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Sanhedrin Daf 50

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h
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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

Enumeration of Executions

The *Mishna* enumerated the four forms of capital punishment administered by the *Sanhedrin*, in descending order of severity. The order enumerated by the Sages is:

1. Stoning
2. Burning
3. Decapitation
4. Strangulation

The *Gemora* explains the source for this order of enumeration. (49b)

Stoning – Most Severe

Stoning is most severe, as it is the method of executing a blasphemer and idol worshipper, who have rejected the most fundamental tenet of the Torah.

The *Gemora* challenges that perhaps burning is the most severe punishment, as it is the method of executing an adulterous daughter of a *Kohen*, who desecrates her father’s name.

The *Gemora* answers that the Sages say that only a *Kohen*’s daughter who is fully married (*nesuah*) is punished by burning, but if she is a young girl just formally married (*na’arah arusah*), she is punished by stoning. Since in the more severe case of an *arusah*, the punishment of burning is overridden by stoning, this indicates that stoning is more severe.

The *Gemora* challenges that perhaps decapitation is more severe, as it is the execution for a city that strayed to idol

worship, which is so severe that their property is destroyed.

The *Gemora* answers that although the city is punished with decapitation, the one who incited them, whose sin is more severe, is stoned, proving that stoning is more severe.

The *Gemora* challenges that perhaps strangulation is more severe, as it is the execution for one who wounds his parent, whose honor is compared to that of Hashem.

The *Gemora* answers that stoning is more severe, as an adulterous *nesuah* is punished by strangulation, but the graver adultery of an *arusah* is punished by stoning. (49b – 50a)

Burning

Burning is severe, as it is the execution for an adulterous daughter of a *Kohen*, who has desecrated her father’s name.

The *Gemora* challenges that perhaps decapitation is more severe, as it is the execution for a city that strayed to idol worship, which is so severe that their property is destroyed.

The *Gemora* answers that the Torah uses the same phrase *es aviha – to her father* in the case of an adulterous *arusah* (*who is stoned*) and in the case of an adulterous daughter of a *Kohen* (*who is burned*), to indicate that burning is more severe than decapitation, just like stoning is.

The *Gemora* challenges that perhaps strangulation is more severe, as it is the execution for one who wounds a parent, whose honor is compared to that of Hashem.

The *Gemora* answers that burning is more severe, as an adulterous daughter of a *Kohen* is not executed by strangulation, like a standard adulterous *nesuah*, but is punished more severely by burning. (50a)

Decapitation

Decapitation is more severe than strangulation, as it is the execution for a city that strayed to idol worship, which is so severe that their property is destroyed.

The *Gemora* challenges that perhaps strangulation is more severe, as it is the execution for one who wounds a parent, whose honor is compared to that of Hashem.

The *Gemora* answers that a city that worships idols is still more severe, as their action has rejected the most fundamental principle of the Torah.

The chart below summarizes the sources for the Sages' enumeration order.

Execution	Severity	Less severe	Challenge	Answer
Stoning	Idolatry and blasphemy: rejected fundamental principle	Burning	<i>Kohen's</i> daughter	Only given to a <i>nesuah</i>
		Decapitation	Idolatrous city	Inciter is stoned
		Strangulation	Wounding a parent	<i>Arusah</i> is stoned, <i>nesuah</i> is strangled

Burning	<i>Kohen's</i> daughter: desecrated her father	Decapitation	Idolatrous city	Verse compares burning to stoning; in severity.
		Strangulation	Wounding a parent	<i>Kohen's</i> daughter is burned; not strangled
Decapitation	Idolatrous city: rejected principle	Strangulation	Wounding a parent	Rejected principle more severe

(50a)

Rabbi Shimon's Order

The *Gemora* then discusses Rabbi Shimon's position. In the *Mishna*, Rabbi Shimon said that the enumeration of the executions in descending order of severity is:

1. Burning
2. Stoning
3. Strangulation
4. Decapitation (50a)

Burning- the Most Severe

Burning is most severe, as it is the execution for an adulterous daughter of a *Kohen*, who desecrates her father's name.

The *Gemora* challenges that perhaps stoning is more severe, as it is the execution for a blasphemer and idol worshipper, who have rejected the most fundamental principle of the Torah.

The *Gemora* explains that Rabbi Shimon says that both an *arusah* and *nesuah* adulterous daughter of a *Kohen* is burned. Since an *arusah* daughter, who would normally be stoned, is instead punished by burning, this proves that burning is more severe.

The *Gemora* challenges that perhaps strangulation is more severe, as it is the execution for one who wounds a parent, whose honor is compared to that of Hashem. The *Gemora* says that since an adulterous *nesuah* daughter of a *Kohen*, who would normally be strangled, is instead burned, this proves that burning is more severe.

The *Gemora* challenges that perhaps decapitation is more severe, as it is the execution for a city that strayed to idol worship, which is so severe that their property is destroyed.

The *Gemora* answers that since the inciter, who did a worse sin, is strangled (*according to Rabbi Shimon*), strangulation is more severe. We already proved that burning is more severe than strangulation, so burning must therefore be more severe than decapitation. (50a – 50b)

Stoning

Stoning is severe, as it is the execution of a blasphemer and idol worshipper, who have rejected the most fundamental principle of the Torah.

The *Gemora* challenges that perhaps strangulation is more severe, as it is the execution for one who wounds a parent, whose honor is compared to that of Hashem.

The *Gemora* answers that since the Torah punished the more severe adulterous *arusah* with stoning, instead of the strangulation administered to a *nesuah*, stoning is more severe.

The *Gemora* challenges that perhaps decapitation is more severe, as it is the execution for a city that strayed to idol

worship, which is so severe that their property is destroyed.

The *Gemora* answers that the inciter, whose sin is more severe, is strangled, indicating that it is more severe. We already proved that stoning is more severe than strangulation, so it must therefore be more severe than decapitation. (50b)

Strangulation

Strangulation is severe, since it is the execution for one who wounds a parent, whose honor is compared to that of Hashem.

The *Gemora* challenges that perhaps decapitation is more severe, as it is the execution for a city that strayed to idol worship.

The *Gemora* answers that, according to Rabbi Shimon, the inciter, whose sin is more severe, is strangled, proving that it is more severe a punishment.

The chart below summarizes the sources for the Rabbi Shimon's enumeration order.

Execution	Severity	Less severe	Challenge	Answer
Burning	<i>Kohen's</i> daughter: desecrates her father	Stoning	Idolatry, blasphemy	<i>Kohen's arusah</i> daughter is burned instead of stoned
		Strangulation	Wounding a parent	<i>Kohen's nesuah</i> daughter is burned

				instead of strangled
		Decapitation	Idolatrous city	Inciter is strangled, and burning is more severe
Stoning	Idolatry, and blasphemy: reject a fundamental principle	Strangulation	Wounding a parent	<i>Arusah</i> is stoned, not strangled
		Decapitation	Idolatrous city	Inciter is strangled, and stoning is more severe
Strangulation	Wounding a parent	Decapitation	Idolatrous city	Inciter is strangled

includes also an *arusah*. This is because the Sages consider stoning, the standard execution of an adulterous *arusah*, more severe than burning, while Rabbi Shimon considers burning more severe. Therefore, in the case of an *arusah* daughter of a *Kohen*, both judge her with the more severe execution. Rabbi Yochanan is thus teaching us that in any case where one is liable for two capital crimes that he is executed in the more severe one. (50b)

The Verse of a Daughter of a Kohen

The *Gemora* cites the *braisa* in which Rabbi Shimon states his position on the adulterous daughter of a *Kohen*. Rabbi Shimon says that the two verses in the Torah condemning an adulterous wife to death – one for *arusah*, and one for *nesuah* – is stated generically, seeming to apply to a daughter of a *Kohen* just as to anyone else. Therefore, when the Torah stated a different execution for an adulterous daughter of a *Kohen*, this excluded her from both verses, replacing both executions with the more severe execution of burning. However, witnesses who are found to have falsely conspired to execute a daughter of a *Kohen* for adultery are punished just as witnesses who falsely conspired to execute any other adulterous wife, whether they testified about an *arusah* or *nesuah*.

The *Gemora* cites a *braisa* that explains the verse of an adulterous daughter of a *Kohen*, clause by clause:
Uvas ish Kohen – and the daughter of a Kohen man
Kee saichail – when she desecrates
Liznos – to be licentious
Es aviha – with her father
Hee mechaleles – she desecrates

The *braisa* says that from the second clause alone, we may have thought that the verse is discussing any desecration, e.g., of *Shabbos*. The verse therefore continues with the next clause to indicate that the desecration was only in that realm. Lest we think that even an unmarried daughter of a *Kohen* is burned for promiscuity, the next clause mimics

(50b)

Double Liability

Rabbi Yochanan was in the habit of citing two instances where the Sages rule that the execution is stoning, while Rabbi Shimon rules that it is burning:

1. An adulterous *arusah* daughter of a *Kohen*
2. A standard *arusah* who committed adultery with her father

The *Gemora* explains that Rabbi Yochanan is teaching that the Sages limit the execution of an adulterous daughter of a *Kohen* by burning to only a *nesuah*, while Rabbi Shimon

the phrase *es aviha* used in relation to a generic young *arusah* who commits adultery. We therefore learn that just as the generic *arusah* is married, so the daughter of the *Kohen* is married. The final clause indicates that the adultery discussed can be committed with anyone, not just with her father. Although the verse is connected to an *arusah*, it is not limited to an *arusah* or a young girl, since the verse begins with an extra *vav* (*u – and*), including all other cases of an adulterous daughter of a *Kohen*. The verse's use of the extra word *ish – man* in the first clause includes a *Kohen's* daughter who married a non *Kohen*, or even those forbidden to marry Jews, including a non Jew, *Nasin*, and *mamzer*. When the last clause restates that *she* desecrates her father, this limits the execution by burning to only her, not the one she had relations with, nor witnesses who falsely conspired to execute a daughter of a *Kohen*. Rabbi Eliezer concludes the *braisa* with a rule that “with her father, she is burned, while with her father in law, she is stoned.” (50b – 51a)

INSIGHTS TO THE DAF

The Gemara (Bava Basra 119a) elaborates in its description of R' Shimon of Shikmon, a student of R' Akiva, who said that Moshe knew that the Mekoshesh was to die, but didn't know which form of execution to use. Tosafos asks why Moshe did not assume that it was *chenek* - strangulation, which is the most lenient, and used as the “default”. The Gemara (Pesachim 46b) introduces the concept of ‘*ho-il*’ – ‘since,’ which permits taking into account the possibility of a change in circumstances when establishing Halacha. ‘Since,’ if it were to change, the Halacha would change, we may assume the change initially. Tosafos asks, we should then permit all *Chilul Shabbos* since, if we had to assist a dangerously ill person, all *Melacha* would be permitted. Tosafos answers that such is not a common occurrence, and ‘*ho-il*’ applies only to common changes. The *Shaagas Aryeh* asks, a *Shabbos Bris* is common enough, and R' Eliezer holds one may even cut

wood for use in forging a *Milah* knife. Should not the *Mekoshesh* have thus been exempt for gathering wood? Not according to R' Akiva, who holds that preparatory acts are not permitted – only the *Bris* itself, which is why the *Gemara* mentioned that *Shimon of Shikmon* was a student of R' Akiva.

DAILY MASHAL

R' Hillel of Lublin notes that the *Mekoshesh* and the *Megadef* (son of *Shlomis* and an Egyptian) were both confined at the same time. Our *Gemara* derives the lenient and default nature of *chenek* from the fact that *sekilah* - stoning is meted out to the *Megadef*, which *Moshe* only discovered now, and as such, he could not have defaulted the *Mekoshesh* to *chenek*.