

18 Elul 5777
Sept. 9, 2017



Sanhedrin Daf 55

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

Tzvi Gershon ben Yoel (Harvey Felsen) o”h

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

Forbidden Relations

The *Gemora* cites a *braisa*: If a man cohabits with a male who is a minor of nine years and one day old, he is liable. If a man cohabits with an animal, whether in a natural or in an unnatural fashion; or, if a woman brings an animal upon her, whether in a natural or in an unnatural fashion, the adult in each case is liable.

Rav Nachman bar Rav Chisda taught: While a woman is always liable whether she has relations in a natural or unnatural fashion with an animal (*and certainly a man*), an animal is only assumed to have one type of relations. [*The verse says “mishkivei ishah” -- “the copulations of a woman” implying two different types of relations, both natural and unnatural, are included in her illicit relations.*]

Rav Pappa asked: On the contrary! A woman, for whom it is normal to have relations with men, should only be liable for regular relations, not other types of relations. However, being that it is unnatural to have relations with any animal, any way the person has relations with it should make one liable!? [*Tosfos explains that Rav Pappa is not arguing on the teaching of “mishkivei ishah,” but rather saying that without it this is what logic would dictate.*]

The *Gemora* cites the *braisa* (mentioned above to refute Rav Nachman and Rav Pappa): If a man cohabits with a male who is a minor of nine years and one day old, he is liable. If a man cohabits with an animal, whether in a natural or in an unnatural fashion; or, if a woman brings an animal upon her, whether in a natural or in an unnatural fashion, the adult in each case is liable.

Ravina asked Rava: What is the law if someone only partially had intercourse (*see Rashi for more exact definition*) with a male?

Rava asked him: What do you mean? The verse says *mishkivei ishah*? This clearly shows that the same law that applies to having relations with a woman (*regarding the initial stage of intercourse*) applies to having relations with a man (*and he should be liable*)!?

Rather, Ravina asked Rava: What is the law if someone only partially had intercourse with an animal?

Rava answered: If the extra verse *the initial stage of intercourse* stated by a father or mother’s sister is not needed, as this can be derived from the same verse stated by a *niddah*, it must be teaching us that this applies to an animal.

The *Gemora* asks: Cohabiting with an animal make one liable to receive the death penalty. Why should this verse be stated regarding forbidden relations that make one liable to receive *kares*? The Torah should state this verse regarding a forbidden relationship where one is liable to be put to death, and we could then derive that it applies to all relationships where the punishment is death!?

The *Gemora* answers: Being that the entire verse regarding a father or mother’s sister is used to derive various laws, it included this teaching as well.

Rav Achdavyo the son of Rav Ami asked Rav Sheishes: What is the law if a man has the initial stage of intercourse with himself?



Rav Sheishes replied: You make me want to throw up! [There are other explanations of the word "kabastan" in the Rishonim.]

Rav Ashi said: What is your question? It is obviously impossible for a person to do this in a state of erection. The only possibility would be if he is copulating with a limp organ. According to the opinion that having relations in such a state makes one exempt from the death penalty, here too he would be exempt. According to the opinion that he would be liable, he is liable for two prohibitions, both the active and passive partner. [The novelty of this teaching is that although all other forbidden relations are with two people, this is still called forbidden relations. Whether or not this is true could have been Rav Achdavyo's question.] (54b – 55a)

Takkalah and Kalon

They asked Rav Sheishes the following question: What is the law regarding an idolater that cohabits with an animal? Do we say that in order for an animal to be killed it must be because it was a source of "kalon" -- "degradation" (people will say this is the animal that was the source of sin) and "takkalah" -- "downfall?" [It caused a person to be liable to be put to death.] In this case, there is only takkalah and not kalon (since bestiality is common by idolaters, perhaps there is no need to be concerned; and furthermore, the torah will not be concerned about the idolater's shame). Do we say that both are required or takkalah is enough?

Rav Sheishes says: We were taught in a braisa that just as the Torah stated to destroy, burn, and eradicate trees (used as idols) that do not eat, drink, or smell because they caused one to stumble, we should certainly do the same to a person who persuades another person to veer from the path of life to the path of death! [This implies that takkalah alone is enough of a reason.]

The Gemora asks: If this is so, then if a gentile prostates himself before his animal, it should become forbidden from benefit and killed (as the gentile is put to death for such an

action)! [However, we know this is not the law, and the animal can even be slaughtered and eaten (though it cannot be brought as a korban).]

Rav Sheishes answers: Is it possible that there would be something that would not be forbidden to a Jew, but would be forbidden to a gentile?! [In other words, it is impossible that this would only apply to the animal of a gentile, but not the animal of a Jew, and since we know that the animal of a Jew is permitted in such a case, it must be the same halachah by a gentile as well.]

The Gemora asks: The animal of the Jew should be forbidden to him, just like it is forbidden (and put to death) in cases of bestiality!? [Rashi explains that according to this opinion, the case where it was necessary for the Torah to forbid an animal that was worshipped by a Jew to be used for a korban would be in a case where he would not be executed – i.e. if there was only one witness who says it happened.]

Abaye answers: Regarding bestiality, the degradation is great, while regarding idolatry, there is little degradation. [Rashi quotes a second explanation of Abaye's statement as well.]

The Gemora asks: Doesn't the Torah say regarding the trees used for idols that they should be destroyed, burned, and eradicated even though there is not much degradation?

The Gemora answers: The Torah is clearly more concerned about the life of animals (as is evident from the fact that twenty-three judges are needed to determine the fate of the animal). [The animal is therefore not killed unless there is much degradation, unlike the trees that are destroyed though there was only takkalah and little degradation.]

Rava says: The Torah condemned the animal to death because it enjoyed the sinful act (as opposed to idolatry, where it did not physically benefit from the fact that someone bowed down to it).

The *Gemora* asks: Doesn't the Torah say regarding the trees used for idols that they should be destroyed, burned, and eradicated even though they did not physically enjoy the sin?

The *Gemora* answers: The Torah is clearly more concerned about the life of animals.

The *Gemora* attempts to prove that *takkalah* is sufficient from our *Mishna* (54a). The *Mishna* states: Another reason (*that the animal is executed*) is 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." Being that this other reason includes both *takkalah* (*the sinner's downfall*) and *kalon* (*degradation*), and the first reason only is due to *takkalah*, it must be that *takkalah* alone is reason to kill the animal! [Otherwise, the *Mishna* should have only said the second reason.] What would be the case? It must be where an idolater cohabited with an animal (*proving that the animal should also be killed*)!

The *Gemora* answers: No. While the second reason of the *Mishna* indeed includes *takkalah* and *kalon*, the first part is stated to teach that *kalon* without *takkalah* would be sufficient. What is such a case? The case is where a Jew would accidentally cohabit with an animal (*which is a case of degradation without downfall*), as is discussed in the following question of Rav Hamnuna.

Rav Hamnuna inquired: What is the law if a Jew would accidentally cohabit with an animal? Would we say that in order to kill an animal there must be both *takkalah* and *kalon*? If so, in this case the animal should not be killed, as while there is *kalon*, there is no *takkalah* (*as he did not intend to sin*). Or do we say that *kalon* is reason enough to kill the animal?

Rav Yosef attempts to answer this question from the following *Mishna*. The *Mishna* states: A girl who is three years and one day old can become betrothed through cohabitation. If a *yavam* cohabits with her, he has acquired her. One is liable if he cohabits with her when she is married for the prohibition

against having relations with someone else's wife. She causes someone who has relations with her when she is a *niddah* to make things he is resting on impure even if he does not touch them (*i.e. the bottom mattress becomes impure even if he is sitting atop a mattress that is on top of it*). If she is married to a *Kohen*, she can eat *terumah*. If a disqualified person cohabits with her, she is indeed unfit to marry a *Kohen*. If anyone forbidden to cohabit with her by Torah law does so, they are killed because of her, while she is exempt (*as she is a minor*).

This last statement implies that this is even true if the other party is an animal. In this case, there is only *kalon* but not *takkalah*, and even so the animal is killed! [Accordingly, this should also be the law regarding a person who accidentally has relations with an animal (*that the animal is killed*)!]

The *Gemora* answers: This is not a proof. Being that she did so deliberately, it is deemed that there is *takkalah*. The Torah merely had mercy on a minor not to kill them despite their deliberate sinning. However, the Torah did not have mercy on the animal (*being that there is takkalah and kalon*).

Rava attempts to bring a proof from a similar *Mishna*. The *Mishna* states: A boy who is nine years old and one day who cohabits with his *yevamah* has acquired her. However, he cannot give her a *get* until he becomes an adult. He becomes impure like a *niddah* to make what is underneath him impure as if he is sitting directly on top of it (*as explained above*). He can make a woman unfit to marry a *Kohen* (*if he is one of the people whom having relations with makes one unfit to marry a Kohen*). He cannot entitle a woman to eat *terumah* (*if he is a Kohen*) by cohabiting with her for the sake of marriage. If he cohabits with an animal, he disqualifies it from being brought as a *korban*, and it is stoned because of him. If he cohabits with anyone mentioned in the Torah who is forbidden to him, they are killed because of him. In this case, there is only *kalon* but not *takkalah*, and even so the animal is killed!

The *Gemora* answers: This is not a proof. Being that he did so deliberately, it is deemed that there is *takkalah*. The Torah merely had mercy on a minor not to kill them despite their



deliberate sinning. However, the Torah did not have mercy on the animal.

The *Gemora* attempts to prove that *takkalah* is sufficient from our *Mishna* (54a). The *Mishna* states: Another reason (*that the animal is executed*) is 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." Being that this other reason includes both *takkalah* (*the sinner's downfall*) and *kalon* (*degradation*), and the first reason only is due to *takkalah*, it must be that *kalon* alone is reason to kill the animal! [Otherwise, the *Mishna* should have only said the second reason.] What would be the case? It must be where a Jew would accidentally cohabit with an animal (*which is a case of degradation without downfall*).

While the second reason of the *Mishna* indeed includes *takkalah* and *kalon*, the first part is stated to teach that *takkalah* without *kalon* would be sufficient. What is such a case? It would be in a case where an idolater cohabited with an animal, as was asked to Rav Sheishes. (55a – 55b)

DAILY MASHAL

Sins of a Minor

The *Gemora* stated that a nine year old, who cohabited with anyone mentioned in the Torah who is forbidden to him, they are killed because of him.

The *Gemora* notes that since he did so deliberately, it is deemed that there is *takkalah* - downfall. The Torah merely had mercy on a minor not to kill them despite their deliberate sinning.

The Reshash writes that it would seem from our *Gemora* that even though Shulchan Aruch rules that a minor who damages someone is exempt from paying even after he becomes an adult, nevertheless, if he wishes to absolve himself from any penalties from Heaven, he is obligated to pay.

Similarly, the Ramah cites in the name of the Terumas Hadeshen that if a minor hits his father or violates any other transgression, even though he is not required to repent when he becomes an adult, nevertheless, it would be beneficial for him to accept upon himself any meritorious deed for repentance and atonement. This should be done even though he committed the transgression before he was old enough to incur any punishments.

The Magen Avraham says that proof to this can be brought from our *Gemora*, which states that there is degradation but not downfall.

The Sefer Chassidim writes that there was once a person who came to a sage and said that he remembers that in his youth (*when he was still a minor*), he would steal from people and commit other various sins. He commented that perhaps he does not need to repent at all, and it would not be necessary for him to repay the people who he stole from, for he was a minor at the time, and therefore, he was not responsible for his actions. The Sage told him that he is required to repent on all of the transgressions that he remembers and he is obligated to return all the stolen money. He brought proof from King Yoshiyahu, who repented on his sins and returned money to people that he judged incorrectly, even though he committed those transgressions as a minor.

Reb Chaim Vital writes in Shaar Hagilgulim that when he was a minor, he cursed his mother, and the Ari"zal instructed him to fast for three consecutive days and nights as part of a process to receive atonement for that sin.