



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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His Sister

The *Gemora* had said that a verse teaches us that three separate sacrifices are required in the case of one who cohabits with ‘his sister,’ who is at the same time ‘his father’s sister’ and ‘his mother’s sister.’ [And this is possible in the case of a sinner the son of a sinner. If someone’s father cohabited with his own mother who bore him two daughters (who are actually his sisters). The father then went and cohabited with one of the sisters (his own daughter) who bore him this son. The son then went and cohabited with the other sister. She is his own sister, his father’s sister, and his mother’s sister.]

The *Gemora* asks: And how will Rabbi Yitzchak derive this?

The *Gemora* answers: He will derive it from the latter part of the verse: *He has uncovered his sister’s nakedness.*

The *Gemora* notes that the Rabbis use the latter part of the verse to teach that one is liable for cohabiting with ‘his sister,’ who is his father’s daughter and his mother’s daughter, and to teach you that punishment is not imposed as a result of a logical inference (*such as a kal vachomer; for if he will incur the penalty of kares for the act of incest with his half-sister, he most certainly will incur the penalty of kares for incest with his full-sister*) Rabbi Yitzchak, on the other hand, holds that a punishment may be imposed on the basis of a logical inference (*and therefore a verse is not required to teach that case*). Alternatively, you can say that he will derive the punishment (*of the full-sister*) from the prohibition. [There is an extra phrase, ‘she is thy sister.’ This teaches us that there is a prohibition against incest with a full-sister. Now we can derive that just as the prohibition includes both case – the half-sister and the full-sister, so too, the punishment includes both cases.] (2b – 3a)

Kares and Chatas

Rabbi Elozar said in the name of Rabbi Hoshaya: Whenever you find in the Torah two prohibitions, but *kares* is mentioned only once, they are separated with respect to the liability to bring a *chatas* (*and each prohibition requires its own korban*). Where is this exemplified? In the instances of one who compounds or smears the oil of anointment, for it is written: *Upon the flesh of man shall it not be smeared, and its composition [you shall not make anything like it].* [The Torah writes a separate prohibition for the smearing and the compounding.] However, regarding *kares*, it is written: Whoever compounds like it, or whoever puts it upon a stranger, he shall be cut off from his people. [We can derive that there is a separate *chatas* liability for each prohibition even though *kares* is only written once.]

The *Gemora* asks: Now, since there is a separate prohibition for each of the forbidden relations, why was it necessary for the Torah to single out the *kares* penalty in the case of ‘his sister’ (*since there are separate prohibition for the case of incest with his sister, his father’s sister and his mother’s sister, and based upon R’ Hoshaya’s principle, we would know that there is a chatas liability for each of them*)?

The *Gemora* answers: According to Rabbi Yitzchak, it is needed as we have explained above (*that they are only punished with kares and not with lashes*); and according to the Rabbis, they employ the verse to inform us that punishment is not imposed as a result of a logical inference.

Rav Nachman the son of Yitzchak said: We have also learned to this effect (*like R’ Hoshaya*) from our *Mishna*: One who compounds the oil of anointing; one who compounds the incense; one who smears with the oil of anointing. Why is (*the law concerning*) one who compounds incense been placed between (*the other two laws regarding the anointing oil*) if not to inform us of the following: Just as compounding incense is a separate prohibition and one is liable on account of it to a separate *chatas* offering, so also where one compounds oil of anointing and smears with it, since they are the subject of separate prohibitions, one is liable on account of them

to separate *chatas* offerings. And perhaps you will argue that the reason for the *Mishna's* order is because the *Tanna* wished to state the instances concerning compounding together, then I would counter that the *Tanna* should have reversed the order and stated as follows: One who compounds incense; one who compounds the oil; one who smears the oil of anointing. Why has he separated the laws relating to the anointing oil one from the other, if not to inform us that separate *chatas* offerings are to be brought for them? This indeed proves it. (3a)

All Thirty-six (thirty-four)

The *Mishna* had stated: One who cohabits with a male. [*The Gemora had said that if one committed all these transgressions during one lapse of awareness, he is liable to bring a korban chatas for each and every transgression, totaling thirty-four chatas offerings. This total is based upon there being thirty-six cases listed, and the last two (the Pesach offering and circumcision) are positive commandments, and do not entail a chatas.*]

The *Gemora* asks: Which gender does the *Tanna* have in mind (*who committed all these transgressions*)? If it is a male, then you must deduct the instance of the woman who brings an animal upon her, and you are one short (*of thirty-four*); and if it is a woman, you must deduct the instances of the man who has cohabited with a male and the man who cohabited with an animal, and you are short of two!?

Rabbi Yochanan said: Indeed the *Tanna* refers to a male, but the *Mishna* should read as follows: When a male has cohabited with a male or brings a male upon him; and the *Mishna* is in accordance with Rabbi Yishmael, who holds that he is liable to two *chatas* offerings.

The *Gemora* asks: But since the case of the blasphemer is stated later in the *Mishna*, and it has been explained in accordance with Rabbi Akiva (*who maintains that he brings a chatas even though there is no action; it is only through speech that he transgresses*), should we not assume that the earlier clause of the *Mishna* is also in accordance with Rabbi Akiva? And if you should argue that the *Mishna* is indeed in accordance with Rabbi Akiva, but that he himself agrees with Rabbi Yishmael's view in the earlier case (*that one is liable twice if he cohabits with a man and a man cohabits*

with him); I would retort that Rabbi Avahu said: According to Rabbi Yishmael's view, he is liable to two penalties, one for the prohibition derived from *You shall not cohabit with an animal*, and the other for violating the prohibition: *There shall be no kadeish (sodomy) among the sons of Israel*. But according to Rabbi Akiva's view, he incurs only one penalty, since *You shall not copulate* and *You shall not allow yourself to a copulative act* is but one prohibition.

Rather, you must say that the early clause of the *Mishna* is according to Rabbi Yishmael, but in the case of the blasphemer he agrees with Rabbi Akiva.

The *Gemora* asks: If so (*according to R' Yishmael*), the *Mishna* should have also stated the following two cases: If a man cohabits with an animal and if he brings the animal upon him?

The *Gemora* answers that Abaye has said: Even according to Rabbi Yishmael, he will only be liable for one penalty, for the prohibition of, *'There shall be no kadeish (sodomy) among the sons of Israel'* is only referring to a man with another man (*and not with an animal*).

Rabbi Elozar said in the name of Rav: The *Tanna* of our *Mishna* meant to imply the possibility of one person bringing thirty-three *chatas* offerings (*and it is referring to a male, and we will deduct the one prohibition relevant to a woman*), and he mentions the other three instances (*the woman bringing the animal upon her, neglecting to bring the Pesach offering and neglecting to perform a circumcision*) in order to complete the list of sins punishable with *kares*, for the *Mishna* reads in the concluding clause: One who fails to bring the *Pesach* sacrifice, and one who fails to circumcise himself. Now, why were the laws concerning the *Pesach* offering and circumcision been enumerated? It cannot mean that one would be subject to a *chatas* offering (*for transgressing these positive commandments*), for one does not bring a sacrifice on their account, as it has been taught in a *braisa*: All the laws of the Torah have been compared with idolatry, as it is written: *There shall be one law for you, for one who acts unintentionally*. Just like the prohibition against idolatry is something which requires a person to sit and not act, so too any sin where there is an obligation to sit and not act render one liable to bring a *chatas*. [*This excludes pesach and milah which are mitzvos that one is required to arise and perform.*] This, therefore, proves that the *Tanna* speaks of thirty-three transgressions where one brings a *chatas* offering, and

that the other three cases have been mentioned only for the purpose of completing the list of sins punishable with *kares*. This indeed proves it. (3a)

Shabbos and Idolatry (the count)

The *Mishna* had stated: One who desecrates the *Shabbos*.

They said: Are there not forty minus one (*thirty-nine*) different violations on *Shabbos* (*and therefore, there are thirty-nine more possible chatas offerings that the Mishna could enumerate*)?

Rabbi Yochanan said: Our *Tanna* speaks of the case where one was in error regarding the *Shabbos*, but was deliberate regarding the labor (*that is forbidden on Shabbos*), in which case one is liable to one sacrifice only, for it has been taught in a *braisa*: ‘*These (transgressions) that are one (chatas)*’ refer to someone who was in error regarding the *Shabbos* (*he was unaware that it was Shabbos*), though he knows that these *melachos* (*forbidden labor*) would be prohibited on *Shabbos*. [*Even if he performed many forbidden labors, he only brings one chatas offering, for his error was regarding the Shabbos, not regarding the labors.*]

The *Gemora* asks: But why doesn’t the *Tanna* speak of the case where one was aware of the *Shabbos* and in error with respect to the *melachos*, for then he would be liable to thirty-nine *chatas* offerings? For has it not been taught in a *braisa*: ‘*And he will do from one from these*’ indicates that sometimes a person is liable for one transgression for many acts of transgression, and sometimes he must bring a separate *chatas* for each transgression. ‘*One that is these*’ refers to someone who is aware that it is *Shabbos*, but he was unaware that these *melachos* are forbidden?

The *Gemora* answers: Our *Tanna* prefers to state the instance of one who was in error regarding the *Shabbos*, but was deliberate regarding the labor (*that is forbidden on Shabbos*) - to inform us that one is not altogether exempted from a *chatas* offering in such a case. [*Perhaps one might have thought that since he was aware that the labor was prohibited, he is to be regarded as having sinned with presumption, and would thus be exempt from a chatas; the Mishna teaches us that this is not so.*]

The *Gemora* notes that you must likewise explain the instance of idolatry of which our *Mishna* speaks as referring to an error in respect of idolatry, but was deliberate regarding the prohibition of the forms of worship (*and that is why he is liable for one chatas offering*).

The *Gemora* asks: What is the case where one did not know it was prohibited to serve idols? If he was standing in a house of idolatry and he thought it was a synagogue and therefore bowed down, his heart was towards heaven (*and therefore he clearly has not really transgressed idolatry*)! It must be that he saw a statue and bowed down to it.

The *Gemora* counters: This cannot be! If he accepted it as a deity, he deserves to be stoned (*for he is serving intentionally*)! If he does not accept it as his god (*but he bowed out of respect*), he did nothing at all!?

Rather, the *Gemora* answers: It must be that he served an idol out of love or fear of a person.

The *Gemora* asks: This is understandable according to Abaye, who said that a person is liable for serving idols in such a case. However, according to Rava, who says he is exempt, what is the case?

The *Gemora* answers: It must be where he claims that idolatry is permitted (*and he would only be liable to bring one chatas even if he performed many services in one period of forgetfulness*).

The *Gemora* notes that Rava had inquired of Rav Nachman if a person was unaware of two things (he forgot both that it was *Shabbos* and that those *melachos* are forbidden on *Shabbos*), is he obligated to bring one *chatas* or several, but he did not inquire that he should be completely exempt (*and therefore in our case of idolatry, he would be liable to bring at least one chatas*).

Rav Pappa said: It is possible that it is referring to a case where one had been captured as an infant and raised by heathens, (*and later when he realized he was Jewish and began acting accordingly*) he would know that idolatry was forbidden (*and the types of worshipping as well*), but not that these particular idols were forbidden.

Alternatively, I may say that it can occur as well with an adult, where e.g., he erred in the interpretation of the following verse: *You shall not make with Me the gods of silver or gods of gold, etc.*, and he assumed that only the prostration before idols of gold or silver was forbidden, but not of any other material. This would then be a case of error in respect of idolatry, but was deliberate regarding the prohibition of the forms of worship.

Rav Acha the son of Rav Ika said in the name of Rav Bivi: Our *Tanna* enumerates *Shabbos* as a class and idolatry as a class. [Even though there are several transgressions under the heading of *Shabbos* or of idolatry, since the penalties are inflicted under a single heading they count as one.]

The *Gemora* proves this is correct from our *Mishna* which states the case of one who cohabited with a woman and her daughter or with a married woman, but it did not state the case of his daughter from a woman violated by him. [The reason of this omission is assumed to be that this case is included in the heading of 'a woman and her daughter.' This would prove that a whole category counts as one.]

The *Gemora* asks that perhaps that case is omitted because the laws written in the Torah are mentioned, but the laws not written in the Torah (such as his daughter from a woman violated by him) are not mentioned!?

The *Gemora* answers: Surely there are still the instances of his wife's daughter, her daughter's daughter and her son's daughter, which are all written in the Torah, and yet not mentioned in our *Mishna*. You must say that the *Mishna* means the entire class of woman and daughter, and similarly, the *Mishna* refers to the class of *Shabbos* and the class of idolatry.

Rav Acha the son of Rav Ika asked that Rav Bivi contradicted himself, for how could Rav Bivi bar Abaye say here that 'our *Tanna* enumerates *Shabbos* as a class and idolatry as a class'? Was it not stated as follows: If one offered up the sacrificial limbs (of an offering which was slaughtered inside the Temple, and therefore it was) fit to be offered inside the Temple, outside the Temple, he is liable; similarly, if he offered up the limbs (of an offering that was slaughtered outside the Temple, and therefore it was) fit to be offered outside the Temple, outside the Temple, he is liable. And in connection with this, Rav Bivi bar Abaye himself raised the

difficulty: If so, how does the *Mishna* which taught that there are thirty-six cases in the Torah where one can be liable for *kares*; and according to that which was stated above, there are in fact thirty-seven, for there are two cases of offering up sacrifices outside the Temple (one where it was slaughtered inside, and one where it was slaughtered outside)!? Now, what is his difficulty, since one can retort that the *Tanna* states the offering up as a class (which includes both cases)?

The *Gemora* answers: What comparison is there? The laws of *Shabbos* and of idolatry are stated (elsewhere) in their proper place (in a *Mishna*, with all the detailed *halachos*); when being mentioned here again in connection with *kares*, it suffices to enumerate *Shabbos* and idolatry as a class (without delving into the details). But regarding the laws of offering up, where is the place (in a *Mishna*) that they have been stated that you could reply in the same manner?

Rabbi Yirmiyah inquired before Rabbi Zeira: What is the ruling when two separate penalties of *kares* are mentioned, but there is only one prohibition? [If someone committed both prohibited acts, is he liable to bring one *chatas* offering or two?]

He replied: Are you referring to 'slaughtering' and 'offering up' outside of the Temple? But are there not in this case two prohibitions? One derived this through a *gezeirah shavah* of "bringing," "bringing." He derives the prohibition of slaughtering outside the Temple from the prohibition of offering outside the Temple; for just as by offering – the Torah did not punish without prohibiting it with a negative commandment, so too regarding slaughtering - the Torah did not punish without prohibiting it with a negative commandment. And one derives it through a *hekesh* of "there," "there," where we make an analogy between slaughtering to offering. Just as by offering – the Torah did not punish without prohibiting it with a negative commandment, so too regarding slaughtering - the Torah did not punish without prohibiting it with a negative commandment. (3a – 3b)

Ov and Yidoni

Rabbi Zeira suggested: Your inquiry is, perhaps, in regard to two separate death penalties that are mentioned, but there is only one prohibition, as is the case with the *Ov* and *Yidoni*? [If someone



committed both prohibited acts, is he liable to bring one chatas offering or two? *Ov* is one who communicates with the dead. The spirit rests by his armpit, and its voice emanates from there. The practitioner of *Yidoni* places a bone of a *Yadua* animal in his mouth and it speaks by itself.]

Rabbi Yirmiyah replied: Yes! [This was my inquiry.]

Rabbi Zeira told him: On this there is a dispute between Rabbi Yochanan and Rish Lakish, for it was taught in a *Mishna* elsewhere: A *Ba'al Ov* and a *Yidoni* - they are stoned, and the *Gemora* there asked from a *Mishna* in Kerisus (our *Mishna*) which lists only the *Ov* and not the *Yidoni* as those that are liable for *kares*.

Rabbi Yochanan answers: It is because they are both said in one negative commandment (and therefore, if one would unintentionally violate both prohibitions, he would only be required to bring one *korban chatas*).

The *Gemora* asks: Why, according to Rabbi Yochanan, does the *Mishna* there mention *Ov*, and not *Yidoni*? [It could have said either one of them!]

The *Gemora* answers: It is because it is mentioned first in the verse.

Rish Lakish answers: The *Mishna* omits *Yidoni* because it does not involve an action. [One does not bring a *korban chatas* for violating a prohibition which involves no action. He merely places the bone in his mouth (which is considered a preparatory action) and the voice speaks by itself. *Ov*, on the other hand, requires that he clap his arms in order for the spirit to speak from his armpit.]

Rav Pappa explains: Rish Lakish does not agree with Rabbi Yochanan because the two prohibitions are separated with regard to their death penalty (and therefore, even if one would unintentionally violate both prohibitions, he would be required to bring two *chatas* sacrifices)

Rabbi Yochanan maintains that the *chatas* offerings are dependent on being separated with regard to the prohibition, not with respect of their death penalty.

The *Gemora* explains that Rabbi Yochanan does not agree with Rish Lakish in the explanation of the *Mishna*, for that *Mishna* is following

Rabbi Akiva's opinion, who holds that one is required to bring a *chatas* even for a prohibition that involves no action.

Rish Lakish, however, maintains that although Rabbi Akiva holds that a major action is not required, a minor action, nevertheless, is required.

The *Gemora* explains that a blasphemer sins with an action by curving his lips. The *Ov* sins with an action by clapping his arms.

The *Gemora* asks: Is this correct according to the opinion of the Rabbis (who include the *Ov* in the listing, but not the blasphemer)? But it was taught in a *braisa*: One who worships idols is liable to bring a *korban chatas* only for that which entails an action, e.g., slaughtering, burning a sacrifice, pouring libations and bowing down. Rish Lakish had said: Which *Tanna* maintains that a *chatas* is required for bowing down? It is Rabbi Akiva, who rules that a sin entailing major action is not required. But Rabbi Yochanan said: It even agrees with the Rabbis, for bending his body constitutes an action. Now, since Rish Lakish maintains that according to the Rabbis, bending one's body does not constitute an action, surely the clapping of the arms is not an action?

The *Gemora* answers: Rish Lakish said that the clapping constitutes an action only according to the opinion of Rabbi Akiva, but not according to the Rabbis.

The *Gemora* asks: If so, the *Mishna* there should state that the Rabbis maintain that the blasphemer and *Ba'al Ov* are excluded (and in truth, they only exclude the blasphemer)?

Rather, Ulla answered that the *Mishna* there refers to a *Ba'al Ov*, who burns incense to a demon.

Rava asked him: Isn't burning incense to a demon idolatry (and that is also listed in the *Mishna*)?

Rather, Rava said: The *Mishna* refers to one who burns incense as a charm (to call up the demons, that they may assist him in his sorcery).

Abaye asked him: But burning incense as a charm is the act as a charmer (*chover chever*) (which is merely punishable with lashes)?

Rava answers: That is so, but the Torah decreed that this particular charmer is subject to stoning.

The *Gemora* cites a *braisa*: *The chover chever*. This applies to one who charms large congeries (*all types of beasts*), and to one who charms small ones (*insects*) - even snakes and scorpions. [*Rashi states that one is forbidden from conjuring these insects through incantations in order to get them to fight with each other, or even if his intention is to move them from inhabited areas to unpopulated ones so that they should not cause harm to people.*]

Abaye said: Therefore even if one joins a bee with a scorpion (*through charms*), even if his intention is to prevent them from doing harm, it is forbidden.

The *Gemora* asks: Why, according to Rabbi Yochanan, do the Rabbis maintain that bending one's body constitutes an action, but curving his lips does not?

Rava answers: A blasphemer is different for his main sin is in his heart.

Rabbi Zeira asks from a *braisa* which excludes *eidim zomemin* from bringing a *korban chatas*, because it is a prohibition that does not involve an action. But why should this be? Their sin is with their mouth; not in the heart!?

Rava answers that *eidim zomemin* are different, for their primary sin is in seeing (*by testifying that they saw that particular incident; and "seeing" does not constitute an action*). (3b – 4a)

DAILY MASHAL

Why is Shabbos Different?

The *Gemora* in *Sanhedrin* relates an incident between Rabbi Akiva and Turnus Rufus: And this question was asked by Turnus Rufus (*a Roman Governor in Eretz Yisroel*) of Rabbi Akiva: Why is this day of *Shabbos* different from any other? Rabbi Akiva replied: Why is this man (*yourself*) different from another (*that you are the Governor*)? Turnus Rufus replied: It is because my master (*the Caesar*) wishes it. Rabbi Akiva rejoined: *Shabbos* as well is distinguished because

my Master wishes so. Turnus Rufus asked him: Who tells you that today is *Shabbos*? He answered: Let the river Sabbatyon prove it (for every day it flows with a tremendously strong current, throwing stones and rubble with tremendous force, but on *Shabbos* it subsides); let the *Ba'al Ov* prove it (*for the spirit cannot be raised on Shabbos*); let your father's grave prove it, where no smoke ascends from it on *Shabbos* (*for he is not judged on Shabbos*). He said to him: You have shamed my father, embarrassed, and insulted him.

Rabbi Yaakov Montrose from Kollel Iyun HaDaf cites the Maharsha, who explains that Turnus Rufus' question was comprised of three parts: 1. How do you know that the day of the week you observe as *Shabbos* is the day Hashem rested from His creation of the world? 2. How do you know that He commanded you to rest on this day? 3. How do you know that this day will be a day of rest in the future as well?

Rabbi Akiva answered all three questions. The river Sabbatyon shows that Hashem rested on this day. The fact that the *Ba'al Ov* cannot raise the dead on *Shabbos* shows that this is the day Hashem designated for us to desist from work. The fact that smoke stops rising from the grave of Turnus Rufus' father on *Shabbos* shows that *Shabbos* is also significant in the spiritual world.

The Ben Yehoyadah comments on the wording of Turnus Rufus' first question, "*Mah Yom mi'Yomayim?*" Although Rashi translates the question as, "*What is today from other days?*" the literal translation is, "*What is today from the other two days (Yomayim)?*" The Ben Yehoyadah explains that Turnus Rufus was asking about two specific days: Sunday and Friday. There were pagan religions which observed their "day of rest" on Sunday, and the Ben Yehoyadah suggests that there was possibly another nation (pre-Islam) which observed its "day of rest" on Friday. Accordingly, Turnus Rufus asked, "Why is your choice for a day of rest not the same as the other two days of rest proclaimed by other religions, Sunday or Friday?"