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Sanhedrin Daf 51

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

The master said: I might think that this (execution through burning) applies even if she (the daughter of the Kohen) profaned the Shabbos.

The Gemora asks: But if she profaned the Shabbos, must she not be stoned (which is even more severe than burning; why should her method of execution be downgraded because she is the daughter of a Kohen)?

Rava replied: This is taught according to Rabbi Shimon, who regards burning a severer penalty. I might think that since the Divine Law has in general been stricter with the Kohanim [than with the Israelites], giving them an additional number of mitzvos, therefore the Kohen's daughter [if she profaned the Shabbos] should be burnt; hence we are taught otherwise (that this method of execution applies only to the transgression of adultery).

The Gemora asks: But why should she differ from a Kohen himself? (her father)?

The Gemora answers: I would think that a Kohen is punished more leniently, because he is permitted to work on the Shabbos in the sacrificial service; but since a Kohen's daughter is not so permitted, her punishment should be stoning; we are therefore taught otherwise.

The braisa had stated: I might think that this applies even to an unmarried woman.

The Gemora asks: But doesn't the Torah write: through adultery?

The Gemora answers: This is taught in accordance with the view of Rabbi Eliezer, who maintains: If an unmarried man cohabits with an unmarried woman without marital intent, he renders her a zonah.

The Gemora asks: But perhaps "her father" is stated in order to exclude others (and she is burned only when she has cohabited with her father)?

The Gemora answers: How then would you explain the verse: that she committed incest with her father! If so, why only a Kohen's daughter; doesn't the same apply to an Israelite's daughter? For Rava stated that Rav Yitzchak bar Avdimi had said to him that this is derived from the *gezeirah shavah* of "*heinnah-heinnah*" and "*zimah-zimah*." [The prohibition of having relations with one's biological daughter, born out of wedlock, is learned from the same word *heinnah* – *they are* used in the verse about a biological daughter and the verse about one's wife's offspring. Just as the verse about a wife's offspring explicitly enumerates a daughter along with a granddaughter, so the verse about a biological granddaughter includes a daughter. We then learn that both of these cases are punishable by burning, from the same word *zimah* – *immorality* used in the verse about a wife's offspring and in the verse about a wife's mother. Just as the verse about a wife's mother explicitly states that he is punished by burning, so we learn that all the other cases associated with this word are punished by burning.]

The Gemora answers: The verse is necessary, for I would think that this whole passage refers to a case of incest with one's father, and the penalty of burning is prescribed here intentionally to preclude Rava's deduction. The Torah therefore informs us (that 'she profanes her father' is referring to illicit relations with people besides her father).

The braisa had stated: The daughter of a Kohen - from this phrase I know the law only if she was married to a Kohen; if she was married to a Levite, Israelite, a non-Jew, a chalal, a Nasin or a mamzer, from where do I know that the same (she is burned for adultery) applies? From the verse: And the daughter of a man who is a Kohen, which teaches us that even if she is married to one who is not a Kohen the same applies.

The Gemora asks: But because she is married to one of these, is she no longer considered a Kohen's daughter? And furthermore, does Scripture state . . . a Kohen's daughter married to a Kohen?

The Gemora answers: I might think that since Scripture states: if she profanes herself through adultery, the law deals only with one who now profanes herself for the first time; but in these other cases where she was already profaned before [this law should not apply]. For, a master stated: [The verse:] if the Kohen's daughter marries a stranger, [she may not eat of the separated holies] teaches us that if she cohabits with one who is unfit for her (in marriage) he disqualifies her [to eat of the holy food]. And [similarly] if she was married to a Levite or an Israelite, since Scripture also states: [But if a Kohen's daughter will become a widow or a divorcee, and have no child] she may return to her father's house, as in her youth, [she shall eat of father's meat, i.e., of the holy food]. This shows that as long as her husband [a Levite or Israelite] is alive, she must not eat of the holy food. Hence, I would think that she should not be sentenced to burning; therefore the verse teaches otherwise.

The Gemora notes: Now this ruling [that even if married to a mamzer, etc., she is sentenced to burning] is not in accordance with Rabbi Meir's view. For it has been taught in a Mishnah: If a Kohen's daughter, married to an Israelite, ate of terumah, she must repay the principal but not the additional fifth. [If she committed adultery] her penalty is burning. But if she was married to one unfit for her, she must repay the principal and the added fifth, and her penalty is strangulation; these are the words of Rabbi Meir. But the Sages hold that in both cases she must pay the principal but not the fifth, and her penalty is burning.

The braisa had stated: Rabbi Eliezer said: If with her father, she is sentenced to burning; if with her father-in-law, she is sentenced to stoning.

The Gemora asks: What is meant by 'her father' and 'her father-in-law'? If we say 'her father' means [that she committed incest] with her father, and 'her father-in-law' [that she did so] with her father-in-law: why speak particularly of a Kohen's daughter; an Israelite's daughter too is thus punished — a daughter [for incest with her father] by burning, and a daughter-in-law by stoning? Rather, 'her father' means 'in the domain of her father,' and 'her father-in-law' indicates 'in the domain of her father-in-law,' whose view is this? If the Rabbis? Do they not maintain that a nesu'ah is excluded [from strangulation and punished] by burning, but not so an arusah [who is stoned]? If Rabbi Shimon's; does he not maintain that both an arusah and a nesu'ah are sentenced to burning? And if Rabbi Yishmael's; does he not maintain that only an arusah is sentenced to burning, but not a nesu'ah, and accordingly, [when in the domain of] her father-in-law, she is strangled?

Ravin sent a message in the name of Rabbi Yosi son of Rabbi Chanina: This is the explanation of the teaching: Indeed it is in accordance with the Rabbis' views, and this is its meaning: Where an adulterous woman's death is more lenient than that of her father for incest [with his daughter], that is in the case of an Israelite's daughter, who

is an arusah, her punishment being strangulation; then in the case of a Kohen's daughter, her punishment is the same as her father's, viz., burning; but where an adulterous woman's penalty is greater than her father's, that is in the case of an Israelite's daughter, who is an arusah, her punishment being stoning, then in the case of a Kohen's daughter, her punishment is as that of her father-in-law for incest with her, viz., by stoning.

Rabbi Yirmiyah objected to this explanation: Does then the braisa state 'greater' or 'lesser'?

Rather, Rabbi Yirmiyah explained it as follows: In truth, this is in accordance with Rabbi Yishmael's view, and this is its meaning: 'with her father', i.e., while under her parental roof [i.e., an arusah], her punishment is burning; 'with her father-in-law,' i.e., for incest with her father-in-law, she is stoned; but if she committed adultery with any other person, she is strangled.

Rava objected to this: Why this difference [in the meaning attached to the two phrases]? Either each is to be understood literally, or to refer to the authority under which she is?

Therefore, Rava explained it as follows: This is in agreement with Rabbi Shimon [who holds burning to be the severest penalty]. Rabbi Eliezer [who taught this] maintains that a nesu'ah is as an arusah: just as with an arusah, [the penalty of a Kohen's daughter] is raised in stringency by one degree more [than that of an Israelite's daughter], viz., from stoning to burning, so also with a nesu'ah the penalty is raised in stringency by one degree, viz., from strangulation to stoning.

Rabbi Chanina objected: But Rabbi Shimon maintains that in both cases the penalty is burning!

Rather, Ravina explained it as follows: This is really according to the Rabbis, but you must reverse the text, as

follows: If 'with her father' [i.e. an arusah], she is stoned; if 'with her father-in-law', [i.e., a nesu'ah], she is burned. And as to the phrase 'with her father'? He [R' Eliezer] is influenced by the general phraseology.

Rav Nachman said in the name of Rabbah bar Avuha in the name of Rav: The halachah is in accordance with the message sent by Ravin in the name of Rabbi Yosi ben Chanina.

Rav Yosef asked: [Do we need] to fix a halachah for [the days of] the Mashiach (as there is no capital punishment administered by Jewish courts)?

Abaye answered: If so, we should not study the laws taught in Tractate Zevachim, as they are also only for the Messianic era. But we say: Study and receive reward; so in this case too, study and receive reward.

[He replied:] This is what I mean: Why state a halachah? In the course of the discussion, was there given a ruling at all?

The Gemora asks: Now, what statement of Rabbi Yishmael was referred to?

The Gemora answers: It has been taught in a braisa: And the daughter of any Kohen - if she profanes herself through adultery. Scripture here speaks of a na'arah who is an arusah. You say so, but perhaps it also refers to a nesu'ah? — The Torah states: And the man that commits adultery with another man's wife, the adulterer and the adulteress shall be put to death. Now all are included in the terms 'adulterer' and 'adulteress,' but the Torah excluded the daughter of an Israelite, teaching that she is sentenced to stoning, and the daughter of a Kohen, teaching that she is sentenced to burning. Just as the exception made for an Israelite's daughter refers to an arusah, but not a nesu'ah; so also, when a Kohen's daughter was excepted, an arusah was so excepted, but not a nesu'ah.



The braisa continues: Zomemim witnesses [in respect of the charge of adultery] and the man with whom she cohabited were [originally] included in the verse: [If a false witness rises up against any man to testify against him that which is wrong . . .] then you shall do unto him, as he had conspired to do to his brother.

The Gemora asks: The man with whom she cohabited!? How can the words 'as he had conspired' apply to him (as he didn't conspire to do anything)?

Rather, the braisa should state as follows: Her zomemim witnesses [in respect of the charge of adultery] are included in the manner of death administered to the man with whom she cohabited, as Scripture states: then you shall do unto him, as he had conspired to do to his brother; implying, but not unto his sister; these are the words of Rabbi Yishmael. Rabbi Akiva said: [A Kohen's daughter,] whether an arusah or a nesu'ah, is excepted [from the punishment of strangulation,] but is punished with fire. I might think that this applies even to an unmarried woman: but her father is mentioned in this passage, and her father is also mentioned elsewhere: just as elsewhere the reference is to whoredom by one who is bound to a husband, so here too. Thereupon R. Ishmael said unto him: If so, just as the second passage refers to a maiden [na'arah] who is an arusah, so this verse [treating of a Kohen's daughter] should be taken to refer to a maiden who is an arusah; [but if a nesu'ah, her punishment should be different]. Rabbi Akiva replied: My brother, I interpret the and the daughter etc., when it would have been sufficient to say the daughter etc., as teaching the inclusion of a nesu'ah. Rabbi Yishmael said to him: Shall we exclude this woman [i.e., a nesu'ah from the punishment of strangulation] and impose [the severer penalty of] death by fire, because you interpret the superfluous 'vav' ['and']; if this superfluous 'vav' indicates the inclusion of a nesu'ah, then include an unmarried woman too; while if it implies the exclusion of an unmarried woman [since the Scriptural passage explicitly relates to a married woman], then

exclude a nesu'ah too. And Rabbi Akiva? [He holds that] the gezeirah shavah serves the purpose to exclude an unmarried woman, while the superfluous 'vav' serves to indicate the inclusion of a nesu'ah. And Rabbi Yishmael? In raising the foregoing [objection] he thought that since Rabbi Akiva had replied that he interprets the superfluous 'vav,' it proved that he had withdrawn his deduction from the gezeirah shavah.

The Gemora asks: Now, how does Rabbi Yishmael interpret this superfluous 'vav'?

The Gemora answers: As that which was taught by the father of Shmuel bar Avin: Since we find Scripture differentiating in male [Kohanim] between the [physically] unblemished and the blemished, I would think that a distinction must also be drawn regarding their daughters; therefore Scripture writes a superfluous 'vav' [to teach the inclusion of the daughter of a physically blemished Kohen]. And Rabbi Akiva? He deduces this from the verse: [for the offerings of God made by fire, and the bread of their God,] they [i.e. the Kohanim] do offer; therefore they shall be holy. And Rabbi Yishmael? He maintains that that verse could apply only to Kohanim themselves, but not to their daughters. Hence the necessity of the superfluous 'vav.'