

14 Tishrei 5778
Oct. 4, 2017



Sanhedrin Daf 80

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The Calf of a Killer Cow

Rava says: If so (*that everyone in the case is a murderer*), why does the *braisa* say that Rabbi Yosi says this is true (*everyone is exempt*) “even” if Abba Chalafta is amongst them? [*Certainly if Abba Chalafta is amongst them there is more reason to say they should be exempt! Why would he say “even?”*]

Rather, Rava says: This is what the *braisa* means. If two people were standing together and an arrow shot out from between them and killed someone, they are both exempt.

Rabbi Yosi says: This is even if Abba Chalafta is one of them (*and he certainly didn’t do it, the other person is still exempt*).

If an ox that was sentenced to death by *Beis Din* became mixed up with other oxen, they are all stoned. Rabbi Yehudah says: We put them in a cell to die of hunger.

The *Gemora* supports this with the following *braisa*. The *braisa* states: If a cow killed a person and then gave birth, as long as it gave birth before it was sentenced to death, its offspring is permitted (*and may live*). If it gave birth after it was sentenced, its offspring is also killed. If it was intermingled with other cows, and those cows became intermingled with other cows, we put them all in a cell to die. Rabbi Elozar the son of Rabbi Shimon says: We bring them to *Beis Din* and stone all of them (*in order to fulfill the mitzvah of stoning; there is no loss to the owner, for they are anyway forbidden to derive benefit from*).

It was stated: If it gave birth before it was sentenced, its offspring is permitted.

The *Gemora* asks: It may live even though it was part of the cow when it gored? Rava said: If a baby cow was part of its mother when it gored, it cannot be brought as a sacrifice, as both it and its mother gored. Similarly, the offspring of an animal that had been sodomized by a human (*when it was in its mother’s womb*) cannot be brought as a sacrifice, as it and its offspring had been sodomized by this man. [*Accordingly, either way it should be killed!*]

The *Gemora* answers: Rava must mean that if it gave birth before it was sentenced to death, its offspring is permitted (*and may live*). If it gave birth after it was sentenced, its offspring is also killed.

The *Gemora* asks: This is understandable according to the opinion that when both parents contribute to the status of the child, and one of them is forbidden, the child is forbidden. [*Here, too, even though the father of this calf did not gore anyone, the baby is killed because this is the status of the mother.*] However, according to the opinion that in such a case, the animal is deemed permitted, why is this calf forbidden?

Rather, Ravina says: that if it conceived and gave birth before it was sentenced to death, its offspring is permitted. If it conceived before it was sentenced, and gave birth after it was sentenced, its offspring is also killed, as it is considered part of its mother. (80a – 80b)



Intermingled

The *Mishna* said that all beings liable to be killed that became intermingled with each other (*and we no longer know who is supposed to get what type of death*) receive the most lenient death in the group.

The *Gemora* notes: This indicates that if someone receives warning upon punishment of a serious death, he is considered warned for a more lenient death as well.

Rabbi Yirmiyah says: The case of the *Mishna* is where a general warning (*that this sin is punishable by death*) was given. This is the opinion of the following *Tanna*: The *braisa* states: Other death penalties in the Torah are only done with a *Sanhedrin*, witnesses, and warning, and until he is notified that he will be liable to be killed in *Beis Din*. Rabbi Yehudah says: He must be told which type of death he will be liable to receive. The *Tanna Kamma* derives this from the *mekosheish* (*the person who gathered wood on Shabbos in the wilderness; he was told that he would be killed in general, but it was not known which death until after his imprisonment*). Rabbi Yehudah holds that the *mekosheish* was an exceptional case (*a ruling of the moment, and cannot be learned from*).

The *Mishna* discusses people liable to be stoned (*minority*) became intermingled with people liable to be burned (*majority*).

Rav Yechezkal taught his son Rami: If people liable to be burned became intermingled with people liable to be stoned, Rabbi Shimon says they should be stoned, as burning is more severe.

Rav Yehudah said to him: Abba, do not teach the *braisa* this way! Why say that they should receive stoning because burning is more severe? Say they should receive stoning because most of them are liable to be stoned!?

His father replied: How should I teach the *braisa*?

Rav Yehudah answered: If people liable to be stoned became intermingled with people liable to be burned, Rabbi Shimon says they should be stoned, as burning is more severe.

The *Gemora* asks: If so, how can we understand the second part of the *braisa*. The *braisa* states: The *Chachamim* say that they should be burned, as stoning is more severe. Why don't they say that the reason is because most of the people there are liable to be burned?

The *Gemora* answers: The *Chachamim* are answering Rabbi Shimon according to his own logic. You base your ruling on the fact that burning is more severe, while we say that stoning is more severe.

Shmuel said to Rav Yehudah: Sharp one, do not speak to your father like so, for it was taught in a *braisa*: If one's father was transgressing something from the Torah, he should not tell him, "Father, you have violated something from the Torah." Rather, he should say, "Father, the following verse is written in the Torah" (*and the father will realize by himself that he went against the Torah*). (80b – 81a)