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Sanhedrin Daf 81

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Two Transgressions

Whoever is liable to two capital punishments, he is subjected to the one which is more severe.

If one committed a transgression where he is liable for two types of execution, he is subjected to the one which is more severe. Rabbi Yosi said: He is subjected to the one which first came upon him.

Rava explains the first case of the *Mishna* as follows: He initially committed a lighter transgression which carries a lighter type of execution, for which he was sentenced; then he violated a more serious one. We might have thought that since he was sentenced for the lighter offence, he is regarded as a dead man (*and he cannot be further sentenced*); the *Mishna* therefore teaches us otherwise.

Rabbah bar Nassan cited to (the father of) Rav Yosef bar Chama the Scriptural verses which teach us that if one committed a transgression where he is liable for two types of execution, he is subjected to the one which is more severe.

It is written: *If he begot a violent son, a shedder of blood etc. and he has eaten upon the mountains and defiled his fellow man's wife, and he lifted up his eyes to the idols etc.*

If he begot a violent son, a shedder of blood refers to murder, which is punishable by sword. *Defiled his fellow man's wife* refers to adultery, which is punishable by strangulation. *And he lifted up his eyes to the idols* refers to

idolatry, which is punishable by stoning. The verse afterwards states: *he shall surely die; his blood shall be upon himself*. This refers to stoning. [*We see that if one initially committed a lighter transgression which carries a lighter type of execution, and then he violated a more serious one, he is sentenced for the more severe one.*]

Rav Nachman bar Yitzchak asks: Perhaps all the transgressions mentioned in that verse are punishable by stoning? *If he begot a violent son, a shedder of blood* could refer to a rebellious son! *Defiled his fellow man's wife* may refer to one who cohabited with a betrothed *na'arah*! *And he lifted up his eyes to the idols* refers to idolatry!?

The *Gemora* answers: If that would be the case, Yechezkel would not have been teaching any novelty; and if he merely wanted to review the Torah's commandments, he should have reviewed the entire Torah.

Rav Acha the son of Rabbi Chanina expounds the verses in Yechezkel: *He has eaten upon the mountains* refers to someone who does not need to rely on the merits of his forefathers. *He has not lifted up his eyes to the idols* refers to someone who does not walk with an erect posture (*in a haughty manner*). *And he has not defiled his fellow man's wife* refers to someone who has not encroached upon someone else's trade. *And he has not approached an unclean woman* refers to a person who does not derive pleasure from charity.

And regarding these people it is written: *He is a righteous person; he shall surely live*. Rabban Gamliel used to cry



when he reached this verse, for he said, "Is it only he who does **all** these things shall live, but not if he merely does one of them?!" Rabbi Akiva said to him: It means that for doing one of these things, he shall live.

The *Mishna* had stated: If one committed a transgression where he is liable for two types of execution, he is subjected to the one which is more severe. Rabbi Yosi said: He is subjected to the one which first came upon him.

Rabbi Yosi explains in a different *braisa*: If the woman was first his mother-in-law and later became the wife of another man, he is subject to the mother-in-law prohibition. If the woman was first the wife of another man and later became his mother-in-law, he is subject to the wife of another man prohibition.

Rav Adda bar Ahavah asked Rava: If the woman was first his mother-in-law and later became the wife of another man, he is subject to the mother-in-law prohibition. Why is not liable as well for the wife of another man prohibition? For Rabbi Avahu said: Although Rabbi Yosi maintains that one prohibition does not take effect on an existing prohibition; however, he agrees that the second prohibition can take effect if it is a more extensive prohibition. [*When she was his mother-in-law first, she was only forbidden to him; when then she got married, the wife of another man prohibition should take effect on him, for she is now forbidden to the entire world!?*]

Rava responded: Will you kill him twice? [*If he committed the transgression unintentionally, he will be required to bring two chatas offerings. If he sinned intentionally, he will be subject to two death penalties, but since he can only be executed once, he will receive the stricter type of execution.*] (81a – 81b)

Lashed Multiple Times

If one was lashed twice (*and he then transgresses again*), the court puts him into a cell, and they feed him barley until his stomach bursts.

Rabbi Yirmiyah explains the *Mishna* in the name of Rabbi Shimon ben Lakish: The *Mishna* is referring to a case where he was lashed for an offence punishable by *kares*, so that he is already liable to death (*at the hand of God*), but the time of his death has not yet approached. Since, however, he abandoned his own life (*through violating prohibitions that entail kares penalties*), we hasten his death.

Rabbi Yaakov said to Rabbi Yirmiyah bar Tachlifa: Come, I will interpret it to you. The *Mishna* is referring to a case where he was lashed for an offence punishable by *kares* (*which was twice repeated*), but if he committed two or three different sins each involving *kares*, it may merely be his desire to experience sin, and he is not abandoning his own life.

The *Mishna* had stated: If one was lashed twice (*and he then transgresses again*) etc.

The *Gemora* notes: This is true even if he was not lashed a third time. This would seemingly conflict with the opinion of Rabban Shimon ben Gamliel, who holds that one does not establish a *chazakah* (*in this case – a presumption of wickedness*) until an act occurs three times.

Ravina answers: The *Mishna* may be following his opinion, for the transgression was committed a third time (*and that justifies his presumption of wickedness*).

An objection was raised from a *braisa*: If one committed an offence involving lashes, the first and second time he is lashed. On the third occasion, he is placed in a cell. Abba Shaul said: Even on the third occasion he is lashed; but on the fourth, he is placed in a cell. Now presumably, both agree that it is the lashes that establish the presumption for wickedness, and they differ on the very dispute of



Rebbe and Rabban Shimon ben Gamliel (*if two or three times establish a presumption*).

The *Gemora* rejects this explanation: Both may agree with Rabban Shimon ben Gamliel, but they differ on the following issue: The *Tanna Kamma* holds that it is the transgressions which establish a presumption of wickedness, and Abba Shaul maintains that it is the lashes that establish it.

The *Gemora* asks from another *braisa*: If the transgressor was warned but remained silent, or warned and he nodded his head, the first and second time he is merely warned, but on the third occasion, he is placed in a cell. Abba Shaul said: The third time too he is warned, but on the fourth, he is placed in a cell. Now here he is not lashed; regarding what point do they differ?

Ravina said: They differ as to whether one must be warned that he will be confined in a cell.

Rav Yehudah says that the cell is the precise height of the transgressor.

Rish Lakish said: The punishment of the cell is alluded to in the following Scriptural verse: *The death blow of the wicked is evil.* (81b)

Murderer who can't be Killed

If one murdered without witnesses, they put him into a cell and feed him sparing bread and scant water.

The *Gemora* asks: If there were no witnesses, how did they know that he murdered?

Rav answers that there were isolated witnesses (*from two different windows and they did not see each other*).

Shmuel answers that there was no warning.

Rav Chisda said in the name of Avimi that the witnesses contradicted each other regarding the (*answers to the*) examinations, but not with respect to the inquiries.

Rav Sheishes explains that in all the previous cases, he is also fed sparing bread and scant water in order to shrink his stomach, and then he is fed barley until his stomach bursts. (81b)

Other Transgressions

If one steals a *kasvah*, or curses by a supernatural force, or has relations with an Aramean woman (*an idolater's daughter*), the zealots may kill him. A *Kohen* who served while he was *tamei*, his brother *Kohanim* do not bring him to court, but the young *Kohanim* take him outside the Temple Court and smash his skull with clubs. Regarding a non-*Kohen* who served in the Temple, Rabbi Akiva says: He is killed by strangulation, but the Sages say: By the hands of Heaven.

Rav Yehudah says that *kasvah* is one of the service vessels used in the Beis Hamikdash. (81b)