

OVERVIEW of the Daf

1) Kiddush Levana (cont.)

The Gemara identifies the point of dispute between R' Yaa-kov bar Idi in the name of R' Yehudah and Nehardea about the latest time to recite Kiddush Levana.

The reason the beracha of **הטוב והמטיב** is not recited is explained.

R' Yochanan is cited as teaching that reciting Kiddush Levana is like greeting the Divine Presence.

Dvei R' Yishmael further emphasizes the importance of Kiddush Levana.

R' Acha and R' Ashi discuss the correct text for Kiddush Levana.

A tangential statement related to Torah study is presented.

2) A discrepancy regarding time

R' Shimi bar Ashi asserts that if the witnesses disagree whether the event took place before or after sunrise their testimony is disqualified.

The Gemara questions the necessity for this ruling and on its second attempt pinpoints the novelty of his ruling.

3) Clarifying the Mishnah

Abaye clarifies that the Mishnah that states that the student who contributed did not descend from where the Sanhedrin sat the entire day refers to where there was no substance to what he had to say.

R' Acha bar Chanina explains why judges are not permitted to drink wine while in the midst of deliberations.

R' Acha asserts that if even after adding judges they cannot come to a decisive vote the defendant is acquitted.

Abaye explains to R' Pappa why they added judges rather than acquit the defendant in the first place.

A second version of the conversation between Abaye and R' Pappa is recorded.

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Distinctive INSIGHT

The location of the "Stoning site"

בית הסקילה היה חוץ לבית דין

Our Gemara teaches that the place where stoning took place was beyond where the court convened. Rashi explains the reason is that we do not want it to appear as if the judges are eager to put people to death. If the place for executions were too close to the court itself, it might appear as if the judges were blood thirsty. Tosafos notes that the law that a person must be taken to be put to death is actually indicated in the verse (**הוצא את המקלל**), and it is not necessarily based upon the logic which Rashi presents.

Tosafos and Ran point out a description of the process of stoning which seems to be inconsistent with our Gemara. The Gemara in Kesubos (45b) teaches that if a woman who is betrothed is found to have committed adultery, she is to be executed at the door of her father's house (**פתח בית אביה**). If there is no "door of her father's house," she is executed at the gate of the city, and if the city is made up of a majority of non-Jewish residents, she is executed at the entrance of the court. The question is how can the Gemara in Kesubos say that in certain cases a person is executed at the entrance to the court, when our Gemara says that the place for stoning must be beyond the court?

Tosafos on our daf answers that in the case of a betrothed maiden, and also in the case of one who worships idolatry, there is a scriptural edict that the stoning take place **"בשערך"**. The stoning in this case cannot be at the entrance to the city, if the city contains mostly gentiles. Therefore, in order to comply with the Torah's need to have the stoning be within the area inhabited by Jews (**בשערך**), the solution is that it take place near the entrance to the court.

Tosafos in Kesubos answers this question differently. He says that when the Gemara says that a betrothed maiden and one who worships idolatry are killed near the entrance to the court, this is not precise. It simply means that we do not have to take either one of them to the outskirts of the city, if the city has a majority of gentiles. Nevertheless, the execution takes place at a location which is distant from the court itself. In this way, the court will not appear to be eager to be killers, as Rashi mentioned, and there will be somewhat of an interval between the verdict and when the sentence is carried out, which will allow for any last-minute considerations to be brought to the court.

Minchas Chinuch (Mitzvah 553, #4) writes that from the wording of Rambam's ruling (Isurei Bi'ah 3:11 and Sanhedrin 15:2) it seems that he holds according to our Tosafos in Sanhedrin, that the spot to carry out the sentence for a betrothed maiden and for one who worships idolatry is at the entrance to the court-house, and that this ruling is based upon scriptural decree in these cases only. ■

REVIEW and Remember

1. Reciting Kiddush Levana is compared to what great event?

2. What does it mean to allow a "monetary case to become old"?

3. Where is the house of stoning located?

4. What is the source for the location of the house of stoning?

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HALACHAH Highlight

The intent of the beracha recited on the new moon

במערבא מברכי ברוך מחדש חדשים

In the West they say, "Blessed is the one who renews the months."

Birkei Yosef and Maharsha disagree about the intent of Kiddush Levana. Birkei Yosef¹ writes that the intent of the beracha is to thank Hashem for the creation of the moon. Maharsha² maintains that the beracha is an expression of thanks to Hashem for the benefit we have from the light of the moon. Birkei Yosef cites a ruling of Rambam as support for his position. Rambam³ ruled that one could make Kiddush Levana even the first night the new moon appears. Obviously on the initial appearance of the new moon it is as yet too small for a person to benefit from its light and nevertheless Kiddush Levana may be recited. This supports Birkei Yosef's contention that the beracha is not on the benefit one receives from the light of the moon. A potential difficulty with this approach admits Birkei Yosef is Rema's ruling that Kiddush Levana should not be recited until three days have passed since the appearance of the new moon so that one should benefit from its light. This ruling seems to support Maharsha that the beracha is an expression of thanks to Hashem for the benefit we have from the light of the moon. Birkei Yosef explains that the intent of Rema is that after three days there is the potential to benefit from the light of the moon but not that benefitting from the light of the moon is the intent of the beracha.

There is another dispute that is a corollary of the previous discussion. Sefer Yehoshua⁴ asserts that the beracha is recited on the fact that we benefit from the light of the moon. Accordingly, he suggests that one may recite the beracha even if the moon is covered by clouds as long as one derives benefit from its light. Rav Yaakov of Lisa⁵, author of Nesivos Hamishpat, disagrees and wrote in response that the beracha is recited as an expression of thanks for the creation of the moon and thus it must be visible for the beracha to be recited. He adds that there is also a prereq-

(Overview...continued from page 1)

A related Baraisa is cited.

Two interpretations of the meaning of the Baraisa are offered.

An unsuccessful challenge to one of the interpretations is presented.

A second version of this unsuccessful challenge is recorded.

הדרן עלך היו בודקין

4) **MISHNAH:** The Mishnah describes the procedures which follow a guilty verdict in a capital case and the steps that are taken to allow the case to be reconsidered.

5) The stoning house

The Gemara challenges the implication of the Mishnah that the stoning house was located outside of Beis Din from a Baraisa that indicates that it is outside the city.

It is confirmed that the stoning house was outside of the city and the language of the Mishnah is explained.

A Baraisa is cited for the Biblical source that the stoning house is located outside of the city.

Another Baraisa is cited to prove that the phrase "outside the camp" that appears in the context of the bull offering means outside of all three camps.

The Gemara unsuccessfully challenges the gezairah shavah that equates the stoning house with the bulls that are burned.

R' Pappa offers an alternative source that the stoning house is located outside of the city.

The Gemara begins a series of unsuccessful challenges to R' Pappa's explanation. ■

uisite that one benefit from its light and it is for that reason that the beracha is not recited when it first appears at the beginning of the new month. ■

1. ברכי יוסף או"ח סי' תכ"ו אות ד'.

2. מהרש"א ברש"י ד"ה וליברך.

3. רמ"א או"ח סי' תכ"ו סעי' א'.

4. ספר יהושע סי' י"ד.

5. תשובת בעל התיבות משפט נדפס בספר יהושע הנ"ל. ■

STORIES Off the Daf

Receiving the Presence of the Shechinah

Acertain scholar wondered whether kiddush levanah is a mitzvah that we must go out of our way to fulfill or if it is like other berachos that we say on things we see, which are a mitzvah only if we run into them. When he approached Rav Isser Zalman Meltzer, zt"l, and brought a proof that implied that it was indeed an outright duty, Rav Isser Zalman disagreed. "Why

should the moon be any different than any other berachah we make on what we see or have pleasure from? If someone sees the new moon he makes the berachah. If not, not."

But the Chazon Ish, zt"l, responded that we are obligated to sanctify the new moon. "This is implied from the Gemara in Sanhedrin 42. There we find that sanctifying the new moon is likened to receiving the Divine presence. How could this possibly be optional?"¹

Perhaps we can better understand this in view of the point raised by the Shevet Sofer, zt"l, on the continuation of our Ge-

mara: "The house of Rabbi Yishmael said in reference to the mitzvah of sanctifying the new moon, 'If we only received the Shechinah once a month, this would also be sufficient. Abaye added, 'Therefore we must stand while reciting this prayer.'"

The Shevet Sofer commented, "I might have thought that we can sit while reciting this prayer like with every other berachah praising Hashem for various aspects of creation. Abaye points out that since sanctifying the new moon is like receiving the Shechinah, we must stand."² ■

¹מעשה איש, ח"ב, ע"י קייט

²נטעי אדל, ח"א, ע"י ת"פ