

Makos Review Lesson 63 - DAF 13 A-B:

According to Whom Is Our Mishnah Speaking Like?

- **Gemara:** The Mishnah lists Chayavei Kerisus, but it omits Chayavei Misos Beis Din. It is like R. Akiva.....
- **Beraisa - R. Yishmael:** Chayavei Kerisus and Chayavei Misos Beis Din are both lashed;

13b:

1. **R. Akiva** says, Chayavei Kerisus are lashed, for if they will do Teshuvah, Hash-m will pardon them from Kares; Chayavei Misas are not lashed, for even if they do Teshuvah, Beis Din kills them.
2. **R. Yitzchak** says, the Torah taught that (all) Arayos are Chayavei Kerisus, and (superfluously) mentions Kares for Bi'ah with a sister;
3. This teaches that it (and all other Chayavei Kerisus) are punishable by Kares, and not by lashes. (Rebbi Yitzchak learns from 'Achoso', which is included in the Pasuk in Acharei-Mos "Ki Chol asher Ya'aseh mi'Kol ha'To'avos ha'Eileh ve'Nicht'su", yet the Torah mentions it independently (in Kedoshim "ve'Ish asher Yikach es Achoso ... ve'Nicht'su") that - even Chayvei Kareis are not subject to Malkos. Rebbi Yitzchak knows that this extends to all Chayvei Kareis - from the principle 'Kol Davar she'Hayah bi'Chelal ve'Yatza min ha'Kelal Lelamed, Lo Lelamed al Atzmo Yatza Ela Lelamed al ha'K'lal Kulo Yatzta' ('Something that was originally part of a K'lal [general ruling], and which the Torah nevertheless mentions independently, comes to reflect on the entire K'lal'.))

DO YOU GET LASHED ?	Chayavei Kerisus	Chayavei Misas
R. Yishmael	YES	YES
R. Akiva	YES	NO
R. Yitzchak	NO	NO