

OVERVIEW of the Daf

1) **MISHNAH (cont.):** The Mishnah concludes with a discussion of the process of replacing judges.

2) **Sitting the judges of the Sanhedrin in a semi-circle**

R' Acha bar R' Chanina presents an exposition that teaches that Sanhedrin must sit in a semi-circle.

An incident related to the presumption that the Jewish People do not break through breaches is cited.

Two additional expositions are presented related to the caution Jews have for mitzvos.

The Gemara retells how R' Zeira succeeded at getting people to repent.

3) **Replacing judges**

Abaye relates what is said to one of the judges who may complain that he is now at the end of a row.

4) **MISHNAH:** The Mishnah describes the procedure for capital cases and along the way offers different explanations why man was created by himself.

5) **Testimony based on estimation**

A Baraisa elaborates on the restriction against giving testimony based on estimation.

Another Baraisa recounts a related incident.

The Gemara infers from the Mishnah that the Mishnah that seems to allow testimony based on estimation in monetary cases follows R' Acha's opinion as recorded in a Baraisa.

The inference that led to this deduction is rejected.

6) **Cain and Abel**

R' Yehudah the son of R' Chiya states that Cain hit Abel many times before he killed him since he did not know the location from where his soul would leave.

R' Yehudah the son of R' Chiya asserts that since the death

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Distinctive INSIGHT

Man was created as a single creature

לפיכך נברא אדם יחידי... שלא יאמר אדם לחבירו אבא גדול מאביו

The Mishnah teaches several lessons that are learned from the fact that Adam HaRishon, the first human, was created as a single individual. Maharasha explains that the point of the Mishnah is that man was created alone, and Chava, his wife, was formed from him only later. This is as opposed to all other creatures which were initially created as male and female.

The Mishnah points out that man was created as one individual, because otherwise people would argue with each other. Everyone would claim, "My ancestor was greater than your ancestor." This would lead to untold strife and competition among people, each claiming superiority. תוספות חכמי אנגליא explain that people would claim that they are descendants of the greater and more important progenitor, while denigrating others and saying that they descended from a progenitor who was evil. This concern of the Mishnah is very well based, as strife and tensions exist even now that all men descend from the same one person. The situation would be much worse, and perhaps intolerable, if different people descended from different original fathers.

The Mishnah continues and lists several additional reasons why man was created as one individual in addition to the benefit of preventing strife and conflict among factions within mankind (שלום הבריות). Another reason is in order that scoffers should not claim that there are many powers each of which created its own creature called "man". A final reason is to demonstrate the greatness of Hashem, Who is able to fashion so many different types of faces and forms of people, all from the one original man whom He created. Although the Mishnah first mentioned man's being created as a single individual as a tactic told to witnesses to threaten them to be truthful, the commentators discuss whether the additional lessons of the Mishnah are simply additional insights to the phenomenon of man's being created as a single creature, or whether these lessons are told to the witnesses as well.

Rashi and יד רמה explain that these additional insights into the verse are not told to the witnesses, they are simply elaboration upon this topic by the Mishnah. יד רמה also notes that if we told the witnesses these additional comments, it would soften the impression of the first and most critical message, that being that every person in the Jewish people is a complete world. The witnesses might be distracted and underestimate the significance of this insight if they were to hear that there are conflicting or alternative explanations to the verse.

Rambam and Sma"g write that although we do not tell the witnesses all of the explanations found here, but we do tell them the greatness of Hashem in his fashioning many faces to many people. This serves to impress the witnesses to tell the truth. ■

REVIEW and Remember

1. What was R' Zeira's method of kiruv?

2. Why was man created alone?

3. What is the Gemara's example of testimony of a murder based on circumstantial evidence?

4. Why did Cain strike Abel numerous times before killing him?

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 In loving memory of their brother
 ר' יהודה דוד בן ר' שאול, ע"ה

HALACHAH Highlight

Burying someone by murderers in his family's burial plot

אף על פי שבטלה סנהדרין וכי דין ארבע מיתות לא בטלו

Even though the Sanhedrin ceased to function the punishment of the four types of execution has not ceased

There was once a man who was murdered by gentiles and the chevra kadisha questioned whether he should be buried in his family's plot. The basis for their uncertainty was our Gemara that teaches that although we do not have a Sanhedrin that could execute a person, nevertheless, Hashem arranges that people will die in a manner similar to the execution that they deserve. Accordingly, they were concerned that this person murdered by gentiles may have been deserving of the death penalty and as such should not be buried in his family's plot. The chevra kadisha contacted Chasam Sofer for guidance in this difficult and sensitive matter.

Chasam Sofer¹ responded that had they buried him outside of his family's plot he would not have protested their decision but now that they are inquiring of him what they should do his ruling is that he should be buried in his family's plot. Chazal were very precise in their wording when they stated that one who deserves to be killed by the sword will be executed by the government. They did not say that every person killed by the government deserved to be executed by the sword since it is possible for a person to be killed by the government even though he was not liable to execution by Beis Din. An example of this is R' Akiva and his colleagues who were executed by the Romans and they certainly were not deserving of the death penalty. Moreover, the

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of Abel the earth did not open its mouth.

This assertion is challenged and revised to mean that it did not again open its mouth for good.

7) The atonement of exile

R' Yehudah the son of R' Chiya states that exile atones for a sin by half.

R' Yehudah asserts that exile atones for three things.

R' Yochanan maintains that exile atones for all types of punishment.

Related to the pasuk just cited the Gemara explains that Asir and Shealtiel the sons of Yechonya are the same person and explains why he was referred to by different names. ■

person in question was killed by murderers rather than by the government which is certainly not the manner of death for those who are liable to death by the sword. Therefore, this person should be buried in his family's plot.

Teshuvos Minchas Yitzchok² was asked a similar question. There was a man who married a gentile woman and he died in an airplane crash while in Africa. Since there was no local Jewish cemetery, he was buried in the non-Jewish cemetery. His family inquired whether it was appropriate to move the body from the non-Jewish cemetery to a Jewish cemetery. Basing his decision on the response of Chasam Sofer, Minchas Yitzchok ruled that if the family wanted to move the body they could, since we do not assume the deceased was a person who was deserving of execution from Sanhedrin. ■

1. שו"ת חתם סופר יו"ד סי' של"ג.

2. שו"ת מנחת יצחק ח"ו סי' קל"ז. ■

STORIES Off the Daf

"The sinners of Israel"

"אפילו פושעי ישראל מלאים מצות כרימון..."

A certain maskil once met with a tzaddik and asked him to explain the meaning of a seemingly difficult midrash. The midrash recounts that Hashem showed Moshe a fiery coin, and said, "Give your tzedakah like this." Why not show him a coin of silver, which is what the machatzis hashekel was actually made of? The tzaddik was unsure of what this could mean, so the maskil himself offered an interpretation. "This means that when one gives charity he should do so with warmth and fiery enthusiasm!"

When the tzaddik heard this explanation from the maskil he felt discouraged

since he had not thought of this lovely pshat. A certain visitor to the Beis Yaakov of Ishbitz, ז"ל, told him this story and then asked, "What merit did the maskil have to say such an inspiring pshat on the midrash?"

The Beis Yaakov was not at all surprised that the maskil had come up with such a lovely chiddush. He explained why by quoting a statement on today's daf. "On Sanhedrin 37 we find that even the sinners of Israel are filled with mitzvos like a pomegranate is filled with seeds. Hashem does not write off any Jew. Even the people who are very distant from Hashem feel an inexplicable desire to donate money to tzedakah, thereby earning a portion in the next world. Is it any wonder then that in the area where this maskil excels, he had an unusual insight?"¹

When Rav Eliyahu Chaim Meisel, ז"ל,

came up against ignorant and impudent Jews who refused his requests for help that was well within their means, he remarked. "A tzaddik knows that he is very far from perfection and is always on the lookout for opportunities to improve. Conversely, our sages remark that even the sinners of Israel are filled with mitzvos like a pomegranate. A person who is almost empty of mitzvos feels so filled spiritually by the little he does that he has no drive to improve himself!"²

But Rav Boruch of Mejbuz, ז"ל, learned an even more biting lesson from this statement. "We see that a person who is truly filled with mitzvos like a pomegranate, can still be considered a sinner, פושע ישראל."³ ■

1. דור ישרים, ע' נ"ב

2. גן יוסף, ע' קנ"ז

3. חסידים מספרים, ח"א, ע' 32