

8 Elul 5777  
August 30, 2017



Sanhedrin Daf 45

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***Stoned Without Clothes***

The *braisa* states: A man is covered with one piece of cloth in front of him (*to cover his private parts*), and a woman is covered with two pieces of cloth, one in front and one in back. This is because she is all “ervah.” These are the words of Rabbi Yehuda. The Chachamim say: A man is stoned when not wearing clothes, but a woman is stoned while wearing clothes. What is the reason of the Rabbanan? The verse says, “And they will stone him.” Why does it say “him?” If you will tell me this is to say “him” and not “her,” doesn’t the verse say, “And you will take out that man or that woman etc.?” Rather, it must be teaching us that he is stoned without his clothes and she is stoned with her clothes. Rabbi Yehuda says: “Him” implies that someone who is stoned is stoned without clothes, whether it is a man or a woman.

The *Gemora* asks: Does this mean that the Rabbanan worry about men having promiscuous thoughts, while Rabbi Yehuda does not? We see the opposite in a Mishna in Sotah. The Mishna says: The kohen grabs her (*the sotah’s*) clothes. If they become torn in a straight line, they are torn. If they are torn in a jagged manner, they are torn. He does this until he reveals her heart, and he then undoes her hair. Rabbi Yehuda says: If her heart is pretty he does not reveal it. If her hair is pretty, he does not undo her hair. [*This implies that Rabbi Yehuda is worried about men having promiscuous thoughts, while the Rabbanan are not.*]

Rabah answers: Rabbi Yehuda is worried regarding a sotah that she will be found innocent, and these actions will

cause the young kohanim to want to act promiscuously with her. However, regarding stoning, she is going to die (*and therefore there is no possibility of that happening*). If you will claim that this will cause them to act promiscuously with another woman, this is not true, as Rabah says that we have a tradition that the evil inclination only acts upon things which a person can see.

Rava asks: While you have realized there is a contradiction in the opinion of Rabbi Yehuda (*and answered it*), did you not realize there is also a contradiction in the opinion of the Rabbanan (*that must be answered*)?

Rather, Rava answers: The answer to Rabbi Yehuda’s contradiction is indeed as you have stated. The answer to the contradiction in the opinion of the Rabbanan is that the verse states, “And all the women will be warned, and they will not do like your promiscuity.” This is why this must be done to a sotah. However, a woman who is being stoned to death is enough warning without her having to be embarrassed as well. If you will say that both things should be done, Rav Nachman says in the name of Rabah bar Avuha that the verse, “And you should love your friend as yourself” includes choosing a pleasant death for him. [*If he must be killed by beis din, do not afflict him or embarrass him more than necessary.*]

The *Gemora* asks: Let us say that the argument between the Rabbanan and Rabbi Yehuda is whether or not they hold like Rav Nachman.

The *Gemora* answers: No. Everybody agrees with Rav Nachman. One opinion holds that being embarrassed is better than suffering more pain. [*The less clothes he/she is wearing, the quicker the death.*] The other opinion holds that being embarrassed is worse than suffering more pain.

### **Mishna**

The place where stoning was administered was two floors high. One of the witnesses pushes him from behind. If he has fallen onto his heart, he is turned onto his back. If he dies from the fall, this death has been fulfilled. If he has not yet died, the second witness takes a heavy stone and throws it onto his heart. If he dies from this, this death has been fulfilled. If he has not yet died, all Jews present should stone him until he dies. This is as the verse says, "The hand of the witnesses should be first to kill him and the hand of the rest of the nation should be second."

### **Falling**

The *braisa* states: His height, plus the height of two stories, equals three.

The *Gemora* asks: Does one need to fall from such a far distance in order to die? The *braisa* states: Just as the law is that a pit that is ten handsbreaths deep can kill, so too any fall of ten cubits can kill!

Rav Nachman says in the name of Rabah bar Avuha: The verse, "And you should love your friend as yourself" includes choosing a pleasant (*i.e. quick*) death for him.

The *Gemora* asks: If so, why don't we push him off a taller structure?

The *Gemora* answers: This is because his body will splatter on the surface below, disfiguring his body.

The Mishna says that one of the witnesses should push him.

The *braisa* states: How do we know he should be pushed? The verse states, "He should be thrown." How do we know he should be stoned? The verse says, "He should be stoned." How do we know he is both pushed and stoned? The verse says, "He should be stoned or pushed." How do we know that if he died when pushed his punishment has been fulfilled? The verse says, "Or pushed." How do we know this applies for all generations (*as this verse was stated regarding people who came too close to Mount Sinai when the Torah was being given*)? The verse states, "He should be stoned."

The Mishna says that if not, the second witness takes the stone etc.

The *Gemora* asks: Does he take it alone? The *braisa* states: Rabbi Shimon ben Elazar says that there was a stone there that needed to be carried by two people. He takes it and puts it on his heart. If he dies from this, this death has been fulfilled.

The *Gemora* asks a question on its question. This is a contradiction. The *braisa* starts by saying that it can only be carried by two people. How, then, can it say that one person puts it on his heart?

Rather, the *Gemora* answers: They pick up the stone together, but the second witness is the one who gives it a push to direct it onto the person's heart, in order that it should be directed with one person's exact force and direction.

The Mishna says that if he has not yet died, all Jews present should stone him etc.

The *Gemora* asks: Doesn't the *braisa* say that nobody ever had to do this?



The *Gemora* answers: It is not saying what was done, but rather what would be done if necessary.

Mar states: There was a stone etc.

The *Gemora* asks: Doesn't the *braisa* say that the stone he was killed with, the tree he was hung upon, the sword he was beheaded with, and the garment he was choked with should be buried with him? [*How could the stone have been a stone that was always used for this purpose?*]

The *Gemora* answers: They used to make another one in place of the one that was buried with the person sentenced to be stoned.

The *Gemora* asks: Doesn't another *braisa* state it is not buried with him?

Rav Papa answers: "With him" in the second *braisa* means within his four cubits.

### ***Killing Without Hands***

Shmuel says: If the hand of a witness was cut off, he is not stoned. Why? The verse requires, "The hand of the witness will be with (*i.e. strike*) him first" and this cannot happen.

The *Gemora* asks: Does this mean that people without hands cannot testify?

The *Gemora* answers: This case is different, as the verse states, "the hand of the witness" implying the hand that was present during testimony. [*Accordingly, it only applies if the witness had a hand during testimony.*]

The *Gemora* asks a question from a *braisa*. The *braisa* states: If two witnesses testify that they saw a person be sentenced to death in Beis Din, and these two people were the witness in the case, he is killed! [*This is despite the fact*

*that the witnesses who caused him to be convicted are not present.*]

Shmuel answers: This *braisa* is referring to a case where the witnesses who caused him to be convicted and the ones currently testifying regarding his conviction are the same people.

The *Gemora* asks: Do we require that the verse be carried out literally? Doesn't the *braisa* state: "The one who hit shall surely die, as he is a killer." This implies that he can only receive the death stated by the Torah. How do we know that if this is impossible, we can kill him in any other way? The verse states: "He shall surely die" implying anyway he can be killed.

The *Gemora* answers: That case is different, as the verse says, "He shall surely die."

The *Gemora* asks: Why don't we learn from there regarding our case?

The *Gemora* answers: This is because the case of murder and where there is a *go'el ha'dam* (*relative allowed to kill the murderer*) are discussed in two different verses. This tells us that we do not derive this regarding the other laws of the Torah.

The previous *braisa* was regarding a murderer. Where do we see this stated regarding a *go'el ha'dam*?

The *braisa* states: "The *go'el ha'dam* will kill the murderer." This tells us it is a mitzvah for the *go'el ha'dam* to kill him. How do we know that *beis din* appoints a *go'el ha'dam* if he does not have family? The verse states, "When he meets him" implying the *go'el* can always possibly meet the murderer (*even if the victim had no family*)

Mar Keshisha the son of Rav Chisda said to Rav Ashi: Don't we require that the verse be carried out literally? The



Mishna says: If one of them (*the parents of a ben sorer u'moreh*) was missing a hand, or was mute, cripple, blind, or deaf he does not become a ben sorer u'moreh. The verse says, "And they will grab him" implying they are not missing hands. "And they will take him out" implies they are not cripple. "And they will say" implies they are not mute. "This son of ours" implies they are not blind. "He does not listen to our voice" implies that they are not deaf. [If they can hear him, they would know from his reply if he acknowledged their statement.] Aren't all of these laws because we require that the verse be carried out literally?

The *Gemora* answers: No. The reason for these laws is because the verses are extra (*showing that we should derive extra requirements*).

The *Gemora* asks a question on this from a *braisa*. The *braisa* states: If the city does not have a main street, it cannot become an ir ha'nidachas (*city of idolaters that is destroyed and its inhabitants killed*). These are the words of Rabbi Yishmael. Rabbi Akiva says: If it doesn't have a main street, we make one for it. Their argument is whether a main street always had to be there or it can be created now, but everyone agrees that the verse stating it has a main street must be fulfilled!

The *Gemora* answers: This (*whether or not the verse must always be precisely fulfilled*) is a Tannaic argument. The Mishna says: If a leper does not have a right thumb, right big toe, or right ear, he can never become pure (*as he lacks sprinkling on these places as stated by the Torah*). Rabbi Eliezer says: One can sprinkle on that area, and this is good enough. Rabbi Shimon says: The left can be used, and this is good enough.

### **Mishna**

All those who are stoned are hung afterwards. These are the words of Rabbi Eliezer. The Chachamim say: Only one who curses the name of Hashem and serves idols is hung.

A man is hung with his face towards the people, while a woman is hung with her face toward the tree. These are the words of Rabbi Eliezer. The Chachamim say: A man is hung, but not a woman. Rabbi Eliezer said to them: Didn't Shimon ben Shetach hang women in Ashkelon? They replied: He hung eighty women, and we do not judge two people in one day. [*He only did so because he thought this needed to be done for his generation at the time.*]

### **Hanging**

The *braisa* states: "And you will kill...and you will hang." One might think that all who are killed are hung. The verse says, "For the curse of Hashem is hanging." This implies that just as one who curses the name of Hashem and receives stoning is hung, so too all who receive stoning are hung. These are the words of Rabbi Eliezer. The Chachamim say: We derive that just as he denied Hashem, so too others who deny Hashem are hung (*idolaters*).

### **INSIGHTS TO THE DAF**

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### **THE POSITION OF THE "NISKAL" WHEN HE FALLS**

**QUESTION:** The Mishnah teaches that in the procedure of administering Sekilah, when the witness pushes the guilty person down from the Beis ha'Sekilah, he pushes him at his loins. If he falls on his heart (on his front), then he is to be turned onto his loins (either his back or his side, as will be clarified). **RASHI** writes that he must be turned because when he is lying "Perakdon" (on his back) it is more disgraceful to him. Although the Rishonim in a number of places argue whether "Perakdon" refers to lying on one's front or on one's back, Rashi consistently explains that "Perakdon" means lying on one's back (see Rashi to Berachos 13b and Nidah 14a).

Rashi here seems to be saying that the person is turned onto his back because it will be a *greater* disgrace for him, as part of his punishment. This is difficult to understand. The Gemara throughout the Sugya emphasizes that Beis Din must make every effort to kill the person in the *least* disgraceful manner, because of "v'Ahavta l'Re'acha Kamocha." (**SHEVUS YAKOV** 1:4, cited by **GILYON HA'SHAS**)

Moreover, if "Perakdon" means "face down," and Rashi is explaining why he should not be left to lie face down, then why does Rashi say that he is turned over onto his back because it is disgraceful? He should explain instead that he is turned over onto his back so that he dies faster when the stone falls on his heart, as **RABEINU YEHONASAN MI'LUNIL** explains.

#### ANSWERS:

(a) The **SHEVUS YAKOV** cites the **RAMBAM** (Hilchos Sanhedrin 15:1) who explains the Mishnah differently from the straightforward understanding. The Rambam explains that the witness pushes the guilty person from behind *in order that* he fall on his front. The Mishnah is not saying that an effort is made to have him fall on his back, but rather that an effort is made to have him fall on his front. The Shevus Yakov suggests that Rashi also learns the Mishnah this way. When the Mishnah says afterwards that he is turned "on his loins" it means that after he falls on his face he is turned back over so that the stone should kill him more quickly. When Rashi says that lying "Perakdon" is a greater disgrace, he is not explaining why he is turned over so that his face is up, but rather he is explaining the reason for the first step: why is he pushed so that his face will be down if, anyway, he is going to be turned over so that his face is up? Why first push him down on his front and then turn him over? The witness should push him down onto his back in the first place! Rashi answers that Beis Din wants him to fall on his face because it is more disgraceful to lie on his back, and Beis Din seeks to minimize his disgrace. Afterwards, he is turned over -- either because he is dead and will no longer be disgraced by his position, or because

he is alive and Beis Din wants to kill him with the stone and he will die faster with his face up.

However, this explanation is problematic. Rashi's comments are written on the words "he turns him over" ("Hofcho Al Masnav"), which implies that Rashi is explaining why he is turned over onto his back, and not why he is pushed in the first place to fall onto his front. Moreover, the Rambam's explanation is based on his Girsas of the Mishnah which does not include the words "Hofcho Al Masnav," and the Rambam does not mention anything about turning him over (see the **KAPACH** edition of Perush ha'Mishnayos of the Rambam). According to the Girsas of our texts, the Rambam's explanation is not consistent with the words of the Mishnah.

(b) The **ARUCH LA'NER** suggests a different explanation. While the **RAMBAM** and **RABEINU YEHONASAN MI'LUNIL** understand "Masnav" to refer to the back of the loins, Rashi seems to understand that it refers to the side (as it normally does). Rashi explains that if the person falls on his front, he is turned over in order that he die faster when the stone is thrown on him. Why, though, is he turned on his *side*? He should be turned only onto his back! Rashi therefore explains that it would be a greater disgrace for him to lie on his back, and therefore the best solution is to turn him on his side, where it will not be as disgraceful but it also will not take as long to die.