

**משום כפרה חס רחמנא עלה –**

**The 'merciful one' pitied her, in order that she receive forgiveness**

**OVERVIEW**

<sup>1</sup> 'איש או אשה כי יעשו מכל חטאת וגו' of פסוק derives from רב יהודה אמר רב וכו' that the שווה הכתוב אשה לאיש לכל עונשין שבתורה. This means that whenever there is a punishment (such as מלקות or a קרבן) for doing an עבירה it is applicable to women as well. The גמרא states that from this פסוק alone we would not know that women are equivalent to men regarding other issues (such as דינין or מיתות). The reason is because we may think that only concerning עונשין (where the עונש [be it מלקות or קרבן] serves as a כפרה) does the תורה equate women to men, because the תורה has compassion for the women transgressor and desires that she receive atonement for her transgression.<sup>2</sup> However by other cases where there is no compassion indicated by equating the woman to a man, perhaps they are not equal.

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תוספות asks:

**ואם תאמר אם לא הוקשו לענין עונשין כלל כל שכן דהוה חס עלה טפי -**

**And if you will say; if the women would not be equated at all to the men concerning punishments,<sup>3</sup> that would certainly be considered a greater compassion!**

**שלא היה בה עונש<sup>4</sup> ולא היתה צריכה כפרה כלל -**

**For she would not receive any punishment and she would not require atonement at all!** How can the גמרא state that [we may have thought that] the reason the תורה equated אשה לאיש for all עונשין שבתורה is because the merciful one had compassion for the woman and wanted to afford her the opportunity for atonement; if indeed the תורה had compassion on the woman it would have excluded her initially from any punishment, and there would be no need for atonement.<sup>5</sup> That would have been true compassion.

<sup>1</sup> גזלן הגר פרשה. The במדבר (נשא) ה', 1. There is a חומש charged to the גזלן.

<sup>2</sup> It follows that if she receives the עונש, she is (also) prohibited from doing this act, and it is considered a חטא. See following footnotes # 3 & 4.

<sup>3</sup> This means that if there would not be the היקש of איש לאשה concerning עונשים, and therefore women would be entirely פטור from עונשים (and would not be considered transgressors). See following footnote # 4.

<sup>4</sup> חס עליה טפי דאין עליה לא עונש ולא חטא. In Tosfos R"פ it states similarly, שהרי לא היתה באה לא לידי עונש ולא לידי חטא אי לאו קראי.

<sup>5</sup> The fact that the תורה does equate שבתורה לאיש לכל עונשין indicates that there is no special compassion for woman, and they are held equally liable as men are. The question is why could we not derive from עונשין the rule of השווה הכתוב אשה לאיש in regards to all other areas as well.

answers: תוספות

**ויש לומר דאצטריך קרא לעונשים הכתובים בהדיא בנשים -**

**And one can say; that it is necessary to have a פסוק (to equate women to men in regards to כפרה) in cases of punishments which are explicitly written for woman - כגון עריות שיש להן כפרה:**

**for instance** concerning the laws of **illicit relationships**, where the תורה specifies punishments for the women (as well as the men).<sup>6</sup> It is in regards to these laws that the תורה found it necessary to equate אשה לאיש, **that women have a כפרה** (even) for these transgressions. answer is that there are certain transgressions where we know (without the לימוד of אשה לאיש) that woman are prohibited and will receive punishment for transgressing them. Without the לימוד of שבתורה לכל עונשין שבתורה, we would not have known that there is a כפרה for women for these transgressions as well.<sup>7</sup> It is because of this compassion that we cannot derive the rule of אשה לאיש in all other instances.<sup>8</sup>

## SUMMARY

The compassion shown to women is concerning those cases where there is an explicit punishment for woman, and nevertheless they can receive atonement.

## THINKING IT OVER

Granted that there is compassion in the cases where explicit punishment is meted out to women (that they have a כפרה); nevertheless the היקש of אשה הכתוב אשה applies to all cases,<sup>9</sup> even where there is no explicit עונש for the women (but rather it is derived from this היקש); why cannot we derive the rule of אשה הכתוב אשה לאיש לכל עונשין from the שבתורה in those case where there is no explicit עונש (and therefore no [special] compassion)?!<sup>10</sup>

<sup>6</sup> See ויקרא (קדושים) כ, יא – יד, טז – יח וכו'.

<sup>7</sup> The היקש teaches us that if the woman transgressed an איסור עריות בשוגג, she will receive a כפרה through a קרבן, just like a man.

<sup>8</sup> See 'Thinking it over'.

<sup>9</sup> It would be (seemingly) difficult to assume that the היקש is referring only to עריות, etc.; for why would it be written by גזל הגר, it should be written by עריות. If indeed it is referring only to עריות, then how can we derive that woman are equal to men in regards to שבתורה?! See (also) נח"מ.

<sup>10</sup> See רש"י in א, לה, on קדושין, cited above (footnote # 4).