

10 Tishrei 5778
Sept. 30, 2017



Sanhedrin Daf 76

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

The Wife of a Stepson

The Gemora asks: Just as his daughter-in-law is forbidden to him, so should the wife of his stepson be forbidden to him (*if we say that his wife’s relatives are considered his relatives*)!

Abaye answers: The verse says: *she is the wife of your son*. This implies that one is only liable for the wife of his son, not the wife of his stepson.

Rava answers: Whether this is according to the opinion that when we derive something from topic A to topic B, we essentially move topic A over to topic B, or whether this is according to the opinion that when we derive something from topic A to topic B, we only move over the detail derived without the general laws of topic A, this cannot be. He explains as follows: According to the first opinion, we would say that just as his daughter-in-law is forbidden to him, so should the wife of his stepson be forbidden to him. Additionally, we would say that just as his daughter-in-law is forbidden to him upon punishment of stoning, so should the wife of his stepson be forbidden to him upon punishment of stoning.

However, this cannot be. According to the opinion that stoning is more severe than burning we can ask that we see that there is a difference in punishment between him having relations with his mother and with her (*his wife’s*) mother. While he is punished by stoning for being with his mother, he is punished by burning for being with her mother. [*We therefore see that being with her relatives is*

less severe, and cannot derive that the punishment for being with his stepson’s wife should be as severe as for being with his daughter-in-law.] Additionally, why would he be punished with burning for being with her daughter, and receive a more severe death, stoning, for being with her daughter-in-law?

Rava counters that his second question does not seem difficult. He receives burning for being with his daughter, while he is stoned for being with his daughter-in-law!

Rather, Rava concludes that his question is as follows: Just as there is no difference between his mother and his daughter-in-law, so too there should be no difference regarding him being with her mother or her daughter-in-law!

According to the opinion that burning is more severe, the first question is inapplicable, but the second question is a reason not to be able to compare the two. [*This is because we cannot place all the details of the prohibition against one’s daughter-in-law into a prohibition against the wife of his stepson.*]

According to the second opinion, we would say that just as his daughter-in-law is forbidden to him, so should the wife of his stepson be forbidden to him. However, we would adjust the punishment to be fitting. We would say that while his daughter-in-law is forbidden to him upon punishment of stoning, the wife of his stepson should be forbidden to him upon punishment of burning, just as we

find that her mother is forbidden to him upon punishment of burning.

However, this cannot be. According to the opinion that stoning is more severe than burning, we can ask that we see that he is punished by stoning for being with his mother, while he is punished by burning for being with her mother! Additionally, if there is a difference in punishment between being with his daughter (*stoning*) and being with his daughter-in-law (*burning*), there should also be a difference between his being with her daughter and with her daughter-in-law (*both are burning*)!

According to the opinion that burning is more severe, the first question is inapplicable, but the second question is a reason not to be able to compare the two. (76a)

A Daughter From “Anusaso”

The *Gemora* asks: How do we know that one is liable for being with his daughter from “*anusaso*” (a woman that he raped)?

Abaye answers: This can be derived using a *kal vachomer*. If one is liable for being with his granddaughter, he is certainly liable on a daughter he had through rape!

The *Gemora* asks: Do we punish through deriving a *kal vachomer*?

The *Gemora* answers: This *kal vachomer* just points out that she is clearly his daughter, and this is why he is liable (*we are not really deriving this from a kal vachomer*).

Rava says: Rav Yitzchak bar Avdimi told me that we derive this using a *gezeirah shavah* of “*heinah - heinah*” (*teaching the prohibition*) and “*zimah -zimah*” (*teaching that the punishment should be burning*).

The father of Rabbi Avin taught: Being that they did not have another teaching for his daughter from rape, we had to have a teaching from the verse: *and the daughter of a man who is a Kohen*. [*Rashi explains that this is derived from the extra word man.*]

The *Gemora* asks: If so, just as a daughter of a *Kohen* is burned, but the one she had relations with is not burned, so too his daughter from rape should be burned and he should not be burned!

Abaye answers: The verse says: *she has profaned her father*. This refers to someone who profanes her father, as opposed to someone whose father profanes her.

Rava asks: This is understandable regarding a person who has relations with the daughter of a *Kohen*, as we exclude him from the laws regarding a *Kohen* and make it as if he had forbidden relations with a regular Jew. However, can we change this person’s law to that of a different category? Can we change her to a category of being a non-married woman? [*This will not help, as she is forbidden to him because of who she is, not her marital status!*]

The *Gemora* asks: Where do we see a warning against one being with his daughter from a woman that he raped? This is understandable according to Abaye and Rava. We derive the warning from the same (*i.e. similar*) place that we derive the punishment (*see above*). However, according to the teaching of the father of Rabbi Avin (*that this is derived from the daughter of a Kohen*), what is the source of the warning?

Rabbi Ila says: The verse says: *Do not profane your daughter to make her promiscuous*.

Rabbi Yaakov, the brother of Rabbi Acha bar Yaakov, asked: Is this what this verse comes to teach? Doesn’t it teach the lesson stated in the following *braisa*? The *braisa* states: *Do not profane your daughter to make her promiscuous*. One



might think this refers to a *Kohen* marrying off his daughter to a *Levi* or *Yisroel*. This is why the verse says: *to make her promiscuous*. This means profaning her through promiscuity, as in giving her over for someone to have relations with her without intent of marriage.

The *Gemora* answers: If this was the sole lesson derived from this verse, the verse could have said "*al tacheil*" -- "do not profane." Why did it say "*al techalel*?" This teaches us that we should derive both lessons.

The *Gemora* asks: What do Abaye and Rava derive from the verse: *Do not profane your daughter to make her promiscuous?*

Rabbi Mani answers: They derive that the second lesson is not to marry off one's young daughter (*against her will*) to an old man. [*This will cause her to be promiscuous with men closer to her age (see Halachic World Volume One, Parshas Nitzavim, for the parameters of this prohibition).*]

This is as the *braisa* states: *Do not profane your daughter to make her promiscuous*. Rabbi Eliezer says: This means one should not marry off his young daughter (*against her will*) to an old man. Rabbi Akiva says: This is someone who does not allow his daughter to get married (*she will become promiscuous; see Margaliyos Hayam's explanation of Rashi*).

Rav Kahana says in the name of Rabbi Akiva: There is no poor person in *Yisroel* besides a cunning evildoer and a person who does not allow his daughter to get married.

The *Gemora* asks: Isn't someone who does not allow his daughter to get married a cunning evildoer? [*He does not allow her to get married in order to save money on a housekeeper!*]

Abaye answers: Rather, he meant to say: who is a cunning evildoer? It is someone who does not allow his daughter to marry.

Rav Kahana also says in the name of Rabbi Akiva: Be wary of people who give you advice based on their way (*i.e. interests*).

Rav Yehudah says in the name of Rav: Regarding a person who marries off his young daughter (*against her will*) to an old man, takes a woman as a wife for his son who is a minor, and returns a lost item to an idolater, the verse says: *In order to connect the satiated with the thirsty, Hashem will not want to forgive him*.

The *Gemora* asks a question from a *braisa*. The *braisa* states: If someone loves his wife as himself, honors her more than himself, instructs his children in a straight way, and marries them off close to their coming of age (*implying when they are still minors*), the verse says about him: *And you will know that there is peace in your tent, and you will go to your house and you will not sin*.

The *Gemora* answers: Marrying off children close (*Rashi says between half a year to a year*) to their coming of age is different than marrying them off when they are not close to their coming of age.

The *braisa* states: If someone loves his neighbors, brings close his relatives, marries his sister's daughter, and lends a *sela* (*large coin*) to a poor person when he needs it, regarding him the verse says: *then you will call and Hashem will answer*.

The *braisa* states (*regarding a person who has relations with his mother-in-law*): *Him and them (es-hen)*. This means him and one of them; these are the words of Rabbi Yishmael. Rabbi Akiva says: Him and both of them. [*This argument will be explained below.*]



Abaye says: They argue regarding the implication of the verse. Rabbi Yishmael says: *Him and them* means him and one of them, as in Greek, the word "*hina*" means one (*and the verse here uses the word es-hen*). We derive that he is also prohibited in the mother of his mother-in-law from a different verse. Rabbi Akiva says: The verse means him and both of them. This is the source that the mother of one's mother-in-law is also forbidden.

Rava says: They argue regarding whether or not having relations with one's mother-in-law is punishable by death if the relations take place after the death of her daughter (*his former wife*). Rabbi Yishmael holds he is liable to be burned, while Rabbi Akiva says this is prohibited, but not punished with death. (76a – 76b)

Mishna

These are the ones who are killed by the sword: a murderer and the people of a subverted city. If a murderer hit his friend with a stone or metal object, or held him down in water or fire - if the victim dies, the perpetrator is a murderer. If he pushed him into water or fire and the victim could have risen and did not, he is not a murderer. If he commanded a dog or snake to attack him, he is exempt. If he physically caused a snake to bite someone and kill him, Rabbi Yehudah says that he is liable, while the *Chachamim* say that he is exempt (*from being killed*). (76b)

Murder Weapons

Shmuel says: Why doesn't the verse state *hand* regarding metal? This is because metal of any size can kill. The following *braisa* supports this statement. Rebbe says: It is known before He Who created the world that metal of any size can kill. This is why the Torah did not give an amount of how much metal is necessary to be deemed a killer. However, this is only in a case where the metal entered the person's body (*not from a hit with a metal object*). [*In such a case we would determine if it could have killed.*]

The *Mishna* discusses a case where a person held someone down in the water. The first and second cases of the *Mishna* teach a lesson. The first case teaches that even if he did not hold the person down in the water, being that he ensured that he cannot rise, he is liable. The second case teaches that even though he pushed him into the water, being that he could have walked out and did not, he is not liable.

The *Gemora* asks: How do we see this in the verse?

Shmuel says: The verse says: *or in hatred*. This includes someone who made sure a person could not get up. (76b)

INSIGHTS TO THE DAF

Marrying an Old Man

Reb Muttel was not sure what to do. On the one hand, his daughter simply had no luck with *shidduchim*, and she was already thirty-nine. On the other hand, though the potential *shidduch* his daughter was now being offered was a person who was well known to be a tremendous Tzadik, and a kind and wealthy person, he thought that marrying off his daughter to someone thirty five years older than her might be transgressing the *Gemora* that says that one should not marry off his daughter to an older person. As any Torah abiding person would do when he was unclear about a certain *Halachah*, he went to ask his Rav to advise him as to whether or not the *Shidduch* was permitted.

The *Gemora* says that three types of people transgress the verse of "*Lemaan Sefos Haravah Es HaTzemei'ah*" - "In order to add the watered upon the thirsty." One of them is someone who marries off his daughter to an old man. The Shulchan Aruch rules that this is also a prohibition against a young man marrying an old woman. The reason for the prohibition is that the younger partner will not be satisfied with the relationship, and will probably end up acting in a



promiscuous fashion.

The Sefer Chasidim says that this is a prohibition against being “married off” to an old man. If a woman wants to marry an old man - for example, if she wants to do so because she wants to be the wife of a *Tzadik* - she would be permitted to do so. This Sefer Chasidim is quoted by the Beis Shmuel and Chelkas Mechokek.

There seem to be at least two clear proofs to the Sefer Chasidim. We know that Rus married Boaz, who was extremely old at that time. Additionally, we find in Avos D'Rebbi Nasan (ch.16) that Rabbi Eliezer was already an old man when his young niece wanted to marry him. After he tried to discourage her and she still insisted, he agreed to marry her.

The Aruch HaShulchan qualifies the Sefer Chasidim. He explains that even if the girl readily agrees to the marriage, if *Beis Din* sees that the woman's motives are to share (or take over) her husband's wealth, it is not appropriate to perform such a wedding. Being that she is not really interested in the marriage, she will end up being unfaithful to her husband.

Conclusion: It is permitted for a woman to marry an old man if we see that the reason for her agreement to the marriage is worthy. One is not allowed to pressure his daughter into such a marriage against her will.

DAILY MASHAL

A certain Kehilla was very lax in the observance of several mitzvos, which caused the Rav to consistently admonish them. Some members did not like being criticized and made a comment that their Rav was certainly not like R' Levi of Berditchev, who was famous for always focusing on a person's positive behavior. The Rav pointed out that on Yom Kippur, the Kohen Gadol would not wear Bigdei Zahav (gold clothing) when entering the Kodesh Kodashim, to

avoid “reminding” Hashem about the sin of the Eigel HaZahav. However, when the Kohen Gadol processed the Korbanos outside the Kodesh Kodashim on Yom Kippur, he did wear the Bigdei Zahav. Why would he do that, if it was a reminder to be avoided? The reason was that when the Kohen Gadol appeared alone before Hashem in the Kodesh Kodashim, his job was to awaken Hashem's mercy for Bnei Yisroel. Wearing a reminder of the Eigel is not a good idea. However, when busy with Korbanos, he wore the Bigdei Zahav in front of Bnei Yisroel to remind them of their sinful history, to awaken them to do Teshuvah. “I too daven everyday before Hashem to have mercy on my Kehillah, pointing out the positive things that you do. However, my role also includes helping the Kehillah to improve itself. To do so I must point out your failings, but only to you”.