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Three Types of Na’aros

Shila taught a Baraisa: There are three types of execution for a betrothed na’arah who committed adultery. If witnesses appeared when she was already in her father in law’s house (after nisuin) that she committed adultery during the time she was in her father’s house (as an arusah), she is stoned at the entrance of her father’s house. This is as if to state: “See the offspring that you have raised!” If witnesses appeared when she was still in her father’s house (as an arusah) that she committed adultery during the time she was in her father’s house (as an arusah), she is stoned at the entrance of her city gates. If she sinned as a na’arah, but then became a bogeres (older than twelve and a half), she is killed with strangulation (which is the same punishment that applies to a bogeres that sinned). (44b2 – 45a1)

Does Physical Change Affect the Type of Punishment?

The Gemora asks: This last statement implies that whenever her body changes her manner of execution changes as well. However, let us contrast this with the following Baraisa: If a betrothed na’arah committed adultery and then her husband defames her after she became a bogeres (as he only married her then), he (if the accusation is found to be false) does not incur lashes or pay one hundred sela (for these punishments are only if one defames a na’arah, and here, she is a bogeres already). If the accusation is true, she and her zomemim witnesses proceed (in the morning) to the stoning place

(as their execution is imminent). [*Eidim zomemim - when witnesses offer testimony and other witnesses refute them claiming that the first set of witnesses could not possible testify regarding the alleged crime since they were together with them at a different location at the precise time that they claimed to witness the crime somewhere else; the Torah teaches us that we believe the second pair in this instance; the first witnesses are called "eidim zomemim" -- "scheming witnesses," and they receive the exact punishment that they endeavored to have meted out to the one they accused. In this case, the witnesses testified about this bogeres who is now a nesuah that she committed adultery as a betrothed na’arah, and a second set of witnesses appeared and testified that the first pair could not have known this, for they were with them at a different location at the time of the alleged adultery, the Torah rules that the second set of witnesses is believed and the first witnesses will be executed through stoning, as that was the manner that they attempted to have this woman killed.*]

The Gemora interrupts: How can you think that she would receive stoning together with the zomemim witnesses (if they are zomemim, she would not be executed at all)?

The Gemora explains: It must mean that either she, or the zomemim witnesses proceed to the stoning place. [*The Gemora’s question is therefore that in the Baraisa she receives stoning, as she was a na’arah at the time of her sin, despite the fact that she changed from a na’arah to a bogeres, and should, according to Shila, seemingly*

deserve strangulation, for she was a bogeres at the time of the trial.]

Rava answered: Are you asking from a case of a defamer? A case of a defamer is different, for it is a novel Torah law. This is proven from the following: Generally, if a woman entered the chupah but did not yet cohabit (with her husband), and then she committed adultery, she would be executed through strangulation. This is in contrast to typical cases of a defamer, where she is executed through stoning (*if the accusations were true, as she must have committed adultery while betrothed*). [Although had she committed the sin at the time of the defamation, i.e., after nisuin, she would be strangled, she is executed with stoning, as that is what the punishment is for an arusah who commits adultery. This proves that in the case where she became a bogeres before the nisuin, and there was a change from a na'arah status to that of a bogeres, she is executed through stoning, as that is the punishment for a na'arah committing adultery – even though she has changed to a bogeres, and a bogeres who commits adultery is punished through strangulation.]

Rav Huna the son of Rav Yehoshua said to Rava: Perhaps the Merciful One stated this novel Torah law (by a defamer) is only where her body did not change (but rather, it was a change from an arusah to a nesuah), but if her body changed (like in Shila's case, where she changed from a na'arah to a bogeres) the Merciful One would not state a novel law.

Rav Nachman bar Yitzchak therefore advanced a different answer: Whether or not the changing of a woman's body changes the manner of execution is a dispute among the Tannaim, for it was taught in a Mishna: If the Anointed Kohen sinned before they were appointed, they have the status of commoners (*who brings a regular chatas to atone for their sins*). Rabbi Shimon states if they knew that they had sinned before they were appointed, they are indeed obligated like a commoner. However, if

they did not know about the sin until they were appointed, they are exempt (*from bringing a korban*). [This seems to imply that R' Shimon maintains that because he has changed (*from a commoner to a Kohen Gadol*), his offering changes as well.]

The Gemora asks: Perhaps I can say that Rabbi Shimon says that the realization about the sin also makes a difference; however, that he would say that we follow only the time of realization, and the time of the sin is inconsequential (*as Shila asserts by saying that she is judged as a bogeres*), have we heard that he said that? If this is indeed so, let him bring an offering fitting to his current status!?! The Anointed Kohen Gadol should bring a bull, and the king should bring a he-goat (that is the appropriate animal for his sin)!?

The Gemora notes: Rabbi Yochanan indeed told the teacher who was teaching the *Baraisa* in the name of Shila that he should teach the following: [If she sinned as a na'arah, and now she is] A bogeres is executed through stoning (*and not with strangulation as a bogeres*). [This shows that a change in status does not change the manner of execution.]

The Gemora asks: Why should this be? Didn't the Merciful One state that a betrothed "na'arah" is executed through stoning, but this woman is a bogeres!?

Rabbi Ila answers: The Torah states: "the na'arah." It could even be referring to a girl who was a na'arah when she sinned.

Rabbi Chananya said to Rabbi Ila: If so, then the defamer (*of a woman who just became a bogeres*) should incur lashes and pay one hundred sela as well!?

Rabbi Ila replied: May the Merciful One save us from your opinion!



Rabbi Chanina countered: On the contrary! May the Merciful One save us from your opinion!

The Gemora asks: What was his reasoning? [Why is her punishment based on her status at the time that she sinned, and his punishment is based on her current status?]

Rabbi Yitzchak bar Avin said, and some said Rabbi Yitzchak bar Abba said: This one (the woman), her actions (when she committed adultery) caused her to be punished, while this one (the defamer), the curving of his lips (*accusing her of committing adultery*) caused him to be punished. The Gemora explains: This one (the woman), her actions caused her to be punished, and when she committed adultery, she committed adultery when she was a na'arah. This one (the defamer), the curving of his lips (*accusing her of committing adultery*) caused him to be punished, and when did he become obligated? It was at the time that he curved his lips, and at that time she was a bogeres. (45a1 – 45b2)

Where is she Stoned?

The Gemora cites a Baraisa: A betrothed na'arah who committed adultery is stoned at the entrance of her father's house. If she does not have an entrance of her father's house (for he has no house), she is stoned at the entrance of that city's gate. In a city where there are mostly idolaters, she is stoned at the gates of Beis Din. Similarly, you say: One who worships idols is stoned at the gate of the city where he worshipped. In a city where there are mostly idolaters, he is stoned at the gates of Beis Din.

The Gemora asks: How do we know this law?

The Gemora answers: for it was taught in a Baraisa: '*your gates*' refers to the gate of the city where the person worshipped idols (and that is where he is stoned). You

might say it is the gate of the city where he worshipped, or perhaps it is referring to the gate of the city where he was judged? It says "*your gates*" below and says "*your gates*" above: Just as the verse above is referring to the gate of the city where he worshipped, so too the verse below is referring to the gate of the city where he worshipped. Another teaching: "*your gates*" excludes the gates of idolaters.

The Gemora asks: Didn't we already use "*your gates*" for a different teaching (that he is stoned at the gates of the city where he worshipped; how can the same verse be used for this exposition)?

The Gemora answers: If the verse would be used just for that teaching, it would be sufficient to merely say "*gate*," why does it say "*your gates*?" This indicates that we can learn both lessons from this word.

The Gemora asks: The Baraisa above only teaches us this law regarding idol worship. How do we know this law (that if her father has no house, she is stoned by the gate of the city or at the gate of the courthouse – if it is a city where the majority of its inhabitants are idolaters) regarding a betrothed na'arah?

Rabbi Avahu answers: The meaning of the word "entrance" (written by the betrothed na'arah) is derived from the meaning of the word "entrance" (written by the Tabernacle), and the meaning of the word "entrance" (written by the Tabernacle) is derived from the meaning of the word "gate" (written in that same verse), and the meaning of the word "gate" (written by the betrothed na'arah) is derived from the word "your gates" (written by idolatry). (45b2)

The Gemora cites a Baraisa: A defamer (one who claims falsely that his bride has committed adultery) receives lashes and must pay one hundred *sel'a*. Rabbi Yehudah says: He always receives lashes (whether or not he has



cohabited with her). However, regarding the one hundred sela payment - if he cohabited with her already, he must pay, but if he did not cohabit with her, he does not pay.

The Gemora notes: They essentially argue in the same argument of Rabbi Eliezer ben Yakov and the Rabbis (which will be explained below on 46a; they argue regarding the passages discussing the defamer – are they to be taken in a literal sense or not?). And the Baraisa is saying as follows: A defamer receives lashes and must pay one hundred *sela* whether or not he cohabited with her, as per the opinion of the Rabbis (that the verses are not to be taken literally, and a defamer is punished even if they did not cohabit; he claims that she committed adultery based upon the notification of witnesses). Rabbi Yehudah says: He always receives lashes. Regarding the one hundred sela payment - if he cohabited with her already, he must pay, but if he did not cohabit with her, he does not pay, as per the opinion of Rabbi Eliezer ben Yaakov (who holds that the verses are to be understood literally that the penalties for a defamer only apply in a case where he cohabited with her and claims that she was not a virgin).

There are those who say as follows: The entire Baraisa is in agreement with the opinion of Rabbi Eliezer ben Yaakov (and the verses discussing a defamer refer only to a case where he cohabited with his bride), and it is the following that the Baraisa was saying: A defamer receives lashes and must pay one hundred *sela* only where he cohabited with her. Rabbi Yehudah says: He always receives lashes (and he maintains that one may incur lashes even though the prohibition did not involve an action).

The Gemora asks: Can Rabbi Yehudah, however, maintain that ‘as to lashes, the defamer incurs lashes in all circumstances’ when it was taught in a Baraisa: Rabbi Yehudah said: If he cohabited with her already, he incurs lashes, but if he did not cohabit with her, he is not lashed?

Rav Nachman bar Yitzchak replied: Rabbi Yehudah meant that he incurs lashes as a Rabbinical penalty for rebelliousness.

Rav Pappa said: By the expression that if he cohabited, he incurs lashes (but if he did not cohabit, he does not incur lashes) which was used there, the monetary fine was meant (and not lashes).

The Gemora asks: But could one describe a monetary fine as ‘lashes’?

The Gemora answers: Yes, and so indeed we have learned in a Baraisa: If a man said, “I accept upon myself to give half my *erech*,” he must give half of his value. Rabbi Yosi the son of Rabbi Yehudah says: He receives lashes and must give his full value. The *Gemora* asked: Why should he receive lashes? Rav Pappa explained: [*He does not receive lashes.*] He suffers the fact that he needs to pay the full value. The reason for this is as follows: We decree regarding a vow of “half of my *erech*” because of its possible confusion with the vow of “*erech* of my half,” and the vow of “*erech* of my half” is tantamount to the *erech* of something on which one’s life depends (*and therefore he must give his full erech*). (45b3 – 46a1)

INSIGHTS TO THE DAF

Uncertain Warning

The *Gemora* states: If witnesses appeared when she was betrothed that she had been unfaithful during the betrothal, she is stoned at the doorway of the city gates. If she had been unfaithful while betrothed but then became a *bogeres* (*older than twelve and a half*), she is killed with strangulation.

Reb Akiva Eiger asks: Rabbi Yehudah in Sanhedrin (8b) maintains that in order for a person to be subject to a death penalty, they must be warned and informed precisely death they will be receiving if they transgress

the prohibition. If so, Reb Akiva Eiger asks: How can the *bogeres* be executed through strangulation; when she was warned, the witnesses informed her that she would die by stoning since she was a *na'arah* at the time?

We are compelled to say that our *Gemora* is following the opinion that holds that one who is warned for a stricter punishment is automatically regarded as being warned for a more lenient punishment. Since she was warned that she will be stoned if she commits adultery, *Beis Din* may execute her through strangulation if she becomes a *bogeres* because stoning is stricter than strangulation.

Reb Akiva Eiger asks on any *na'arah*; how can we execute her by way of stoning? We cannot inform her that she will certainly be stoned, for perhaps, her judgment will not be complete until she becomes a *bogeres*, and then her death penalty is strangulation, not stoning!?

We are forced to say that Rabbi Yehudah is in accordance with his own opinion, for he holds that an uncertain warning is a valid one. Accordingly, we warn her that she might get stoned or strangled; it all depends on what her status is at the time of *Beis Din's* verdict.

DAILY MASHAL

RAISING CHILDREN

The *Gemora* cites a *Baraisa*: If witnesses appeared when she was already in her father in law's house (after *nisuin*) that she committed adultery during the time she was in her father's house (as an *arusah*), she is stoned at the entrance of her father's house. This is as if to state: "See the offspring that you have raised!"

Raising children is a difficult task. Rabbi Zev Leff Shlit" a points out an important facet to keep in mind when parents are raising their children. The *Gemora* derives

that the voices of the husband and wife must be identical in order for there to be the law of the wayward son. The *Gemora* lists a requirement that the husband and wife be of the same height, the same appearance, and have voices that sound alike. Rabbi Zev Leff says, by way of homiletics, that the *Gemora* is not talking about the pitch or tenor of their vocal chords. The *Gemora* is teaching that parents must send a single, unified message to their offspring. Children do not deal well with 'mixed messages'. The 'voice' of the parents must be identical because if the child hears one message from his father and a different message from his mother, he will exploit that. Sometimes this requires that the parents work things out among themselves beforehand. They must come to an agreement regarding what is right, what is wrong, and how they will approach a given situation. Only then can they handle things with a 'single voice'.