rav meant even when he was halachically allowed to lie. For example, when Rav Yaakov was a bochur, many young men would use a friend's dispensation to avoid the draft. This ruse worked very often and saved many, but when this trick was suggested to Rav Yaakov he refused to consider it even though being drafted was literally a question of pikuach nefesh. Rav Yaakov got out of the draft another way, since 'Hashem has many messengers.'

"Once, his students noticed him go-

ing into a silver shop with a beautiful silver cup. When asked why, he explained: 'I have always been scrupulous to put every bit of revenue on my tax forms so as to pay taxes on everything, thereby fulfilling the halachah, 'dina d'malchusah dina.' Now that I am eighty the administrators of the yeshiva decided to give me this cup as a gift. According to my understanding, I must also list this cup on my form. I came in here to find out exactly what the cup is worth.' "

Rav Zilberstein concluded, "In this manner a person gains many students even outside the beis midrash, since everyone who hears these stories of Rav Yaakov's unbending honesty is inspired to be like him!"¹ ■

1. טובך יביעו, ח"א, ע"ר ר"צ. ■