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Mother and Father's Wife

The *Gemora* had quoted the opinion of Rabbi Yehudah that if a son cohabits with his mother, even if she is legally married to his father, he is only liable for the prohibition of a mother (*and not for his father's wife*). Rava derived this from the verse: *the nakedness of your father*. This, he said, is referring to the wife of one's father. He derived this through a *gezeirah shavah*.

The *Gemora* cites a *braisa* supporting Rava: [It is written: *And a man, who lies with his father's wife, has uncovered his father's nakedness; the two of them shall surely be put to death; their blood is upon them.*] And a man excludes a minor; *who lies with his father's wife* implies whether she is his mother or not. How do I know that he is liable if she is his mother who is not his father's wife? It is from the phrase: *has uncovered his father's nakedness*. Since this phrase is extra, a *gezeirah shavah* may be deduced (as will be explained below). *The two of them shall surely be put to death*, by stoning. You say, by stoning; but perhaps it means by one of the other deaths mentioned in the Torah? It is written here: *their blood is upon them*; and in the case of an *Ov* or *Yid'oni* (certain types of sorcerers) the Torah says likewise: *their blood is upon them*. Just as there, stoning is meant, so too here.

Now, we have been informed of the punishment; from where do we know the warning (*for this prohibition*)? It is from the verse: *The nakedness of your father (and the nakedness of your mother) you shall not uncover*. *The nakedness of your father* refers to your father's wife. You

say that it means the wife of your father; but perhaps it has its literal meaning – do not sodomize your father!? It is written here: *The nakedness of your father ... you shall not uncover*; and elsewhere it is written: *he has uncovered his father's nakedness*. Just as there the reference is to a woman from marriage (*who is married to the father*), so here too it implies to a woman from marriage (*who is married to the father*), whether she is his mother or not. How do I know the warning if she is his mother who is not his father's wife? It is from the phrase: *The nakedness of your mother you shall not uncover*.

From this I learn only the warning, viz., that the Torah made his mother, though not his father's wife, just as his father's wife. From where do I derive the punishment? [*The Gemora cites the gezeirah shavah mentioned above.*] It is stated here (by the warning): *the nakedness of your father ... you shall not uncover*, and it is written elsewhere (by the punishment), *he has uncovered his father's nakedness*. Just as the Torah made his mother, when not his father's wife, equal to his mother, who was also his father's wife - with respect of the warning; so too they are equal with respect of the punishment.

She is your mother: This teaches us that he is punished only with respect of her as a mother, but not as his father's wife.

However, the Rabbis (*who hold that the son is also liable for the prohibition against cohabiting with his father's wife*) contend that *the nakedness of your father* is literally meant (*do not sodomize your father*).

The *Gemora* asks: But is this not taught by the verse: *You shall not lie with a man as with a woman?*

The *Gemora* answers: This teaches that a son is liable for a double penalty, as Rah Yehudah said: If an idolater (*a Jew*) sodomized his father, or his paternal uncle, he is liable for a double penalty.

Rava said: The first ruling of Rav Yehudah presumably refers to a Jew, the offence having been committed inadvertently, and the penalty mentioned being a sacrifice; while the designation “idolater” is merely a euphemism. For if you will say that he meant an idolater literally, what is his penalty? Death! Will you kill him twice?

The *Gemora* cites a supporting *braisa*: He who sodomized his father or his paternal uncle is liable for a double penalty.

Some say that this *braisa* does not agree with Rabbi Yehudah (*of the Mishna*). [For according to Rabbi Yehudah, one will not be liable two prohibitions for sodomizing his father.] But others maintain that this may agree even with Rabbi Yehudah, and he deduces a twofold penalty by a *kal vachomer* from the law pertaining to a paternal uncle, as follows: If for a paternal uncle, who is but a relation of his father, a twofold penalty is incurred, how much more so should a double penalty be incurred for sodomizing his own father!

The *Gemora* notes: These two conflicting opinions are similar to the dispute of Rava and Abaye; as one maintains (*like Abaye*) that punishment is imposed as a result of a logical inference (*such as a kal vachomer*), and the other maintains (*like Rava*) that punishment is not imposed as a result of a logical inference.

The *Gemora* asks: And how do the Rabbis derive the warning against cohabiting with one’s father’s wife?

The *Gemora* answers: It is derived from the verse: *The nakedness of your father you shall not uncover.*

The *Gemora* asks: What does Rabbi Yehudah use this verse for?

The *Gemora* answers: This teaches us the warning that one may not cohabit with his father’s wife after his father’s death.

The Rabbis derive this from the end of the verse: *it is your father’s nakedness.*

Rabbi Yehudah uses this phrase to teach us that the son is only liable for cohabiting with his father’s wife, but he is not liable for cohabiting with a married woman.

The *Gemora* asks: But we learned in a *Mishna* that one who cohabits with his father’s wife is liable for both prohibitions – cohabiting with his father’s wife and committing adultery, whether the father is alive or not; and Rabbi Yehudah did not argue!?

The *Gemora* answers: He does not argue in the *Mishna*, but he does argue in a *braisa*.

The *Gemora* asks: And the Rabbis, who do not use the *gezeirah shavah*, how do they derive the punishment for one who cohabits with his father’s wife after he dies?

The *Gemora* answers: They derive it from the verse: *he has uncovered his father’s nakedness.*

The *Gemora* asks: How do the Rabbis derive the punishment for one who cohabits with his father’s wife who is not his mother?

Rav Shisha the son of Rav Idi said: He derives it from the phrase: *she is your mother*. The Torah made his mother

who is not his father's wife equal to his mother who is his father's wife. (53b – 54a)

Daughter-in-law

The *Mishna* had stated: one who cohabits with his daughter-in-law is liable for the prohibitions against incest with his daughter-in-law and for committing adultery.

The *Gemora* asks: Why is he not liable for the prohibition against cohabiting with his son's wife?

Abaye answers: They are actually one prohibition. (54a)

Mishna

One who cohabits with a male, or with an animal, and a woman who brings an animal upon herself (*are punished by stoning*).

The *Mishna* asks: If the person sinned, did the animal sin (*so why would the animal get stoned as well*)? It is because the downfall came to the person through it, therefore the Torah said: It shall be stoned. Another reason is so that the animal should not pass in the marketplace, and people will say, "This is the animal that caused So-and-so to be stoned." (54a)

Scriptural Sources

The *Gemora* asks: Where is the scriptural source that one who cohabits with a male is punished by stoning?

The *Gemora* cites a *braisa*: [*It is written: And a man who lies with another male the copulations of a woman, the two of them have committed an abomination; they shall surely be put to death; their blood is upon them.*] A man excludes a minor; *who lies with another male* denotes whether an adult or a minor; *the copulations of a woman* - this teaches us that there are two modes of copulation with a woman

(*natural and unnatural - both of which are punished when committed incestuously*). Rabbi Yishmael said: This verse comes to instruct (*that one is liable for sodomy – when done in any manner*), but instead (*for sodomy is always in an unnatural manner*) it receives instruction itself (*that one is liable for copulation with a female even in an unnatural manner*). *They shall surely be put to death* - by stoning. You say that it is by stoning, but perhaps it means by one of the other deaths mentioned in the Torah? It is written here: *their blood is upon them*; and in the case of an *Ov* or *Yid'oni* (*certain types of sorcerers*) the Torah says likewise: *their blood is upon them*. Just as there, stoning is meant, so too here.

The *Gemora* asks: From this I learn the punishment; from where do I derive the warning?

The *Gemora* answers: It is written: *You shall not lie down with a male the copulations of a woman; this is an abomination.*

The *Gemora* asks: From this we learn the warning for the one who lies with a male; where is the warning for the person who permits himself to be sodomized?

The *Gemora* answers: It is written: *There shall be no kadeish (sodomy) among the sons of Israel.* And it is further written: *And there was also kadeish in the land; they did according to all the abominations of the nations which Hashem had cast out before the children of Israel;* these are the words of Rabbi Yishmael. Rabbi Akiva said: It is unnecessary to learn from there. The Torah said: *You shall not lie with a man the copulations of a woman:* read it as you shall not permit yourself to be with.

The *Gemora* asks: From where do we learn that a man is stoned if he cohabits with an animal?

The *Gemora* cites a *braisa*: [*It is written: And a man who shall copulate with an animal, shall surely be put to death,*

*and you shall kill the animal.] A man excludes a minor; who shall copulate with an animal - whether it is young or old; shall surely be put to death - by stoning. You say that it is by stoning, but perhaps it means by one of the other deaths mentioned in the Torah? It is written here: *you shall kill the animal*; and in the case of one who incites others to worship idols, the Torah says likewise: *you shall surely kill him*. Just as there, stoning is meant, so too here.*

The *Gemora* asks: We have learned the punishment for the one who commits bestiality; where do we derive the punishment for the one who brings the animal upon him?

The *Gemora* answers: The Torah says: *Whoever copulates with an animal shall surely be put to death*. Since this is redundant in respect of the person who performs a copulative act with an animal (*for we already know that*), you must apply it to the person who allows himself for such a copulative act.

The *Gemora* asks: Where is the Scriptural warning for this sin?

The *Gemora* answers: It is written: *You shall not copulate with any animal to be contaminated with it*.

The *Gemora* asks: From this verse we learn the warning for one who commits bestiality; where do we derive the warning for him who allows himself for such a copulative act?

The *Gemora* answers: It is written: *There shall be no kadeish (sodomy) among the sons of Israel*. And it is further written: *And there was also kadeish in the land*; these are the words of Rabbi Yishmael. Rabbi Akiva said: It is unnecessary to learn from there. The Torah said: *You shall not copulate with any animal*: read it as you shall not permit yourself to be with an animal.

The *Gemora* states: One who cohabits with a male, and also brings a male upon him (*in one period of forgetfulness*), Rabbi Avahu said: According to Rabbi Yishmael's view, he is liable to two penalties (*a korban chatas for each*), one for the prohibition derived from *You shall not lie down with a male*, 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 lie down* and *You shall not allow yourself to a copulative act* is but one prohibition.

One who cohabits with an animal, and also brings an animal upon him (*in one period of forgetfulness*), 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.

Abaye says: 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*).

The *Gemora* asks: From where do we learn the warning for the one who brings the animal upon him?

The *Gemora* answers: It is derived from the verse: *And a man who shall copulate with an animal, shall surely be put to death*. Since this is redundant in respect of the person who performs a copulative act with an animal (*for we already know that*), you must apply it to the person who allows himself for such a copulative act. The Torah designated the passive offender as one who committed the copulative act: Just as for the active offence there is

punishment and a warning, so for the passive offence too, there is punishment and a warning.

He who is sodomized by a male and an animal (*in one period of forgetfulness*), Rabbi Avahu said: According to Rabbi Akiva's view, he incurs two penalties; one for *You shall not copulate*, and the other for *You shall not copulate with any animal*. But according to Rabbi Yishmael's view, he incurs only one punishment since both offences are derived from the single verse: *There shall be no kadeish*. Abaye said: Even according to Rabbi Yishmael's view, he incurs two penalties, because it is written: *Whoever copulates with an animal shall surely be put to death*. Since this is redundant in respect of the person who performs a copulative act with an animal (*for we already know that*), you must apply it to the person who allows himself for such a copulative act. The Torah designated the passive offender as one who committed the copulative act: just as for the active offence there is punishment and a warning, so for the passive offence too, there is punishment and a warning.

But he who cohabits with a male, and also brings a male upon him; and also cohabits with an animal and brings an animal upon him (*in one period of forgetfulness*), both Rabbi Avahu and Abaye maintain that according to Rabbi Yishmael's view he is liable for three *chataos*, and according to Rabbi Akiva's view, he incurs two penalties. (54a – 54b)

Nine Years Old vs. Three Years Old

The *Gemora* cites a *braisa*: In the case of a sodomized male, a young male is not regarded as being on par with an old one; but regarding a sodomized animal, a young animal is equal to an old one.

The *Gemora* cites a dispute amongst *Amoraim* to explain the *braisa*: Rav said: In the case of a sodomized male, a male less than nine years old is not regarded as being on

par with a male who is nine years old (*and therefore the sodomizer will not be liable*). Shmuel said: In the case of a sodomized male, a male less than three years old is not regarded as being on par with a male who is three years old,

The *Gemora* explains the basis of their dispute: Rav maintains that only he who is able to commit the copulative act, may, as the passive subject of a copulative act throw guilt upon the active offender; while he who is unable to commit the copulative act cannot be a passive subject of a copulative act. But Shmuel maintains: The Torah writes: *the copulations of a woman*. [We therefore derive that just as a copulative act with a girl of three years old has legal significance, so too regarding a male – if he is at least three years old, copulation with him will have legal significance.]

The *Gemora* cites a *braisa* which supports Rav's view. (54b)