

**The Soncino Babylonian Talmud**

**Book III**

**Folios 46a-66b**



**SANHEDRIN**

**TRANSLATED INTO ENGLISH  
WITH NOTES**

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# SANHEDRIN - 46a-66b

## Sanhedrin 46a

Since, however, they are separated from each other, it has the effect of including an idolater,<sup>1</sup> who is like him, [the blasphemer] in every respect. 'Whilst R. Eliezer employs [the rule of] extension and limitation.' [Thus:] And if he be put to death then thou shalt hang him is an [indefinite] extension; for he is hanged because of a curse ... is a limitation. Now, had these two clauses been placed beside each other, we should have extended the law only to an idolater, who is similar to him in every respect. Since, however, they are separated from each other, it has the effect of extending [the law] to all who are stoned.<sup>2</sup>

A MAN IS HANGED, etc. What is the Rabbis' reason? — Scripture states, then the shalt hang him — 'him',<sup>3</sup> but not her.<sup>4</sup> And R. Eliezer?<sup>5</sup> — 'Him' implies without his clothes. And the Rabbis?<sup>6</sup> — [They admit that] that indeed is so; but Scripture says, And if a man have committed a sin,<sup>7</sup> implying, a man, but not a woman. And R. Eliezer, — how does he interpret the words, And if a man have committed? — Resh Lakish answered: As excluding a stubborn and rebellious son<sup>8</sup> [from that mode of execution]. But has it not been taught: A stubborn and rebellious son is stoned and [afterwards] hanged: so says R. Eliezer? — But, said R. Nahman b. Isaac: [He interprets it] as including a stubborn and rebellious son. How so?<sup>9</sup> — Scripture says, As if a man has committed a sin — 'a man,' but not a son; 'a sin' implies one who is executed for his [present] sin, thus excluding a stubborn and rebellious son, who is executed on account of his ultimate destiny.<sup>10</sup> So we have one exclusion following another, and such always indicates inclusion.<sup>11</sup>

WHEREUPON R. ELIEZER SAID TO THEM: BUT DID NOT SIMEON B. SHETAH HANG, etc. R. Hisda said: They taught this<sup>12</sup> only of two different death penalties,<sup>13</sup> but if a single mode of execution is

involved, they [two charges] may be tried [on the same day]. But in the instance of Simeon b. Shetah, only one mode of execution was involved, and yet [the Sages] said to him<sup>14</sup> that the cases should not [legally] have been tried! — But if a statement was made, it was made thus: They taught this only of a single death penalty appearing as two. And how can that be? E.g., [when one is accused of] two different transgressions.<sup>15</sup> But cases dealing with the same transgression and the same mode of execution may be tried.<sup>16</sup>

R. Adda b. Ahabah raised an objection: 'Two [capital] cases may not be tried in one day; not even that of an adulterer and his paramour?'<sup>17</sup> R. Hisda explained this as referring to the daughter of a priest and her paramour;<sup>18</sup> or to the daughter of a priest and the refuters of the refuting witnesses.<sup>19</sup>

It has been taught: R. Eliezer b. Jacob said: I have heard<sup>20</sup> that the *Beth din* may, [when necessary,] impose flagellation and pronounce [capital] sentences even where not [warranted] by the Torah; yet not with the intention of disregarding the Torah but [on the contrary] in order to safeguard it.<sup>21</sup> It once happened that a man rode a horse on the Sabbath in the Greek period and he was brought before the Court and stoned, not because he was liable thereto,<sup>22</sup> but because it was [practically] required by the times.<sup>23</sup> Again it happened that a man once had intercourse with his wife under a fig tree.<sup>24</sup> He was brought before the *Beth din* and flogged, not because he merited it,<sup>25</sup> but because the times required it.<sup>26</sup>

*MISHNAH.* HOW IS HE HANGED?<sup>27</sup> — THE POST IS SUNK INTO THE GROUND WITH A [CROSS-] PIECE BRANCHING OFF [AT THE TOP].<sup>28</sup> AND HE<sup>29</sup> BRINGS HIS HANDS TOGETHER<sup>30</sup> ONE OVER THE OTHER AND HANGS HIM UP [THEREBY]. R. JOSE SAID: THE POST IS LEANED AGAINST THE WALL,<sup>31</sup> AND HE HANGS HIM UP AFTER THE FASHION OF BUTCHERS. HE IS IMMEDIATELY AFTERWARDS LET DOWN.

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IF HE IS LEFT [HANGING] OVER NIGHT, A NEGATIVE COMMAND IS THEREBY TRANSGRESSED, FOR IT IS WRITTEN, HIS BODY SHALL NOT REMAIN ALL NIGHT UPON THE TREE, BUT THOU SHALT SURELY BURY HIM THE SAME DAY FOR HE IS HANGED [BECAUSE OF] A CURSE AGAINST GOD,<sup>32</sup> — AS IF TO SAY WHY WAS HE HANGED? — BECAUSE HE CURSED THE NAME [OF GOD]; AND SO<sup>33</sup> THE NAME OF HEAVEN [GOD] IS PROFANED.<sup>34</sup> R. MEIR SAID:<sup>35</sup> WHEN MAN SUFFERS,<sup>36</sup> WHAT EXPRESSION DOES THE SHECHINAH<sup>37</sup> USE? — MY HEAD IS TOO HEAVY FOR ME, MY ARM IS TOO HEAVY FOR ME.<sup>38</sup> AND IF GOD IS SO GRIEVED OVER THE BLOOD OF THE WICKED THAT IS SHED, HOW MUCH MORE SO OVER THE BLOOD OF THE RIGHTEOUS! AND NOT ONLY OF THIS ONE [A CRIMINAL,] DID THEY [SC. THE SAGES] SAY IT,<sup>39</sup> BUT WHOSOEVER LETS HIS DEAD LIE OVER NIGHT TRANSGRESSES A NEGATIVE COMMAND.<sup>40</sup> IF HE KEPT HIM OVER NIGHT FOR THE SAKE OF HIS<sup>41</sup> HONOUR, TO PROCURE FOR HIM A COFFIN OR A SHROUD, HE DOES NOT TRANSGRESS THEREBY. AND THEY DID NOT BURY HIM [THE EXECUTED PERSON] IN HIS ANCESTRAL TOMB, BUT TWO BURIAL PLACES WERE PREPARED BY THE *BETH DIN*, ONE FOR THOSE WHO WERE DECAPITATED OR STRANGLERED, AND THE OTHER FOR THOSE WHO WERE STONED OR BURNED. WHEN THE FLESH WAS COMPLETELY DECOMPOSED, THE BONES WERE GATHERED AND BURIED IN THEIR PROPER PLACE.<sup>42</sup> THE RELATIVES THEN<sup>43</sup> CAME AND GREETED THE JUDGES AND WITNESSES, AS IF TO SAY, WE HAVE NO [ILL FEELINGS] AGAINST YOU IN OUR HEARTS, FOR YE GAVE A TRUE JUDGMENT.

1. The separation indicates that the rule of the general and particular is not to be applied in the usual way to limit the law solely to the thing specified, but to extend it to some similar thing.
2. Whatever their offence.
3. A man.
4. A woman.
5. How does he interpret the verse?

6. Do they not agree with the interpretation given by R. Eliezer; whence then do they deduce the exemption of a woman from hanging?
7. Deut. XXI, 22, which is the introduction to the passage under discussion,
8. The term 'man' is used of one who has reached the age of thirteen, and one cannot be declared rebellious once he has reached that age. V. *infra* 68b.
9. Surely 'man' implies the reverse, if anything.
10. V. *infra* 72a, top.
11. V. p. 71, n. 7. Hence this includes a rebellious son.
12. That two capital cases may not be tried on one day by the same court.
13. Because where the crimes committed are different, the mitigating circumstances cannot be carefully brought forward to a hasty discussion.
14. R. Eliezer, in answer to his remark.
15. E.g., the desecration of the Sabbath and idolatry, although both are punishable by the same penalty — stoning. Two such cases may not be tried on the same day. All the more so cases involving two different modes of execution may certainly not be tried on the same day.
16. But in the instance of Simeon the son of Shetah the women were convicted for what Scripture regards as two different branches of witchcraft, viz., necromancy and charming. Cf. Lev. XX, 27; hence the Rabbis remarked that his action was illegal, but that it was done in an emergency.
17. Tosef, Sanh. VII. Although it is one transgression involving the same penalty; moreover, the crime of both consisted in the single identical act.
18. Whose executions are not similar. The woman is punished by burning (Lev. XXI, 9) and the man by strangulation if she be a nesu'ah, or by stoning, if she be an arusah (v. *Glos.*).
19. E.g., if A and B, who gave evidence against the daughter of a priest, were refuted by C and D, and the latter were afterwards themselves refuted by E and F, the woman undergoes her due death penalty — burning — since her refuting witnesses C and D were proved to be collusive, and the false witnesses are punished by the same penalty as the male adulterer (strangulation or burning, according to the status of the woman). V. *infra* 90a.
20. From my teachers.
21. Lit., 'to make a fence round it.'
22. The prohibition against riding on the Sabbath is only a 'shebuth', i.e., a Rabbinical injunction. Cf. Bezah. 37a M.

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23. During the time that Palestine was under Greek rule there was great laxity in the Jews' adherence to their religion, and stringent measures had to be adopted to enforce observance (Rashi). [Cf. Derenbourg, Essai, p. 107.]
24. I.e., in public.
25. The law does not prescribe this punishment for such improper conduct.
26. I.e., loose morals prevailed at the time.
27. After being stoned.
28. This bears no resemblance at all to crucifixion. Cf. Rabbinowicz, *Legislation criminelle du Talmud*, p. 111: What a difference between this hanging after death, where the executed man had both his hands tied and did not remain one minute upon the gallows, and the Supplicium, which the Romans inflicted upon Jesus, who was nailed to the cross whilst alive, with his hands on the cross, and left hanging on the gallows all day.
29. The first witness, Krauss, *loc. cit.*
30. [ [H], Me'iri reads [H] ]
31. And not fixed into the ground.
32. Deut. XXI, 23. [H] is interpreted by the Mishnah as an objective genitive — 'a curse against God'.
33. If his body be left hanging a considerable time, thus reminding men of his blasphemy.
34. Man's sin reflecting, in a manner of speaking, on God.
35. In interpretation of the words [H].
36. In consequence of sin, as those are who are executed in this instance.
37. The word [H] is omitted in most editions of the Mishnah. Where it is omitted, the definite article is added to the word [H], and the phrase is translated, 'When man suffers, what does the tongue say?' [The tongue stands for the Divine, and some texts accordingly add here, 'if it could be said', [H].]
38. V. Gemara. The phrase is intended to express how painful it is to God when His children suffer, even though they may deserve punishment for their iniquities, as a father would deplore the pain of his sinful son.
39. I.e., that the corpse must not be left hanging over night.
40. Mentioned above.
41. 'HIS' is ambiguous, and the Talmud on 47a discussed to whom it refers.
42. I.e., the family vault.
43. Soon after the execution.

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AND THEY OBSERVED NO MOURNING RITES<sup>1</sup> BUT GRIEVED [FOR HIM],<sup>2</sup> FOR GRIEF IS BORNE IN THE HEART ALONE.

**GEMARA.** Our Rabbis taught: Had it been written, 'If he has sinned, then thou shalt hang him,' I should have said that he is hanged and then put to death, as the State does.<sup>3</sup> Therefore Scripture says, And he be put to death, then thou shalt hang him — he is first put to death and afterwards hanged. And how is this done? — It [the verdict] is delayed until just before sunset. Then they pronounce judgment and put him [immediately] to death, after which they hang him; One ties him up and another unties [him],<sup>4</sup> in order to full the precept of hanging.

Our Rabbis taught: [Then thou shalt hang him on] a tree:<sup>5</sup> this I might understand as meaning either a cut or a growing tree; therefore Scripture states, Thou shalt surely bury him:<sup>6</sup> [thus, it must be] one that needs only burial,<sup>7</sup> so excluding that which needs both felling and burial.<sup>8</sup> R. Jose said; [It must be] one that needs only burial, thus excluding that which requires both detaching and burial.<sup>9</sup> And the Rabbis?<sup>10</sup> — Detaching is of no consequence.<sup>11</sup>

AS IF TO SAY WHY WAS HE HANGED? — BECAUSE HE CURSED, etc. It has been taught: R. Meir said: A parable was stated, To what is this matter comparable? To two twin brothers [who lived] in one city; one was appointed king, and the other took to highway robbery. At the king's command they hanged him. But all who saw him exclaimed, 'The king is hanged!'<sup>12</sup> whereupon the king issued a command and he was taken down.

R. MEIR SAID, etc. How is that implied?<sup>13</sup> — Abaye answered: It is as though one said: It is not light.<sup>14</sup> Raba objected: If so, he [the Tanna] should have said: My head is heavy upon me, my arm is heavy upon me!<sup>15</sup> Raba



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therefore explained it thus: It is as though one said: Everything is light<sup>16</sup> to me. But this [the word Kilelath] is needed for its own purpose!<sup>17</sup> — If so, Scripture should have stated 'mekallel':<sup>18</sup> why 'kilelath'!<sup>19</sup> Then perhaps the entire verse was written for that purpose?<sup>20</sup> — If so, it should have stated, 'killath':<sup>21</sup> why 'kilelath'.<sup>22</sup> Hence both [meanings] are inferred from it.

AND NOT ONLY OF THIS ONE, etc. R. Johanan said on the authority of R. Simeon b. Yohai: Whence is it inferred that whoever keeps his dead [unburied] over night transgresses thereby a negative command?<sup>23</sup> — From the verse, Thou shalt surely bury him;<sup>24</sup> whence we learn that he who keeps his dead [unburied] over night transgresses a prohibitory command. Others state: R. Johanan said on the authority of R. Simeon b. Yohai: Where is burial [as a means of disposing of the dead] alluded to in the Torah? — In the verse, Thou shalt surely bury him: here we find an allusion to burial in the Torah.

King Shapor<sup>25</sup> asked R. Hama: From what passage in the Torah is the law of burial derived? The latter remained silent, and made no answer. Thereupon R. Aba b. Jacob exclaimed: The world has been given over into the hands of fools, for he should have quoted, For thou shalt bury!<sup>26</sup> — [That is no proof, since] it might merely have meant, that he should be placed in a coffin!<sup>27</sup> But it is also written, Bury, thou shalt bury him.<sup>28</sup> — He [King Shapor] would not have understood it thus.<sup>29</sup> Then he should have proved it from the fact that the righteous were buried!<sup>30</sup> — [He might object.] That was merely a general custom.<sup>31</sup> Well then, from the fact that the Holy One, blessed be He, buried Moses!<sup>32</sup> — But, [he might answer,] that was so as not to depart from the general custom. But come and hear! And all Israel shall make lamentation for him and they shall bury him.<sup>33</sup> — That [too] might have been done so as not to depart from the general custom. [But again it is written,] They shall not be lamented, neither shall they be buried; they

shall be as dung upon the face of the ground?<sup>34</sup> — The purpose of that, however, might have been to depart from the established custom.<sup>35</sup>

The scholars propounded: Is burial [intended to avert disgrace,<sup>36</sup> or a means of atonement?<sup>37</sup> What is the practical difference? If a man said, 'I do not wish myself<sup>38</sup> to be buried.' If you say that it is to prevent disgrace, then it does not depend entirely upon him;<sup>39</sup> but if it is for atonement, then in effect he has declared, 'I do not desire atonement.'<sup>40</sup> What [then is its purpose]? Come and hear! 'From the fact that the righteous were buried.' If then you say that it is for atonement — are the righteous in need thereof? Even so, for it is written, For there is not a righteous man upon earth who doeth good and sinneth not.<sup>41</sup>

Come and hear! [It is written,] *And all Israel shall make lamentations for him, and they shall bury him, for only he of Jeroboam shall come to the grave.*<sup>42</sup> Now should you assert [that burial] is for the attainment of forgiveness, then the others too should have been buried, that there might be atonement for them? — This one [sc. Abijah], who was righteous, deserved to find forgiveness, but the others were not [worthy] to attain it.

Come and hear! They shall not be lamented neither shall they be buried.<sup>43</sup> — [It may be precisely] in order that there might be no atonement for them.

The scholars asked: Is the funeral oration in honor of the living or of the dead? What is the practical difference? If the deceased had said, Pronounce no funeral oration over me;<sup>44</sup> or again in respect of collecting [the cost] from the heirs!<sup>45</sup> — Come and hear! And Abraham came<sup>46</sup> to mourn for Sarah and to weep for her.<sup>47</sup> Now, should you maintain that it is no honor of the living: in that case for Abraham's honor he delayed Sarah's [burial]! — [There] Sarah herself was pleased that Abraham should attain honor through her.

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Come and hear! *And all Israel shall make lamentation for him and they shall bury him:*<sup>48</sup>

If you say that it is in honor of the living, were these [Abijah's relatives] worthy of honour?<sup>49</sup> — It is pleasing to the righteous that people<sup>50</sup> should be honored through them.

Come and hear! They shall not be lamented neither shall they be buried!<sup>51</sup> — The righteous do not wish to be honored through evil-doers.

Come and hear! They shall die in peace, and with the burnings of thy fathers, the former kings that were before thee, so shall they make a burning for thee, and they shall lament thee, saying Ah! Lord.<sup>52</sup> Now if you maintain that it is in honor of the living, of what consequence was this to him?<sup>53</sup> — He spoke this to him: Israel will be honored through thee, as they were honored through thy parents.<sup>54</sup>

1. E.g., the seven and thirty days and the twelve months, v. M. K. 20a.
2. As, in ordinary cases, before the burial.
3. V. *supra* p. 304, n. 2.
4. I.e., no sooner is he hung up, than he is untied and taken down.
5. Deut. XXI, 22.
6. The need of burial for the post is deduced from the strengthening of the idea of the verb by the infinitive, [H], v. *supra* 45b.
7. Such as a detached post.
8. E.g., a growing tree.
9. I.e., excluding a post which is driven into the earth, because it must be detached thence before it can be buried. Therefore he maintains that it must not be fixed in the ground, but merely leaned against the wall.
10. Do they not admit the justice of R. Jose's arguments, and if so, why do they assert that the post is driven into the earth?
11. I.e., it is not a weighty action which constitutes a real delay of burial.
12. Being twins their appearance was similar. So man has some resemblance to God, having been created in His image. Cf. Gen. V, 1.
13. R. Meir's explanation of the word [H].
14. [H].
15. Using the positive adjective [H] instead of the negative, 'not light'.
16. Euphemistically for heavy, as no one is inclined to speak evil in connection with his own person. (Rashi). Kohut explains it as meaning that when one is in trouble he cannot pull himself together, and is in a state of light headedness or giddiness. V. 'Aruch. vol. VII, p. 90, n. 4.
17. As indicating that the law refers to a 'blasphemer', v. *supra* p. 300, n. 4.
18. Which is the exact Hebrew for 'blasphemer'; (cf. Lev. XXIV, 14: *Bring forth him that hath cursed*, i.e., the blasphemer — Heb. [H]).
19. Which, though it may mean 'a curse (against God),' (v. p. 304, n. 6), is not as unambiguous as *mekallel*. Hence it must have been chosen because both meanings can be understood in it.
20. Which R. Meir deduces from it, according to Raba; how then do I know that it refers to a blasphemer at all? It may refer to any criminal.
21. [H]; 'the lightness of'.
22. Which also implies blasphemy.
23. His body shall not remain all night: Deut. XXI, 23, which in the first place was stated in reference to those executed by the Court.
24. The infinitive indicates that the command concerns all dead, not only those executed by the Court.
25. [Shapor II, King of Persia, 359-380, transferred the royal residence to Csetifon, and there came in contact with Jewish sages, v. Obermeyer, op. city., p. 175.]
26. Ibid. 23.
27. Lit., 'that a coffin should be made for him.' The verse does not necessarily imply that the corpse must be placed in the ground — so, at least, it might be urged.
28. [H], and the emphatic infinitive must imply burying in the earth.
29. I.e., a Gentile would not have understood the principle underlying the deduction.
30. Thus it is related in Scripture that the Patriarchs were buried.
31. Prior to the giving of the law, and so has no basis in the Torah.
32. Cf. Deut. XXXIV, 6.
33. I Kings XIV 13, with reference to Abijah the son of Jeroboam I, King of Israel, who was seriously ill. The fact that he would come to his grave in peace and be mourned by all Israel was foretold to his mother by the Prophet Ahijah, whom she consulted respecting his recovery. Hence it is evident that burial was an established practice after the giving of the law also.
34. Jer. XVI, 4. Hence non-burial was regarded as a punishment for the wicked.
35. Which would thus be a great disgrace. Kohut accounts for this discussion being raised on the part of the Persian King Shapor by the

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fact that the ancient Persians regarded burial as a desecration of the soil, which they looked upon as sacred. V. 'Aruch. Vol. I, p. 271 s.v. [H].

36. Decomposition and putrefaction make the dead loathsome: burial may be intended to spare them and their relatives the disgrace.
37. For the sins committed during life-time Cf. *infra* 47a, where it is stated that the process of decay in the earth is a means of expiation.
38. Lit., 'that man'.
39. Because his relatives are humiliated along with him.
40. And so, even if he is buried, he does not attain forgiveness.
41. Eccl. VII, 20
42. I Kings XIV, 13, referring to Abijah, the son of Jeroboam.
43. Jer. XVI, 4, i.e., if burial is a means of expiation, why should they too not attain it?
44. If it is in honor of the living, he has no power to object; on the other hand, the heirs can then dispense with it.
45. If it is in honor of the dead, they are obliged to pay for a funeral oration, even against their desire,
46. From Mt. Moriah, the scene of the binding of Isaac.
47. Gen XXIII, 2.
48. I Kings XIV, 13.
49. Seeing that the whole family of Jeroboam, with the exception of Abijah, were wicked.
50. I.e., the people as a whole even outside the immediate family circle.
51. Jer. XVI, 14. If lamentation is in honor of the living, why were the righteous who survived them deprived of that honor?
52. Jer. XXXIV, 5; a prophecy to Zedekiah, the last king of Judah.
53. Zedekiah, that Israel would be honored.
54. It may be observed, both here and in the following passage, that if the deceased is a king, the honor of the living, if that is the purpose of the funeral eulogy, extends beyond his immediate family circle and embraces the people as a whole.

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Come and hear! In whose eyes a vile person is despised<sup>1</sup> — this refers to Hezekiah, king of Judah, who had his father's remains dragged upon a pallet made of ropes.<sup>2</sup> But if it [the respect paid to the dead] is in honor of the living, why [did he do so]?<sup>3</sup> — It was in order that his father might obtain forgiveness. And for the sake of his father's atonement he

disregarded<sup>4</sup> the honor of Israel! — Israel itself was pleased to have its honor violated for his sake.

Come and hear! He<sup>5</sup> said to them:<sup>6</sup> Do not hold funeral orations over me in the [small] towns.<sup>7</sup> Now, should you maintain that it is in honor of the living, what did it matter to him? — He wished that Israel might be honored through him, in greater measure.

Come and hear! IF HE KEPT HIM OVER NIGHT FOR THE SAKE OF HIS HONOUR, TO PROCURE FOR HIM A COFFIN OR A SHROUD HE DOES NOT TRANSGRESS THEREBY. Now surely that [sc. FOR THE SAKE OF HIS HONOUR] means, for the honor of the dead?<sup>8</sup> — No: for the honor of the living. And for the sake of the honor of the living the dead is to be kept overnight! — Yes When did the Merciful One say, His body shall not remain all night upon the tree,<sup>9</sup> only in a case similar to be hanged, where it [the keeping of the corpse] involves disgrace;<sup>10</sup> but here, where there is no disgrace<sup>11</sup> it does not apply.

Come and hear! If he [the relative] kept him overnight for his own honor, so as to inform the [neighboring] towns of his death, or to bring professional women mourners for him,<sup>12</sup> or to procure for him a coffin or a shroud, he does not transgress thereby, for all that he does is only for the honor of the deceased!<sup>13</sup> — What he [the Tanna] means is this: Nothing that is done for the honor of the living involves dishonor to the dead.

Come and hear! R. Nathan said: It is of good omen for the dead when he is punished [in this world] after death. E.g., if one dies and is not mourned, or [properly] buried, or if a wild beast drags him along, or if rain drips down on his bier, it is a good omen for him.<sup>14</sup> We may infer therefore from this that the funeral rites are in honor of the dead.<sup>15</sup> This proves it.

AND THEY DID NOT BURY HIM, etc. And why such severity?<sup>16</sup> — Because a wicked man may not be buried beside a righteous

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one. For R. Aha b. Hanina said: Whence is it inferred that a wicked man may not be buried beside a righteous one? — From the verse, And it came to pass as they were burying a man that behold they spied a band and they cast the man into the sepulcher of Elishah, and as soon as the man touched the bones of Elishah, he revived and stood up on his feet.<sup>17</sup> Said R. Papa to him, Perhaps that was only to fulfill [the request], Let a double portion of thy spirit be upon me?<sup>18</sup> — Thereupon he retorted: If so, what of that which was taught: [He only] arose on his feet, but did not return home?<sup>19</sup> Then what of, Let a double portion of thy spirit, etc. where is it found that he resurrected [two people]? — As R. Johanan said: He healed the leprosy of Naaman,<sup>20</sup> which is the equivalent of death, as it is written, Let her not, I pray Thee, be as one dead.<sup>21</sup>

And just as a wicked person is not buried beside a righteous one, so is a grossly wicked person not to be buried beside one moderately wicked. Then should there not have been four graveyards?<sup>22</sup> — It is a tradition that there should be but two.

'Ulla said in R. Johanan's name: If one ate forbidden fat<sup>23</sup> and thereupon dedicated a sacrifice,<sup>24</sup> abjured his faith, but subsequently returned, since it [the offering] has [once] been invalidated,<sup>25</sup> it remains so. It has been stated likewise: R. Jeremiah said in the name of R. Abbahu in R. Johanan's name; If one ate forbidden fat and thereupon dedicated a sacrifice, became insane, but later recovered, since it [the sacrifice] has once been invalidated,<sup>26</sup> it remains so. And both rulings are necessary. For had he taught us the first one only, [one might have assumed that] it is because he had rendered himself unfit [to offer a sacrifice] by his own action;<sup>27</sup> but as for the latter case [insanity], where he was automatically unfitted, I might say that he is [merely] as a person who has slept [in the meantime].<sup>28</sup> Again, had he taught us only the latter, [one might have thought that] it was because it was not in his power to recover; but there [in the case of apostasy],

since it was in his power to return, one might say that it does not [remain invalidated]. Both rulings are therefore necessary.

R. Joseph said: We too have learnt similarly: If there are holy objects therein,<sup>29</sup> that which is dedicated to the altar [i.e.. sacrifices] must die;<sup>30</sup> to the Temple repair, must be redeemed.<sup>31</sup> Now we pondered thereon, Why should they die? Since they [the inhabitants of the condemned city] are executed, they obtain forgiveness: should they [the sacrifices] not then be offered to Heaven!<sup>32</sup> Surely then is it not so because we hold that once invalidated, they remain so? Abaye retorted; Do you then think that he who dies in his wickedness obtains forgiveness [by his death]? Nay, he who dies in his wickedness does not obtain forgiveness, for R. Shemaiah learnt: One might have thought that even if his [the priest's] parents had dissociated themselves from the practices of the congregation,<sup>33</sup> he [the priest] may defile himself;<sup>34</sup> but Scripture states, among his people<sup>35</sup> teaching, that it is so provided he [the parent] has followed the practices of his people.<sup>36</sup> Said Raba to him: Dost thou compare one who was executed in his wickedness to one who died in his wickedness? In the latter case, since he dies a natural death, he attains no forgiveness;<sup>37</sup> but in the former, since he does not die a natural death, he obtains forgiveness [by the mere execution]. In proof thereof, it is written, A Psalm of Asaph, O God, the heathen are come into Thine inheritance; they have defiled Thy Holy Temple... They have given the dead bodies of Thy servants to be food unto the fowls of the heaven; the flesh of Thy saints onto the beasts of the earth.<sup>38</sup> Who are meant by 'Thy servants,' and who by 'Thy saints'? Surely 'thy saints' means literally, saints, whereas, 'thy servants' means those who were at first liable to sentence [of death], but having been slain, are designated 'servants'.<sup>39</sup> Abaye retorted: Would you compare

1. Ps. XV, 4. in answer to the question in verse 1: Who shall sojourn in Thy Tabernacle?



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2. A rude bed made out of ropes so depriving him of a kingly burial, his object being to show that the deceased deserved contempt because of his wickedness in spreading heathendom in Israel. The act could not be viewed as transgression of the fifth commandment, as the latter does not apply to a father who is wicked. — V. Yeb. 22b on the verse, Nor curse a prince among thy people (Ex. XXII, 27). — Again, he did not consider his own honor, as is deduced from the verse quoted above.
3. Surely he had no right to deprive the living of their due.
4. Lit., 'delayed'.
5. R. Judah, the Prince (135-220 C.E.), who died in Sepphoris and was carried to Beth She'arim for burial. V. Keth. 103a.
6. His sons. So Rashi. From the context in Keth. it appears that the request among other testamentary wishes, was made to the Sages.
7. But only in the more important towns where there would be larger audience.
8. Hence it follows that anything done in connection with the dead is for the honor of the dead.
9. Deut. XXI, 22, in connection with the criminal from whom this procedure has been deduced for all other dead.
10. I.e., the longer the body remains exposed, the greater the disgrace; and even in the case of an ordinary person, if the funeral is delayed without cause, but simply out of neglect, it is likewise accounted a disgrace to the dead, therefore it is forbidden.
11. The delay not being due to neglect (v. preceding note), but to the needs of the living.
12. V. Jer. IX, 16, and cf. M. K. III, 9.
13. Hence it follows that funeral orations are for the deceased's honor.
14. That his sins will be forgiven.
15. For otherwise why should any such disgrace have an atoning effect?
16. As to have two burial grounds.
17. II Kings XIII, 21. According to tradition, the man buried was the old prophet of Beth-El (I Kings XIII, 1; v. *infra* p. 312, and note a.l.). Hence it is seen that it is not the Divine Will to have a wicked man buried with a righteous.
18. II Kings II, 9. This was Elishah's request of Elijah. Hence, since the latter had restored one person from death (cf. I Kings XVII, 22), Elishah should have restored two, whereas he had as yet restored but one — the son of the Shunamite (II Kings IV) Thus this incident does not prove that a wicked man may not be buried beside a good man.
19. I.e., he did not live for more than a few minutes: surely that is not a fulfillment! Hence the reason of the man's momentary resurrection must have been because the wicked must not be buried beside the righteous.
20. V. II Kings V.
21. Num XII, 12, with reference to Miriam, who was stricken with leprosy.
22. One for each mode of execution since these varied in severity.
23. V. Lev. III, 17.
24. To atone for his sin. Cf. Lev. IV, 27-28.
25. Lit., 'repelled'. Sacrifices are not accepted from apostates Cf. Hul. 5b.
26. Because he lacked the intelligence to be cognizant of his doing. v. 'Ar. 21a.
27. In becoming a apostate.
28. Where no suspension is caused by the normal intermediary gap in one's intelligent consciousness.
29. The condemned city, all the property of which save holy things, have to be destroyed. Deut XIII, 16.
30. Even though not destroyed, they cannot be offered, v. *infra* 112b.
31. Just as all other objects intended for the repair-fund.
32. Lit., 'the (most) High'. Since after death their offerings cannot be classed as offerings of the wicked
33. E.g., if they (the parents) had been apostates.
34. Through their dead bodies, attending in their funerals, etc.
35. The whole passage reads: 'Speak unto the priests the sons of Aaron, and say unto them, There shall none be defiled for the dead among his people. But for his kin, that is near unto him, that is, for his mother, and for his father, etc. Lev. XXI, 1-2. By linking 'among his people' (as interpreted here) with the following verse, 'But for his kin, etc.' it is deduced that only then may a priest defile himself, but not if his parents were, e.g., apostates.
36. Hence death does not bring forgiveness if one had died in his wickedness.
37. By mere death without repentance.
38. Ps. LXXIX, 1-2.
39. Having attained expiation through execution.

## Sanhedrin 47b

those who are slain by a [Gentile] Government,<sup>1</sup> to those who are executed by the *Beth din*? The former, since their death is not in accordance with [Jewish] law, obtain forgiveness; but the latter, whose death is justly merited, are not [thereby] forgiven. This can also be proved from what we learnt:

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THEY DID NOT BURY HIM IN HIS ANCESTRAL TOMB. And if you should imagine that having been executed, he attains forgiveness: he should be buried [with his fathers]! — Both death and [shameful] burial<sup>2</sup> are necessary [for forgiveness].<sup>3</sup>

R. Adda b. Ahabah objected: THEY OBSERVED NO MOURNING RITES, BUT GRIEVED FOR HIM FOR GRIEF IS BORNE ONLY IN THE HEART. But should you think that having been [shamefully] buried, he attains forgiveness, they should observe mourning rites! — The decay of the flesh too is necessary.<sup>4</sup> This also follows from what he [the Tanna] teaches: WHEN THE FLESH WAS COMPLETELY DECOMPOSED, THE BONES WERE GATHERED AND BURIED IN THEIR PROPER PLACE.<sup>5</sup> This proves it.

R. Ashi said: When do the mourning rites commence? From the closing of the grave with the grave stone.<sup>6</sup> When is atonement effected? After the bodies have experienced a little of the pains of the grave.<sup>7</sup> Therefore, since they [the mourning rites] have once been suspended,<sup>8</sup> they remain so. If so, why must the flesh be consumed?<sup>9</sup> — Because it is impossible [otherwise].<sup>10</sup>

It was the practice of people to take earth from Rab's grave and apply it [as a remedy] on the first day of an attack of fever. When Samuel was told of it,<sup>11</sup> he said: They do well; it is natural<sup>12</sup> soil, and natural soil does not become forbidden, for it is written, And he cast the dust thereof<sup>13</sup> upon the graves of the common people:<sup>14</sup> thus he compares the graves of the common people to idols. Just as [the use of] idols is not forbidden when they are 'attached,'<sup>15</sup> for it is written, [Ye shall utterly destroy all the places, wherein the nations] that ye are to dispossess served their gods, upon the high mountains,<sup>16</sup> their gods which are upon the high mountains [are forbidden for use], but not the mountains which themselves are their gods;<sup>17</sup> so here too, what is 'attached' [i.e., what belongs to the dead] is not forbidden.

An objection is raised: 'If one hews a grave for his [dead] father and then goes and buries him elsewhere, he himself may never be buried therein'?<sup>18</sup> — The reference here is to a built grave.<sup>19</sup> Come and hear! 'A fresh grave<sup>20</sup> may be used. But if an abortion had been laid therein, it is forbidden for use'?<sup>21</sup> — Here too, the reference is to a built grave.

Come and hear! 'Thus we see<sup>22</sup> that there are three kinds of graves:<sup>23</sup> A grave that has been found,<sup>24</sup> a known grave;<sup>25</sup> and one which injures the public.<sup>26</sup> A grave that has been found may be cleared;<sup>27</sup> when cleared, the place thereof is [Leviticallly] clean and permitted for use.<sup>28</sup> A known grave may not be cleared; if it has been, the spot is unclean and forbidden for use.<sup>29</sup> A grave which injures the public may be cleared; if it has been, the place thereof is clean but may not be used'?<sup>30</sup> — Here too, the reference is to a built grave. But may a grave that was found be evacuated? Perhaps a meth-mizwah was buried therein; and a meth-mezwah takes possession of his place of burial!<sup>31</sup> A meth-mizwah is quite different, since its existence is generally known.<sup>32</sup>

It has been stated: If one wove a shroud for a dead person: Abaye rules, it is forbidden;<sup>33</sup> Raba says, It is permitted. 'Abaye rules, It is forbidden;' [he holds,] designation is a material act.<sup>34</sup> 'Raba says, It is permitted;' designation is not a material act. What is Abaye's reason? — He deduces [identity of law] from the use of 'sham' [there] both here [with reference to the dead] and in connection with the broken-necked heifer.<sup>35</sup> Just as the broken-necked heifer becomes forbidden through designation,<sup>36</sup> so this too<sup>37</sup> becomes prohibited through designation. But Raba makes his deduction from the use of sham both here and in connection with idol-worship.<sup>38</sup> Just as in idol-worship mere designation imposes no prohibition,<sup>39</sup> so here too, it does not become forbidden through designation. But why does Raba not make his deduction from the broken-necked heifer? — He answers you:

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1. Such as that referred to in the Psalm.
2. I.e., in the criminals' graveyard.
3. The inhabitants of the condemned city, therefore, having undergone both punishments, obtained forgiveness on this view, and their offerings could have been accepted, but for the reason that, having been once invalidated, they remained so.
4. For forgiveness.
5. Proving that only then is the crime fully expiated
6. [H] from [H] 'to roll,' so called because it can be rolled away. This is not to be confused with the modern tombstone, but was a stone placed on top of the grave immediately it was filled in.
7. The process of decay in the earth was believed to be painful to the body. Cf. Ber. 18b, 'The worm is as painful to the flesh of the dead, as the needle to the flesh of the living.
8. In the interval between the covering of the grave and the experiencing of pains in the grave. Since forgiveness had not yet been obtained, the dead are yet accounted wicked, and therefore no mourning rites are necessary.
9. Before they can bury him in the family vault.
10. I.e., owing to the decomposition of the body, it is impossible to remove the remains before the flesh is completely destroyed.
11. Thus calling his attention to their use of an object belonging to the dead, which is forbidden. Cf. A.Z. 29b.
12. Lit., 'world'.
13. Of the Ashera.
14. II Kings XXIII, 6.
15. The technical term for soil, mountains, etc., and things growing therein.
16. Deut. XII, 2.
17. I.e., only detached idols are forbidden for use, but if natural earth (which includes mountains) is worshipped, it is not thereby forbidden for use.
18. Because having been prepared for a particular corpse, it may not be used for anyone else. Now, it is assumed that this holds good even if it was dug for any corpse, 'father' being mentioned merely because that is the usual thing. Thus we see that even natural soil is under the same prohibition.
19. [A grave erected within the excavation (Yad Ramah).] Such a grave is not regarded as part of the soil, and, had it been prepared for any other person, would not have been forbidden. The prohibition here, however, is on account of filial respect.
20. One just dug and not yet assigned to any dead body.
21. The argument is that even natural soil must be forbidden.
22. Lit., 'it is found that thou sayest.
23. I.e., which are separate and distinct in the laws pertaining to them.
24. One in which a dead body had been buried by stealth, and without the consent of the owner of the ground, i.e., it has only now been found to be a grave.
25. In which a body was buried with the consent of the owner.
26. E.g., which lies in a thoroughfare.
27. I.e., the bones may be transferred elsewhere.
28. Since the burial took place without the knowledge of the owner of the ground, the dead man does not 'take possession of the place' (v. *infra* for the meaning of that phrase).
29. This is a precautionary measure against the unwarranted transference of bones.
30. This proves that natural soil can also be prohibited.
31. I.e., it becomes his, whether it had a right to the soil in the first place or not. This is one of the ten enactments of Joshua on entering the land. Cf B.K. 81a.
32. Lit., 'he has a voice'. I.e., the discovery of such was broadcast, and his burial was not really a secret unknown to the owner.
33. To be used for any other purpose.
34. I.e., mere designation for the dead subjects it to the same law as though it has been employed for the purpose.
35. In connection with the dead: And Miriam died there and was buried there ([H]) (Num. XX, 1); with reference to the heifer, And shall break the heifer's neck there (Deut. XXI, 4).
36. Even the mere bringing it down to the valley renders it forbidden for any other purpose (Rashi: cf. Kid. 57a)
37. Sc. a shroud woven for the dead.
38. Ye shall surely destroy all the places there ([H]) where the nations which ye are to dispossess serve their gods. (Deut. XII, 2).
39. I.e., if one dedicates an object for idol-worship, it does not become forbidden, unless actually used so, because 'The laws of dedication do not operate in connection with idol worship.' A.Z. 44b.

## Sanhedrin 48a

Objects of service are deduced from objects of service,<sup>1</sup> thus excluding the broken-necked heifer, which is in itself taboo. And why does Abaye not deduce [his ruling] from idol-worship? — He answers you: Normal practices are deduced from normal practices

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so excluding idol-worship which is not normal.<sup>2</sup>

(Mnemonic: *Veil; Tomb; Hewn. The craftsman's bag.*)<sup>3</sup>

An objection is raised: 'If a veil, which is unclean<sup>4</sup> through Midras,<sup>5</sup> is designated [as a cover] for the Book [of the law], it is purified from [the uncleanness of] Midras,<sup>6</sup> yet may become unclean by direct contact [with the dead]?'<sup>7</sup> — Say thus: If it was designated for and wrapped round [the Book].<sup>8</sup> But why are both 'designation' and 'wrapping' necessary?<sup>9</sup> — This is in accordance with R. Hisda, who said: If a cloth was assigned for wrapping *Tefillin* therein, and was so used, one may not tie up coins in it. If it was assigned, but not used so, or vice versa,<sup>10</sup> one may tie up coins in it.<sup>11</sup> But on Abaye's view, viz., that [mere] designation is a material act; if one had assigned the cloth [for the purpose of wrapping up his *Tefillin*], even though he did not do so, or if he wrapped them in it, and also assigned it [for that purpose], it is so [i.e., the prohibition holds good]; but if he had not assigned it, it is not [forbidden].

Come and hear! 'A tomb<sup>12</sup> built for a man still alive, may be used.<sup>13</sup> If, however, one added a single row of stones for a dead person,<sup>14</sup> no [other] use may be made thereof?'<sup>15</sup> — This deals with a case where the corpse had actually been buried there. If so why [teach] particularly 'if one added [etc.]'; even if not, the law would have been the same! — This is only necessary [to teach that the prohibition remains] even if the body has [subsequently] been removed.<sup>16</sup>

Rafram R. Papa said In R. Hisda's name: If he recognizes that [additional row] he may remove it and the tomb becomes again permissible.

Come and hear! 'If one hews a grave for his [dead] father and then goes and buries him elsewhere, he [himself] may never be buried therein?'<sup>17</sup> — Here it is on account of his father's honour.<sup>18</sup> That too stands to reason. For the second clause teaches: R. Simeon b.

Gamaliel said; Even if one hews stones<sup>19</sup> [for a tomb] for his father, but goes and buries him elsewhere, he [himself] may never employ them for his own grave.<sup>20</sup> Now, if you agree that it is out of respect for his father, it is correct. But if you say that it is because of designation, does anyone maintain that yarn spun for weaving [a shroud is forbidden]?<sup>21</sup>

Come and hear! A fresh grave may be used. But if an abortion has been laid therein, it is forbidden for use,<sup>22</sup> Thus, it is so only if it has actually been laid therein, but not otherwise!<sup>23</sup> — The same law holds good even if it [the abortion] was not laid therein;<sup>24</sup> and it [the statement, 'if it has been laid therein'] is [only] intended to exclude the view of R. Simeon b. Gamaliel, who maintains: Abortions take no possession of their graves.<sup>25</sup> He therefore teaches us [otherwise].<sup>26</sup>

Come and hear! 'The surplus [of a collection] for the dead must be used for [other] dead,<sup>27</sup> but the surplus [of a collection] for a [particular] deceased person belongs to his heirs?'<sup>28</sup> — This refers to a case [where the money was] collected during [the deceased's] lifetime. But [the Tanna] did not teach thus? For we learnt: The surplus [of a collection] for the dead must be used for [other] dead, but the surplus [of a collection] for a [particular] deceased person belongs to his heirs. Now, it was taught thereon: How so? If it was collected for the dead in general that is where we rule; The surplus [of a collection] for the dead must be used for [other] dead, but if it was collected for a particular dead person, that is where we rule, The surplus [of a collection] for a deceased belongs to his heirs! — But according to your view,<sup>29</sup> consider the second section: R. Meir said: It must remain intact until Elijah comes;<sup>30</sup> R. Nathan ruled: It is to be expended for a monument on his grave, or sprinkling [aromatic wine] before his bier.<sup>31</sup> But Abaye reconciles them<sup>32</sup> in accordance with his view, and Raba in accordance with his view.<sup>33</sup> 'Abaye reconciles them in accordance with his view;' [thus;] all agree that designation is



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a material act. Now, the first Tanna holds that he [the dead] takes possession<sup>34</sup> only of as much as he needs, and not of the surplus;<sup>35</sup> R. Meir, however, is doubtful whether he takes possession [of the surplus] or not: consequently it must remain intact until Elijah comes; whereas R. Nathan holds that he certainly takes possession [even of the surplus]; hence it is to be employed for a monument on his grave. 'And Raba in accordance with his view;' [thus:] all agree that assignment is not a material act.<sup>36</sup> Now, the first Tanna maintains: Though they humiliated him,<sup>37</sup> he forgives his humiliation for his heirs' sake,<sup>38</sup> R. Meir, however, is doubtful whether he forgives it or not; therefore it must remain intact, etc.; whilst R. Nathan takes the definite view that he does not forgive it, therefore the surplus must be expended on a monument for his grave or for sprinkling [aromatic wine] before his bier.

Come and hear! If his father and mother are throwing garments upon him,<sup>39</sup> it is the duty of others to save them.<sup>40</sup>

1. I.e., the shroud for the dead and the animal devoted to be sacrificed to an idol are not in themselves taboo, but merely so because they are used in the service of something that is forbidden. In A.Z. 51b the verse referring to idolatry (quoted in n. 4) is interpreted as bearing upon objects used in the service of idols.
2. 'Normal' is used in the sense of 'sanctioned by law.' I.e., it is a normal (permitted) practice to make a shroud for the dead, likewise to break the neck of a heifer under prescribed conditions. But under no circumstances can idolatry be 'normal' (i.e. — permitted). Therefore, mere designation in connection with idolatry does not impose a prohibition, because, since it is abnormal (forbidden), one may repent and never use it for the purpose. But in the case of the other two, if permitted (or even obligatory), once they are designated for that purpose they will certainly be used, unless unforeseen circumstances intervene. Therefore the mere designation suffices to give them the same status as though they had actually been used.
3. [On this mnemonic v. Brull. I., Mnemotechnick p. 44.]
4. Rashi here, and the commentary of R. Samson of Sens on the Mishnah, Kel. XXVIII, 5,

understand it literally, i.e., it had actually become unclean. Maim. and Asheri, however, translate (loc. cit.), which is liable to become unclean, but had not, in fact, become so.

5. [H], a technical term in the laws of purity, from [H] 'to tread', denoting the uncleanness of an object through being used either for sitting on or lying on, i.e., being made to bear the weight of a person with issue. If it is so defiled, it becomes a primary source of uncleanness to men and utensils. A veil is thus liable, since it may be folded up and sat upon, or, when it is being worn on the head, the wearer may lean back on her seat or the wall, and thus cause it to bear her weight.
6. So according to Rashi and R. Samson. M. and Asheri: it ceases to be liable to the uncleanness of Midras. The reason, according to all interpretations, is that it can no longer be used in such a way.
7. As all other finished articles which have a definite use (technically, 'utensils'). Rashi translates (with a different reading): yet it retains the uncleanness of touch, i.e., if when the person with issue bore down on it, he also touched it, the uncleanness of Midras disappears, but it retains to the uncleanness of having been touched by him — which is a different degree of impurity', (Kelim XXVIII, 5). This proves that mere designation is a material act which suffices to change the status of an object, and thus contradicts Raba's ruling.
8. Hence there was not merely designation, but also use; the combination can certainly effect a change.
9. The use itself should have sufficed for the change.
10. I.e., *Tefillin* were wrapped therein, but it had not been previously assigned for that purpose.
11. I.e., assignment by itself is not a material act. Again, wrapping something in it without having made the assignment is assumed to be merely incidental. The same applies to the veil, and therefore both are required. — Of course, that is only on Raba's view; Abaye will interpret the Mishnah cited quite literally.
12. [H]. The word actually means a structure built over a tomb, to be used as a grave.
13. For other purposes.
14. I.e., the addition was made when the person was actually dead.
15. Thus proving that mere designation is a material act.
16. When the prohibition of its use depends on whether a special row of stones was added for the corpse. If not it loses its forbidden character, for it is then like the cloth in which

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- Tefillin* were wrapped without its having been previously designated for that purpose.
17. V. p. 315, n. 12.
  18. That the grave is prohibited to serve as the son's burial place.
  19. From a quarry for the purpose of building a vault.
  20. Lit., 'may never be buried in them.'
  21. None, not even Abaye. For Abaye only maintains that if a shroud is actually woven, and so fit for its purpose, it is forbidden through mere designation. But when yarn is spun, though its ultimate destiny is to be woven into a shroud, it is not forbidden, since as yarn it is useless for its purpose. Similarly, when stones are prepared for building a tomb, they should not become forbidden. Hence the prohibition must be on account of filial respect, not designation.
  22. V. p 316, n. 2.
  23. I.e., if it was merely assigned for an abortion, it is not forbidden, proving that mere assignment is not a material act.
  24. On account of the assignment of the abortion.
  25. I.e., they do not impose a lasting prohibition thereon, to operate even after the graves are cleared.
  26. Therefore the Tanna is particular to mention 'an abortion,' but is not exact in his statement as to what is done for the abortion. But actually, even if the grave is merely designated for an abortion, it is forbidden for use.
  27. If a collection was made for burying the poor, the actual person, however, being unspecified, and at any particular moment there is a balance in hand, it must be kept for other dead. This is so even if, when the collection was made, it was known that it was for certain dead, but they were not specified.
  28. To be used for any purpose, thus proving that designation is not a material act (Mishnah Shek. II. 5).
  29. That assignment is not material.
  30. I.e., Elijah the prophet glorified in the Haggadah as a messenger charged with various tasks, one of which is to be the precursor of the Messiah, when he will solve all questions in doubt. (Cf. B.M. 29b; Pes. 15a).
  31. From this it would seem that since it was designated for the dead, it must be so used, proving that designation is a material act. [The words, 'Or sprinkling ... his bier', do not occur in the cited Mishnah, but in Tosef, Shek. I.]
  32. The differences of opinion in the Mishnah.
  33. In such a way that the differing Tannaim may be seen to agree with their (Abaye's and Raba's) views respectively.
  34. I.e., it becomes his peculiar property, in the sense that it may not be used for any other purpose.
  35. Lit., 'of what he does not need.'
  36. And the reasons given by R. Meir and R. Nathan for prohibiting the balance for general use is not that it is actually forbidden, but because the deceased was put to shame when a public collection was made for his funeral.
  37. V. preceding note.
  38. I.e., that they may have the benefit of the surplus.
  39. Their dead son. It was an expression of extreme grief, and a symbol that they were ready to renounce everything left behind, that belonged to him (Rashi).
  40. By removing them from the corpse, as though returning lost property. Now, had assignment been a material act, how could they be saved after being dedicated to the dead?

## Sanhedrin 48b

— There [it is done] solely out of grief.<sup>1</sup> If so, how explain what was taught regarding this: R. Simeon b. Gamaliel said: When is this so? Only if they [the garments] have not [actually] touched the bier, but if they have, they are forbidden [for use]?<sup>2</sup> — 'Ulla interpreted this as referring to a bier which is buried with him,<sup>3</sup> [the garments being forbidden] because they might be confused with the vestments of the dead.<sup>4</sup>

Come and hear! 'One may not put money in a bag which was made to hold *Tefillin*.<sup>5</sup> But if one [incidentally] put *Tefillin* in a bag, he may afterwards put money therein.'<sup>6</sup> — Let us put it thus: If a man made it [for *Tefillin*] and placed *Tefillin* therein, it is forbidden to put money in it: and this is in accordance with R. Hisda.<sup>7</sup>

Come and hear! 'If one says to a craftsman, Make me a sheath for a Scroll [of the Law], or a receptacle for *Tefillin*,' before they are actually used for their sacred purposes, they may be employed for secular requirements; but once used for their sacred purposes they may not be put to secular use!<sup>8</sup> — There is here a dispute among Tannaim for it has been taught: If one overlaid them [the *Tefillin*] with gold or covered them with the hide of an

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unclean beast, they are unfit.<sup>9</sup> If with the hide of a clean beast, they are permissible, even though it was not dressed for the purpose. R. Simeon b. Gamaliel said: Even if covered with the hide of a clean beast, they are unfit, unless it was not specially dressed for the purpose.<sup>10</sup>

Rabina said to Raba: Is there any place where the dead lie while the shroud is being woven?<sup>11</sup> Yes, he answered; e.g., it is so with the dead of Harpania.<sup>12</sup> Meremar said in a lecture: The law rests with Abaye. But the Rabbis say: The law rests with Raba. In fact the law is as Raba says.

Our Rabbis taught: The property of those executed by the State<sup>13</sup> belongs to the King: the property of those executed by the *Beth din* belongs to their heirs. R. Judah said: Even the property of those executed by the State goes to their heirs. Said they to R. Judah: But it is not written, Behold he [Ahab] is in the vineyard of Naboth whither he is gone down to take possession of it?<sup>14</sup> — He answered: He [Naboth] was his [the King's] cousin,<sup>15</sup> and therefore he [Ahab] was his legitimate heir.<sup>16</sup> But he [Naboth] had many sons! — He [the King] slew both him and his sons, he replied, as it is written, Surely I have seen yesterday the blood of Naboth and the blood of his sons.<sup>17</sup> And the Rabbis?<sup>18</sup> — They refer to his potential sons.<sup>19</sup> Now, on the view that their property belongs to the King, it is correct: hence it is said, Naboth did curse God and the King.<sup>20</sup> But on the view that their estate belongs to their heirs,<sup>21</sup> why mention and the King?<sup>22</sup> — But even according to your reasoning,<sup>23</sup> why state, 'God'?<sup>24</sup> Hence [it must have been added] in order to increase the anger [of the judges].<sup>25</sup> So here too,<sup>26</sup> it [the mention of the King] was made in order to increase the anger [of the judges].<sup>27</sup> Now, on the view that the estate belongs to the King, it is correct: hence it is written, And Joab fled unto the tent of the Lord and caught hold of the horns of the Altar;<sup>28</sup> and it is further written, And he said Nay, but I will die here.<sup>29</sup> But on the view that their estate belongs to their heirs, what difference did it

make to him? — [It would serve] to prolong his life for a while.<sup>30</sup>

And Benaiah brought back word unto the King saying, thus said Joab and thus he answered me:<sup>31</sup> He [Joab] had said to him: Go and tell him [the King]: Thou canst not inflict a twofold punishment upon me:<sup>32</sup> if thou slayest me, thou must submit to the curses which thy father uttered against me;<sup>33</sup> but if thou art unwilling [to submit thereto], thou must let me live and suffer from thy father's curses against me. And the King said unto him, Do as he hath said,<sup>34</sup> and fall upon him and bury him.<sup>35</sup>

Rab Judah said in Rab's name; All the curses wherewith David cursed Joab were fulfilled in David's own descendants. [It is written:] Let there not fail from the house of Joab one that hath an issue, or that is a leper, or that leaneth on a staff, or that falleth by the sword, or that lacketh bread.<sup>36</sup> 'He that hath an issue' [was fulfilled] in Rehoboam,<sup>37</sup> for it is written, And king Rehoboam made speed<sup>38</sup> to get him up to his chariot to flee to Jerusalem;<sup>39</sup> whilst it is elsewhere written, And what saddle soever he that hath the issue rideth upon shall be unclean.<sup>40</sup> 'A leper' — Uzziah,<sup>41</sup> for it is written, But when he was strong his heart was lifted up so that he did corruptly, and he trespassed against the Lord his God, for he went unto the Temple of the Lord to burn the incense upon the altar of incense;<sup>42</sup> and it is further written, And the leprosy broke forth on his forehead.<sup>43</sup> 'He that leaneth on a staff' — Asa,<sup>44</sup> for it is written, Only in the time of his age he was diseased in his feet:<sup>45</sup> concerning which Rab Judah said in Rab's name: He was afflicted with gout.<sup>46</sup> Mar Zutra the son of R. Nahman asked R. Nahman; What is it [this complaint] like? — He answered: Like a needle in the raw flesh. But how did he [R. Nahman] know that? — Either because he himself suffered with it; alternatively, he had a tradition from his teacher; or again [he knew it] because, The secret<sup>47</sup> of the Lord is with them that fear Him, and His covenant to make them know it.<sup>48</sup> 'He that falleth by the sword,' —

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Josiah,<sup>49</sup> for it is written, And the archers shot at king Josiah:<sup>50</sup> concerning which Rab Judah said in Rab's name: They riddled his body like a sieve. 'That lacketh bread' — Jechoniah,<sup>51</sup> for it is written, And for his allowance, there was a continual allowance given him [by the king].<sup>52</sup> Rab Judah said in Rab's name: Thus people say,

1. But without seriously intending to devote the garments to the dead. Therefore it is not regarded as designation at all.
2. But seeing that the act is done only out of grief and there is no assignment to the dead at all, why should they be forbidden?
3. Such was the custom in those days.
4. I.e., the permission given to use the garments might be taken as applying also to the vestments, seeing that they come in contact with one another. Otherwise they might have been permitted for use, not because assignment is not material, but because in this case it was only an expression of grief.
5. Although it had not actually been used for that purpose.
6. Hence assignment is material.
7. Who holds that both designation and actual use are needed for prohibition. Cf. *supra* 48a.
8. V. Tosef Meg. II. This definitely proves that use and not designation is material, and contradicts Abaye.
9. Cf. Shab. 108a on the verse in Ex. XIII, 9, *That the law of the Eternal may be in thy mouth*, — they (the *Tefillin*) should be made out of objects permissible for food.
10. Men. 42b. Git. 45b. thus, the first Tanna considers designation as immaterial, whereas R. Simeon B. Gamaliel holds it to be a material act. Hence Raba agrees with the first Tanna; Abaye is with R. Simeon b. Gamaliel.
11. I.e., surely one does not wait for a person to die and delay the funeral while a shroud is being woven. In that case, the dispute of Abaye and Raba, whether a shroud woven for the dead (which means when the person is actually dead) may be used for other purposes, is entirely an imaginary one, such circumstances being inconceivable.
12. [Or Neharpania (v. D.S. a.l.), a town in Babylon in the Mesene district, v. Obermeyer, *op. cit.*, p. 197.] According to Rashi, its inhabitants were so poor that they could not afford to prepare the shrouds beforehand, and only after a death occurred was a public collection made, and a shroud hastily woven. [According to Obermeyer, *op. cit.*, p. 201, the corpse in the meantime was lying naked in accordance with the Zoroastrian practice which the Jews of that town seemed to have adopted which forbade the covering or dressing of a corpse with any cloth but one that had been specially woven and prepared for the purpose.]
13. The reference is to the Jewish State, e.g., those executed for treason against the King.
14. So God said to Elijah. I Kings XXI, 18. The expression '*take possession*' (from the verb 'to inherit') indicates that he took legitimate possession, as an heir.
15. Lit., 'the son of his father's brother.'
16. This statement has no Biblical source.
17. II Kings IX, 26.
18. How could they urge the fact that he had sons in face of the definite statement that they were slain?
19. Lit., 'to the sons that should have issued from him.' — A murderer is held guilty not only of his victim's death, but also for the frustration of the lives of his potential descendants for all time. (Cf. Mishnah. *supra* 37a). But in their view, Ahab did not slay his actual sons.
20. I Kings XXI, 13, pointing to his culpability for treason to the King in addition to blasphemy, which is punished by the *Beth din*; hence his estate would fall to the crown.
21. So that Ahab took possession of the vineyard as heir.
22. Since blasphemy itself was sufficient for conviction, why needlessly add a false indictment?
23. That treason was punished by death and royal confiscation.
24. The charge of blasphemy being in itself superfluous.
25. I.e., they might have been inclined to think that a charge of treason alone was trumped up, but when blasphemy was added, they assumed it to be genuine. So Rashi. Kimhi maintains that the judges knew the testimony to be false, but that the accusation was made stronger in order to keep the people from revolting against the execution.
26. I.e., even if he held that their estate did not belong to the King.
27. I.e. to make the crime appear more heinous.
28. I Kings II, 28.
29. Ibid. 30. I.e., he declined to be tried by the King so that his estate might not be confiscated.
30. He wished to gain the time which it would require to take his message to the King and bring back an answer.
31. Ibid. This gives the impression that Benaiah had had a long conversation with Joab.
32. Lit., 'that man.'
33. For the murder of Abner. V. II Sam. III, 29: The curse is quoted in the text. — That curse



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then was to be Joab's punishment. But if Solomon executed him, the curse would be transferred to Solomon himself.

34. And kill him where he is.
35. I Kings II, 31. Thus Solomon accepted the curses.
36. II Sam. III, 29.
37. Solomon's only son. V. I Kings XIV, 21.
38. Lit., 'used effort'.
39. I Kings XII, 18.
40. Lev. XV, 9. The deduction is made from a comparison of the uses of the expression 'to ride' in both verses. According to Kimhi, however, it is deduced from the fact that he had to use an effort to mount his chariot.
41. Son of Amaziah, called also Azariah, Cf. II Kings XV, 1.
42. II Chron. XXVI, 16.
43. Ibid. 19.
44. Son of Abijah, King of Judah. II Kings XV, 8.
45. I Kings XV, 23.
46. Podagra, gout in the feet, in consequence of which he had to lean on a staff.
47. E.V. 'The counsel.'
48. Ps. XXV, 14, — i.e., as a Divine revelation.
49. Son of Amon, II Kings XXII, 1.
50. II Chron. XXXV, 23.
51. Grandson of Josiah.
52. Of Babylon, II Kings XXV, 30.

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Let thyself be cursed rather than curse [another].<sup>1</sup>

Then Joab was brought before the Court,<sup>2</sup> and he [Solomon] judged and questioned him, 'Why didst thou kill Abner?'<sup>3</sup> He answered, 'I was Asahel's<sup>4</sup> avenger of blood.'<sup>5</sup> 'But Asahel was a pursuer!'<sup>6</sup> 'Even so,' answered he; 'but he [Abner] should have saved himself at the cost of one of his [Asahel's] limbs.'<sup>7</sup> 'Yet perhaps he could not do so, remonstrated [Solomon]. 'If he could aim exactly at the fifth rib,' he retorted, ('even as it is written, Abner with the hinder end of the spear smote him at the waist;<sup>8</sup> concerning which R. Johanan said: It was at the fifth rib, where the gall-bladder and liver are suspended.) — could he not have aimed at one of his limbs?' Thereupon [Solomon] said: 'Let us drop [the incident of] Abner; why didst thou kill Amasa?'<sup>9</sup> He answered: 'Amasa disobeyed the royal order,<sup>10</sup> for it is

written, Then said the King to Amasa, Call me the men of Judah together within three days, etc. So Amasa went to call the men of Judah together; but he tarried, etc.' 'But,' said he [Solomon], 'Amasa interpreted [the particles] 'Ak and Rak.'<sup>11</sup> [Thus:] he found them<sup>12</sup> just as they had begun [the study of] a tractate; whereupon he said: It is written, Whosoever he be that shall rebel against thy [the King's] commandments and shall not hearken unto thy words in all that thou commandest him, he shall be put to death.<sup>13</sup> Now, one might have thought that this holds good even [when the transgression is committed] for the sake of the study of the law: it is therefore written, only [Rak] be strong and of good courage.<sup>14</sup> But thou thyself<sup>15</sup> didst disobey the royal order, for it is written, And the tidings<sup>16</sup> come to Joab, for Joab had turned after Adonijah, though he had turned not after Absalom.<sup>17</sup> What is the purpose of 'though he had turned not.'<sup>18</sup> — Rab Judah said: He wished to turn [after him], but did not. And why did he not? — R. Eleazar said: David still possessed his vitality.<sup>19</sup> R. Jose the son of R. Hanina said: David's star<sup>20</sup> was still in the ascendant, for Rab Judah said in Rab's name:<sup>21</sup> Four hundred children had David, all the issue of yefoth to'ar; they had long locks, and used to march at the head of the troops; it was they who were the men of power in David's household.

This [view of Joab] is in contradiction to the view held by R. Abba b. Kahana, who said: But for David,<sup>22</sup> Joab would not have succeeded in<sup>23</sup> war; and but for Joab, David could not have devoted himself to [the study of] the Torah, for it is written, And David executed justice and righteousness for all his people, and Joab the son of Zeruah was over the host:<sup>24</sup> — i.e., why was David able to execute 'justice and righteousness for all his people'? — Because 'Joab was over the host.' And why was 'Joab over the host'?<sup>25</sup> — Because 'David executed justice and righteousness for all his people.'

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And when Joab was come out from David he sent messengers after Abner and they brought him back from Bor-Sira.<sup>26</sup> What meaning has [the name] Bor-Sira? — R. Abba b. Kahana said: Bor<sup>27</sup> and Sira<sup>28</sup> caused Abner to be killed.<sup>29</sup>

And Joab took him aside into the midst of the gate to speak with him quietly.<sup>30</sup> R. Johanan said: He judged him according to the law of the Sanhedrin.<sup>31</sup> Thus he asked him: 'Why didst thou kill Asahel?' — 'Because Asahel was my pursuer.' 'Then thou shouldst have saved thyself<sup>32</sup> at the cost of one of his limbs!' 'I could not do that,' [he answered]. 'If thou couldst aim exactly at his fifth rib, couldst thou not have prevailed against him by [wounding] one of his limbs?'

'To speak with him ba-sheli [quietly]:' Rab Judah said in Rab's name: [He spoke to him] concerning the putting off [of the shoe].<sup>33</sup> 'And smote him there at the waist:' R. Johanan said: At the fifth rib, where the gall-bladder and liver are suspended.<sup>34</sup>

And the Lord will return his [Joab's] blood upon his own head because he fell upon two men more righteous and better than he.<sup>35</sup> 'Better,' because they interpreted aright [the particles] 'ak and rak,<sup>36</sup> whilst he did not;<sup>37</sup> 'More righteous,' because they were instructed verbally,<sup>38</sup> yet did not obey, whereas he was instructed in a letter,<sup>39</sup> and nevertheless carried it out.

But Amasa did not beware of the sword that was in Joab's hand.<sup>40</sup> Rab said: That was because he did not suspect him. And he was buried in his own house in the wilderness.<sup>41</sup> But was his house a wilderness?<sup>42</sup> — Rab Judah said in Rab's name: It was like a wilderness, just as a wilderness is free to all, so was Joab's house free to all.<sup>43</sup> Alternatively: 'Like a wilderness' means, just as a wilderness is free from robbery and licentiousness,<sup>44</sup> so was Joab's house free from robbery and licentiousness.

And Joab kept alive<sup>45</sup> the rest of the city:<sup>46</sup> R. Judah said: Even fish broth and hashed fish

he would merely taste and then distribute to the poor.<sup>47</sup>

1. For, as in this case, the curses always recoil on oneself or on one's descendants.
2. This is a continuation of the narrative commenced on 48b, which was interrupted to show that all David's curses were fulfilled upon his descendants.
3. Cf. II Sam. III, 27.
4. Joab's brother, who pursued Abner when he fled for his life, after having been defeated by Joab at Gibeon whilst fighting for Ishbosheth, Saul's surviving son, v. II Sam. II, 23.
5. Cf. Num. XXXV, 19.
6. I.e., Abner, seeing his life in danger, killed him in self-defense. Cf. II Sam. II, 8-32.
7. And so incapacitate him, instead of inflicting a mortal wound. V. *infra* 74a: If one can injure his adversary in self-defense, but kills him instead, he is guilty of murder.
8. II Sam. II, 23 [H] 'loins', 'waist', means also 'fifth'. Hence R. Johanan's interpretation.
9. Son of Abigail, King David's sister, who commanded the rebel army of Absalom. Subsequently he was pardoned by David and given the command of the army when the rebellion of Shebah broke out (II Sam. XX). On that account Joab saw a dangerous rival in him. II Sam. XVII, 25; XIX, 14.
10. Lit., 'he rebelled against the throne.' This was punishable by death.
11. [H], 'but'; [H], 'only', both denoting limitation.
12. The men of Judah.
13. Josh. I, 18.
14. Rak intimating a limitation. Hence the duty to fulfill the King's command does not apply where one is engaged in the study of the Law, According to the view held by Amasa, God's Law seemed more important to him than the will of the King, and no transgression was involved in waiting until they had finished their study.
15. Lit., 'that man.'
16. Of Solomon's ascent to the throne.
17. I Kings II, 28.
18. For the information that he did not turn after Absalom seems superfluous at this point.
19. Lit., 'moisture'. But as soon as David became feeble he inclined after Adonijah.
20. [H] (astrological power), symbol of his mighty men upon whom he placed reliance in war, and who led him to victories.
21. V. nn. 4-5, *supra* p. 114.
22. Who studied the Torah continuously.
23. Lit., 'waged'.
24. II Sam, VIII, 15-16.
25. I.e., why was he successful in war?
26. Ibid. III, 26.

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27. [H] 'well', hence container of water, a pitcher.
28. [H] a thorn-bush.
29. The explanation of this statement is found in J. Sotah I, where one of the reasons given for Abner's death was his indifference to the effecting of a reconciliation between Saul and David, instead of seeking which, he rather endeavored to increase their hatred. He did not take advantage of the following two occasions when he might have brought about the reconciliation: One, when Saul entered the cave of En-Gedi where David and his band were hidden, and the latter, though he could have destroyed his pursuer, contented himself with merely cutting off the skirt of his robe (I Sam. XXIV, 4). The second time, in the wilderness of Ziph, when David found Saul sleeping and took the spear and jug of water from beside his head (ibid. XXIV, 12ff), subsequently reproaching Abner for not watching better over the King. Abner, however, made naught of this generous treatment of Saul by David, contending that the jug of water might have been given to David by one of the servants, whilst the skirt of the robe might have been torn away by a thorn-bush, and left hanging. These two incidents are hinted at in the words Bor (well, i.e., a jug of water), and Sira (a thorn-bush).
30. II Sam. III, 27.
31. This is inferred from the word 'gate', frequently denoting 'court'; cf. Deut. XXI, 19.
32. Lit., 'him', i.e., save the pursuer from committing a crime, v. *supra* p. 326, n 8.
33. The word [H] is here derived from [H] to draw or pull off. Joab is supposed to have inquired from Abner in what way a one-armed woman would loosen the shoe in the ceremony of *halizah* (v. Deut. XXV, 9). On his replying that she would do it with her teeth (cf. Yeb 105a), he asked him to demonstrate it, and as he stooped low to do so, he smote him. This incident is hinted at in David's words of farewell to Solomon: He (sc. Joab) shed the blood of war in peace, — and put the blood of war in the shoes that were on his feet (I Kings II, 5).
34. V. p. 326, n. 9.
35. And slew them with the sword. I Kings II, 32.
36. Signifying limitation. v. p. 326, n. 12. According to this, the king's orders were not to be obeyed where they involved serious transgressions; v. p. 327 n. 2, with reference to Amasa, Abner's attitude is intimated in a reference to the murder of the Priests of Nob (v. I Sam. XXII, 17). And the King said unto the guard that stood about him, turn and slay the Priests of the Lord, but the servants of the king would not put forth their hand to fall upon the Priests of the Lord. Cf. also *supra* 20a, where, according to R. Isaac, Abner tried to restrain the king from committing a murder, but without avail.
37. When the king directed him to expose Uriah the Hittite to the enemy in such a manner as to ensure his destruction. V. II Sam. XI, 14ff.
38. To kill the priests of Nob.
39. Ibid. XI, 14. And a verbal command by the king is stronger than a mere written order.
40. II Sam. XX, 10.
41. I Kings II, 34.
42. Regarding 'in' as indicating apposition: i.e., 'in his own house,' viz. 'the wilderness.'
43. I.e., Everyone was sure to find hospitality there.
44. Because it is not inhabited by men.
45. [H] lit., 'made alive,' (E.V.: repaired) i.e., fed.
46. I Chron. XI, 8.
47. I.e., even his smallest meal he would share with the poor.

## Sanhedrin 49b

### CHAPTER VII

**MISHNAH.** FOUR DEATHS HAVE BEEN ENTRUSTED TO *BETH DIN*: STONING, BURNING, SLAYING [BY THE SWORD] AND STRANGULATION.<sup>1</sup> R. SIMEON ENUMERATED THEM THUS: BURNING, STONING, STRANGULATION AND SLAYING.<sup>2</sup> THAT IS THE MANNER OF STONING.<sup>3</sup>

**GEMARA.** Raba said in the name of R. Sehora in the name of Rab: Whatever the Sages taught by number is in no particular order, excepting the [Mishnah of] the seven substances. For we learnt: Seven substances are applied to the stain, viz., tasteless saliva,<sup>4</sup> the liquid exuded by crushed beans, urine, natron,<sup>5</sup> lye,<sup>6</sup> Cimolian earth<sup>7</sup> and ashleg.<sup>8</sup> Now, the latter clause [of that Mishnah] states: If they were not applied in this order, or if they were all applied simultaneously,<sup>9</sup> the test is inconclusive. R. Papa the Elder said in Rab's name: The same [exception] applies to 'FOUR DEATHS etc'; for, since R. Simeon disputes the order, it is to be inferred that it is exact. But the other?<sup>10</sup> — He does not refer to cases [where the order] is disputed. R. Papa said: The order of Service on the Day of

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Atonement is also exactly taught, for we learnt: All the rites of the Day of Atonement which are prescribed in a particular order, if one was performed out of its turn, it is invalid. But the other?<sup>11</sup> — That law is merely one of added stringency.<sup>12</sup> R. Huna, the son of R. Joshua said: The order of the Tamid<sup>13</sup> is also exact, for in connection therewith we have learnt: This is the order of the Tamid.<sup>14</sup> But the other?<sup>15</sup> — That [Mishnah] merely teaches that the precept of the Tamid is best carried out in this order.<sup>16</sup>

[Now reverting to Raba's statement] this ['whatever, etc.'] is intended to exclude the precept of *halizah*<sup>17</sup> [from the need of a particular order in its procedure], for we have learnt: the precept of *halizah* is thus carried out: — He [the deceased man's brother] and his sister-in-law come before *Beth din*, who counsel him in a manner fitting for him,<sup>18</sup> as it is written. Then the elders of his city shall call him, and speak unto him.<sup>19</sup> Then she declares: My husband's brother refuseth, etc.,<sup>20</sup> whilst he states: I like not to take her.<sup>21</sup> The members of *Beth din* thereupon announce in Hebrew:<sup>22</sup> Then shall his brother's wife come unto him in the presence of the elders, and remove his shoe from off his foot, and spit in his sight<sup>23</sup> — the spittle was to be visible to the judges — Then shall she answer and say, So shall it be done unto that man, etc. ... And his name shall be called in Israel, etc. Now Rab Judah said: The precept of *halizah* is carried out thus: [First] she declares [My husband's brother refuseth, etc.]; then he declares [I like not to take her]; then she removes his shoe and spits in his presence, and then she again declares [So shall it be done, etc.]. But we pondered thereon: What does Rab Judah teach us? Is this not stated in the Mishnah? — Rab Judah teaches us this: The precept is best carried out thus; but if the order was changed, it does not matter. It has been taught likewise: Whether the *halizah* was performed before the spitting or the reverse, the ceremony is efficacious.

Raba's statement above is also intended to exclude that which we learnt: The High Priest officiates [in the Temple] wearing eight garments, but the ordinary priest wears only four, viz., tunic, breeches, mitre and girdle; to which the High Priest adds the breast plate, ephod, robe<sup>24</sup> and head plate. Now it has been taught: Whence do we know that nothing must be donned before the breeches? From the verse: [He shall put on the holy linen tunic,] and the linen breeches shall [already] be upon his flesh.<sup>25</sup> But why does the Tanna give precedence [in this enumeration] to the tunic? — Because it is given precedence in Scripture;<sup>26</sup> and why does Scripture do this? — Because it prefers to state first that which covers the whole body.<sup>27</sup>

STONING, BURNING, etc. Stoning is severer than burning, since thus the blasphemer<sup>28</sup> and the idol-worshipper are executed.<sup>29</sup> Wherein lies the particular enormity of these offences? — Because they constitute an attack upon the fundamental belief of Judaism.<sup>30</sup> On the contrary, is not burning more severe, since that is the punishment of a priest's adulterous daughter; and wherein lies the greater enormity of her offence: in that she profanes her father?<sup>31</sup>

1. The enumeration is in descending order of severity.
2. The Gemara discusses the consequences of this dispute.
3. This refers to the directions given in the Mishnah on 45a.
4. I.e., the saliva of one who had not eaten that day. Nid. 62a.
5. Nether ([G]) is correctly translated 'niter' in Jer. II, 22, where it signifies carbonate of soda, a cleansing agent. But by a transference of terms 'natron' has been adopted to denote carbonate of soda; whilst 'niter' now denotes saltpeter, which has no washing properties.
6. A sort of soap.
7. A clay used in cleaning clothes.
8. A kind of alkali, or mineral used as soap. These materials were applied to a red stain on a woman's garments, to ascertain whether it is blood or a dye. If the stain disappears, it is blood; otherwise it is a dye.
9. And the suspicion of blood is attached to the stain.



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10. Raba, why did he not cite our Mishnah as an exception?
11. R. Papa the Elder, why does he not include this latter Mishnah among the exceptions?
12. I.e., Scripture, in insisting on a certain order of ceremonial on the Day of Atonement, did not thereby ascribe greater sanctity to any particular rite, but decreed the order merely as a matter of greater stringency. having regard to the solemnity of the Day. But in those cases cited as exceptions, the order is intimately bound up with the effectiveness or importance of the things mentioned. E.g., in our Mishnah the order of deaths is in descending severity; in the Mishnah treating of the test applied to a stain, these materials, if applied in a different order, are actually ineffective.
13. The daily burnt offering.
14. Tamid VII, 3; the preceding Mishnah enumerated its rites: this Mishnah states that they must be performed in the order taught.
15. R. Papa, why does he not cite this too as an exception?
16. Yet if the order was not adhered to, the service is valid.
17. Lit. 'drawing off', sc. 'the shoe'. The ceremony is referred to in the text. By this act the widow is freed from the obligation of Levirate marriage.
18. If, e.g., he is an old man, whilst his widowed sister-in-law is a young woman, or vice versa, they advise him to repudiate the marriage.
19. Deut. XXV, 8. 'Speak unto him' is interpreted as meaning to advise him.
20. Ibid. 7.
21. Ibid. 8.
22. Lit., 'The Holy Language'. By this is meant the actual Biblical text; v. M. H. Segal, Mishnaic Hebrew Grammar, p. 2.
23. Ibid. 9.
24. Worn over the tunic.
25. Lev. XVI, the inserted 'already' is implied in the use of the verb 'to be', [H].
26. Ibid.
27. Thus we see that the enumeration of the Tanna is not according to the order in which the garments are donned.
28. Lev. XXIV. 14-16.
29. Deut. XVII, 2-5, i.e., a Jew who committed idol worship. In this discussion on the relative severity of the different modes of execution the painfulness of the deaths is not taken into account, but merely the gravity of the offences for which they are imposed.
30. Since both are virtually a denial of the existence of the true God. This is undoubtedly an assertion that the confession of God is the cardinal tenet of Judaism — a dogma, in fact.

Notwithstanding the controversies that have arisen on the questions whether Judaism contains any dogmas, there can be no doubt that the rejection of idolatry is a sine qua non of Judaism. V. Schechter, *Studies in Judaism: The Dogmas of Judaism*. Cf. also Y. D. 268, 2, on the admission of proselytes, of whom is demanded the profession of belief in God and the rejection of idolatry.

31. V. *infra* 52b. This discussion, though refuted at a later stage, is interesting as showing the eminently practical character of Judaism. Though adultery does not undermine the essential basis of Judaism, it is nevertheless suggested that it is to be regarded as a greater offence than idolatry, particularly where its results extend beyond the person of the offender.

## Sanhedrin 50a

— The Rabbis<sup>1</sup> maintain that a priest's daughter, only if a nesu'ah, is excepted [from the usual punishment by strangulation meted out for adultery] and is executed by burning; but an arusah, [who, if an Israelite's daughter, is stoned] as [if a priest's daughter] not excepted [from the usual punishment, i.e., she is stoned likewise].<sup>2</sup> Now since [in a case of a priest's daughter] an arusah is singled out by the Divine Law [and punished] by stoning [instead of burning], we may conclude that stoning is more severe than burning.<sup>3</sup>

Stoning is severer than slaying by the sword, since it is the punishment of a blasphemer and an idol worshipper, the greater enormity of whose offence has already been stated.<sup>4</sup> On the contrary, is not death by the sword more severe, since that is the penalty for the inhabitants of a seduced city,<sup>5</sup> the graver character of whose sin is proved by the fact that their property is destroyed? — Now, let us consider: whose crime is greater; that of the seducer or of the seduced? Surely that of the seducer.<sup>6</sup> And it has been taught: The seducers of a seduced city are executed by stoning.<sup>7</sup>

Stoning is severer than strangulation, since it is the penalty of the blasphemer and the idol worshipper, the enormity of whose offence

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has already been stated. On the contrary, is not strangulation severer, since it is the punishment of one who smites his father or mother, the greater seriousness of whose offence lies in the fact that their honor is assimilated to that of the Omnipresent?<sup>8</sup> — Since the Divine Law excluded an arusah, the daughter of an Israelite, from the general penalty of a nesu'ah, the daughter of an Israelite, altering her punishment from strangulation to stoning, it follows that stoning is severer.<sup>9</sup>

Burning is severer than slaying by the sword, since it is the penalty of a priest's adulterous daughter, the greater enormity of whose offence lies in the fact that she thereby profanes her father. On the contrary, is not the sword severer, since this is the penalty of the inhabitants of a seduced city, the enormity of whose crime is shown by the fact that their property is destroyed? — 'Her father' is mentioned in connection with stoning;<sup>10</sup> 'her father' is also mentioned in reference to burning;<sup>11</sup> just as when 'her father' is mentioned in connection with stoning, stoning is severer than the sword; so 'her father', when mentioned in connection with burning, shows that burning is severer than slaying by the sword.<sup>12</sup>

Burning is severer than strangulation, since it is the punishment of a priest's adulterous daughter, the enormity of whose offence has already been stated. On the contrary, is not strangulation severer, since it is the punishment of one who smites his father or mother, the greater enormity of whose offence lies in the fact that their honor is assimilated to that of the Omnipresent? — Since the Divine Law varied the penalty of a nesu'ah, if a priest's daughter, from that of a nesu'ah, if an Israelite's daughter, from strangling to burning, we may conclude that burning is severer.<sup>13</sup>

Slaying is severer than strangling, since thereby the inhabitants of a seduced city are punished, the severity of whose punishment is attested by the fact that their property is

destroyed. On the contrary, is not strangulation severer, being the punishment of one who smites his father or mother, the greater enormity of whose offence lies in the fact that their honor is assimilated to that of the Almighty? — Even so the offence against the fundamental tenet of Judaism [which is the crime of the seduced city] is greater.

**R. SIMEON ENUMERATED THEM THUS,** etc. [In his view] burning is severer than stoning, since it is the punishment of a priest's adulterous daughter, the enormity of whose offence lies in the fact that she profanes her father. On the contrary, is not stoning severer, being the punishment of a blasphemer and idol-worshipper, the gravity of whose offence lies in that they reject the fundamental tenet of Judaism? — R. Simeon's view here is in accordance with his other opinion, viz., that a priest's adulterous daughter, whether an arusah or a nesu'ah, is excepted [from the punishment meted out to an Israelite's daughter], in that her penalty is burning. Now since the Divine Law varied the punishment of an arusah, if a priest's daughter, from that of an Israelite's daughter, from stoning to burning, it follows that burning is a severer penalty.

Burning is severer than strangulation, since it is the punishment of a priest's adulterous daughter, the gravity of whose offence has already been stated. On the contrary, is not strangulation severer than burning, being the punishment of one who strikes his father or mother, the enormity of whose offence is constituted by the fact that their honor is compared to that of the Omnipresent? — Since the Divine Law excluded a nesu'ah, the daughter of a priest, from the penalty of a nesu'ah, if an Israelite's daughter, by changing her death from strangling to burning, it follows that burning is severer.

Burning is severer than slaying, since it is the punishment of a priest's adulterous daughter, the enormity of whose offence has already been stated. On the contrary, is not the sword more severe, since it is the penalty of the

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inhabitants of a seduced city, the gravity of whose offence is shown by the fact that their property is destroyed? Now consider, whose offence is greater: that of the seducer or of the seduced?

1. The anonymous opinion cited first in the Mishnah.
2. Marriage consists of two stages: *kiddushin* or *erusin*, whereby the matrimonial bond is made, not to be broken without divorce; and *huppah*, or home taking, without which cohabitation is forbidden. A woman who has undergone the first ceremony is called an *arusah* (betrothed); after the second she is called a *nesu'ah* (married). Nowadays both ceremonies are united, the canopy (*huppah*) being symbolic of the home to which the husband takes his newly-married wife; but in ancient days there was generally an interval between them.
3. For obviously the offence of an *arusah*, who is still in her father's house and thereby profanes him, is greater than that of a *nesu'ah*; and therefore we may assume that her punishment is correspondingly greater. This conclusion is further supported by the fact that a *nesu'ah*, if an Israelite's daughter, is punished by strangulation, the most lenient of all death penalties, whilst an *arusah* is punished by stoning, the most severe. Rashi, however, points out that Scripture does not state that a priest's daughter, only if a *nesu'ah*, is excepted from the punishment of an Israelite's daughter: but not if an *arusah*. It is only because the Rabbis hold stoning to be more severe than burning that they assume that an *arusah*, if a priest's daughter, cannot be more leniently treated than if a Israelite's daughter, for her penalty to be commuted from stoning to burning. This vitiates the whole argument. Hence we must fall back upon the first line of reasoning, that stoning is severer, since it is the punishment of an idol worshipper and blasphemer, because their offence, constituting a rejection of the fundamental basis of Judaism is greater than that of the harlot, in spite of the fact that she profanes her father. That being so, the passage 'the Rabbis maintain, etc.' will not be part of the proof, but an answer to an unexpressed difficulty. For this difficulty arises: If stoning is severer than burning, how is it that a priest's daughter is punished by the latter instead of the former, which is the punishment of an Israelite's daughter (if an *arusah*)? To this the answer is given that only a *nesu'ah* is thus punished by burning, whilst an Israelite's

daughter is only strangled — an easier death than burning. But if an *arusah*, her death is by stoning, just as in the case of an Israelite's daughter. Consequently, the next passage now, since an *arusah*, etc.' is entirely superfluous, being neither part of the argument nor an answer to the unexpressed difficulty: Rashi therefore deletes it from the text.

4. *Supra*. 49b.
5. Deut. XIII, 13-19.
6. The Rabbis always regarded the offence of the tempter as greater than that of the sinner himself. Cf. Ab. V, 23: 'He who causes the multitudes to sin, shall not have the means to repent ... Jeroboam, the son of Nebat, sinned and caused the multitude to sin; the sin of the multitude was laid upon him.' This is in conformity with the general rabbinic dictum: 'All Israel are sureties for one another'.
7. Thus proving stoning to be the greater penalty.
8. Cf. Honor thy father and thy mother (Ex. XX, 12) with Honor the Lord with thy substance (Prov. III, 9).
9. An *arusah*'s sin is greater, because she destroys her virginity in addition to disgracing her family.
10. In the case of a betrothed damsel who committed whoredom: Then shall they bring out the damsel to the door of her father's house, and the men of her city shall stone her with stones that she die; because she hath wrought folly in Israel, to play the whore in her father's house. Deut. XXII, 21.
11. In the case of a priest's daughter: And the daughter of any priest, if she profane herself by playing the whore, she profaneth her father: she shall be burnt with fire. Lev. XXI, 9.
12. A *Gezerah Shawah*, v. [Glos.](#)
13. The sin of a priest's daughter is greater than that of an Israelite's daughter, since the former profanes her father in addition to disgracing herself.

## Sanhedrin 50b

Surely that of the seducer! This affords an argument from a major to a minor premise. If burning is severer than strangulation [as has already been shown], though<sup>1</sup> the latter is severer than the sword,<sup>2</sup> it [burning] is surely severer than slaying, which is a lesser penalty.

Stoning is severer than strangulation, being the penalty of a blasphemer and idol worshipper, the extreme gravity of whose

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offence has already been stated. On the contrary, is not strangulation severer, since it is the penalty of one who smites his father or mother, the gravity of whose offence lies in the fact that their honor is likened, etc.? — Since the Divine Law excluded an arusah, the daughter of an Israelite, from the penalty of a nesu'ah, the daughter of an Israelite, changing it from strangling to stoning,<sup>3</sup> it follows that stoning is severer.

Stoning is severer than slaying, being the penalty of a blasphemer, etc. On the contrary, is not slaying severer than stoning, since it is the penalty of the inhabitants of a seduced city, the gravity of whose offence is proved by the fact that their property is destroyed? — Now consider, whose offence is greater: the seducer's or the seduced? Surely that of the seducer! Hence you may argue from a major to a minor premise. If stoning is severer than strangulation, though the latter be severer than slaying,<sup>4</sup> surely it is severer than slaying itself.

Strangulation is severer than slaying, since it is the penalty of one who smites his father or mother, the gravity of whose offence has already been stated — On the contrary, is not slaying severer, since it is the penalty of the inhabitants of a seduced city, the enormity of whose crime is attested by the fact that their property is destroyed? — Now consider: whose offence is greater, the seducer's or the seduced? Surely the seducer's! And it has been taught: The seducers of a seduced city are punished by stoning. R. Simeon maintained: By strangulation.

R. Johanan used to teach:<sup>5</sup> If a betrothed [i.e., an arusah] maiden<sup>6</sup> committed adultery, her punishment is stoning. R. Simeon said: It is burning. If she committed incestuous adultery with her father, her punishment is stoning. R. Simeon said: It is burning.<sup>7</sup> What does this show? — That according to the Rabbis, only a nesu'ah, [if a priest's daughter] was excluded from the penalty of an Israelite's daughter by being burnt [instead of strangled], but not so an arusah —

But according to R. Simeon, both an arusah and a nesu'ah, [if a priest's daughter] were thus excepted, by being burnt [instead of strangled]. Why so? — Because the Rabbis consider stoning to be severer, but R. Simeon holds burning to be severer; and from this is inferred that if a person incurred two death penalties, he is punished by the more severe.<sup>8</sup>

What statement of R. Simeon [shows that he holds that the priest's daughter, whether an arusah or nesu'ah, is punished by burning]? — It has been taught: R. Simeon said: Two general principles have been stated in respect of a priest's daughter.<sup>9</sup> Do these principles apply only to a priest's daughter, and not to an Israelite's daughter [surely not]?<sup>10</sup> — Say thus: In respect of a priest's daughter too. But then Scripture excluded a priest's daughter, a nesu'ah, from the penalty of an Israelite's daughter, a nesu'ah, and an arusah, from the penalty of an Israelite's daughter, an arusah.<sup>11</sup> Now, just as when the scripture excluded the priest's daughter, a nesu'ah, from the penalty of an Israelite's daughter, a nesu'ah, it was in order to decree a severer punishment;<sup>12</sup> so also, when excluding the priest's daughter, an arusah, from the penalty of an Israelite's daughter, an arusah, it must have been in order to impose a greater punishment.<sup>13</sup> But false witnesses in respect of a nesu'ah, the daughter of a priest, are treated as though they had testified against an Israelite's daughter; likewise, if in respect of an arusah, who is a priest's daughter, they are punished just as though they had testified against an Israelite's daughter.<sup>14</sup>

Our Rabbis taught: And the daughter of any priest, if she profane herself:<sup>15</sup> I might think that this applies even to the profanation of the Sabbath,<sup>16</sup> — but the Writ states by playing the whore: thus Scripture speaks only of profanation through whoredom. I might think that this applies even to an unmarried woman. But her father is mentioned in this passage,<sup>17</sup> and her father is also mentioned elsewhere:<sup>18</sup> just as elsewhere the reference is to whoredom by one who is bound to a



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husband, so here too. But perhaps 'her father' is stated in order to exclude others?<sup>19</sup> — When Scripture states, She profaneth her father, it must apply to whoredom with others.<sup>20</sup> Hence, to what purpose do I put the phrase 'her father' [which, strictly speaking, is superfluous]? 'Her father' is mentioned in this passage, and 'her father' is also mentioned elsewhere; just as elsewhere the reference is to whoredom by one who is bound to a husband, so here too.<sup>21</sup> If so, just as the reference there is to a maiden<sup>22</sup> who is an arusah, so here too the reference is to a maiden who is an arusah: but if she is a maiden and a nesu'ah, or if she is a full-grown damsel<sup>23</sup> and an arusah, or a full-grown damsel and a nesu'ah, or even if she is aged, whence do we know [that the same law applies]? — The Writ states: 'And the daughter of any priest',<sup>24</sup> implying that the law holds good in all cases.<sup>25</sup>

## 'The daughter of any priest':

1. no note.
2. B. Simeon holding that the seducer, whose offence is greater, was punished by strangulation, v. *infra* 89b.
3. The offence of an arusah being greater, v. p. 335. n. 1.
4. As will he proved in the next passage.
5. Lit., 'It was fluent in his mouth', i.e., he received it orally from his teachers as at traditional law not actually taught in a Mishnah or a Baraita (Rashi).
6. 'The Hebrew [H] denotes a damsel between twelve years and a day and twelve and a half years of age. Before that she is a minor ([H]), after that an adult, 'entering maturity', bogereth ([H]).
7. All this is R. Johanan's saying.
8. Since R. Johanan maintains that the Rabbis rule that a priest's daughter, an arusah, is stoned, because stoning is the severer death, whilst R. Simeon holds that she is burnt, because he regards burning severer, deducing all this from the Scripture, it follows that if one incurs a double death penalty, the severer must be imposed. For here too, a choice of two deaths lies before us, and we chose the severer penalty because of the greater gravity of the offence.
9. One referring to an arusah, and one to a nesu'ah; i.e., when the Torah states, the man that committeth adultery with another man's

wife, even he that committeth adultery with his neighbor's wife, the adulterer and the adulteress shall surely be put to death, (Lev. XX, 10) this is a general law regarding a nesu'ah, in which a priest's daughter should be included. Likewise the law in Deut. XXII, 23f: If a damsel that is a virgin be betrothed unto a husband, and a man find her in the city and lie with her, then shall ye bring them both out unto the gate of the city, and ye shall stone them with stones that they die, is a general principle for an adulterous arusah, which should embrace the priest's daughter too.

10. This is an interjection.
11. And the daughter of any priest, if she profane herself by playing the whore, she profaneth her father; she shall be burnt with fire. (Lev. XXI, 9). 'The daughter of any priest', being unspecified, must refer both to an arusah and to a nesu'ah, whilst Lev. XX, 10 (quoted in preceding note) refers to a nesu'ah, and the death penalty mentioned there is interpreted as strangulation. Thus a priest's daughter, whether an arusah or a nesu'ah, is excepted from the penalty of an Israelite's daughter in a like case.
12. Burning instead of strangulation, all admitting that the former is more severe.
13. Burning instead of stoning, making Lev. XXI,<sup>2</sup> (quoted on p. 335, n. 3) refer both to a nesu'ah and an arusah. This Baraita then will be the authority for R. Johanan's statement that R. Simeon maintained that both an arusah and a nesu'ah, if priests' daughters, were excepted from the penalty of an Israelite's daughter.
14. Deut. XIX, 16-19. If a false witness rise up against any man, to testify against him that which is wrong ... then shall ye do unto him as he had thought to do unto his brother. Thus a false witness incurred the penalty he had sought to impose. But if he testified against a priest's daughter, whether an arusah or a nesu'ah, his punishment was that of an Israelite's daughter in like circumstances.
15. Lev. XXI, 9.
16. The Hebrew [H], used in the text, is not necessarily reflexive, as translated in the A.V.
17. She profaneth her father.
18. But if this thing be true, and the tokens for virginity be not found for the damsel: Then they ... shall stone her with stones that she die: because she hath wrought folly in Israel, to play the whore in her father's house. Deut. XXII, 21f.
19. I.e., only if she committed incest with her father is she punished by burning, but not for playing the harlot with others. The Talmud

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explains further on why one should wish to interpret the passage thus.

20. For if she commits incest with her father, he profanes her too.
21. I.e., that her profanation is in respect of this tie.
22. V. p. 337, n. 5.
23. Heb. bogereth, v. p. 337, n. 5.
24. Lev. XXI, 9.
25. This is deduced by interpreting the copulative *waw* (and) as an extending particle.

## Sanhedrin 51a

from, this phrase I know the law only if she was married to a priest,<sup>1</sup> but if she was married to a Levite, Israelite, heathen,<sup>2</sup> a profaned person,<sup>3</sup> bastard,<sup>4</sup> or a Nathin,<sup>5</sup> whence do we know that the same applies? From the verse: And the daughter of a man who is a priest, which teaches that even if she is married to one who is not a priest the same applies.<sup>6</sup> Further: she [profaneth her father; she shall be burnt in fire] teaches that only she is punished by fire, but not her paramour, nor those who testify falsely against her. R. Eliezer said: If with her father, she is burnt; if with her father-in-law, she is stoned.<sup>7</sup>

The Master said: 'I might think that this applies even to the Profanation of the Sabbath.' But if she profaned the Sabbath, must she not be stoned?<sup>8</sup> — Raba replied: This is taught according to R. Simeon, who regards burning a severer penalty. I might think that since the Divine Law has in general been stricter with the priests [than with the Israelites], giving them an additional number of precepts, therefore the priest's daughter [if she profaned the Sabbath] should be burnt; hence we are taught that this verse applies only to profanation by whoredom. But why should she differ from a priest himself?<sup>9</sup> — I would think that a priest is punished more leniently, because he is permitted to work on the Sabbath in the sacrificial service;<sup>10</sup> but since a priest's daughter is not so permitted, her punishment should be stoning. We are therefore taught otherwise.

'I might think that this applies even to an unmarried woman. But does not the Writ

state: 'by playing the whore'? — This is taught on the view of R. Eliezer, who maintained: If an unmarried man cohabits with an unmarried woman without conjugal intent, he renders her a harlot.<sup>11</sup>

'But perhaps "her father" is stated in order to exclude others?' — How then would you explain the verse? That she committed adulterous incest with her father! If so, why only a priest's daughter: does not the same apply to an Israelite's daughter? For [did not] Raba say: R. Isaac b. Abudimi said unto me: 'We learn identity of law from the fact that hennah [they] occurs in two related passages, and likewise zimmah [wickedness] in two?'<sup>12</sup> — The verse [she profaneth] is necessary. For I would think that this whole passage treats of incest with one's father, and the penalty of burning is prescribed here intentionally to obviate Raba's deduction.<sup>13</sup> Hence the deduction [from she profaneth].

'The daughter of any priest: from this phrase I know the law only if she was married to a priest; if she was married to a Levite, Israelite, heathen, a profaned person, bastard, or a Nathin, whence do I know that the same applies? From the verse: And the daughter of a man who is a priest, which teaches that even if she is married to one who is not a priest the same applies.' But because she is married to one of these, is she no longer considered a priest's daughter? Moreover, does Scripture state ... a priest's daughter married to a priest?<sup>14</sup> — I might think that since Scripture states, if she profane herself by playing the whore, the law deals only with one who now profanes herself for the first time;<sup>15</sup> but in these other cases where she was already profaned before [this law should not apply]. For, a Master stated: [The verse.] If the priest's daughter also be married unto a stranger, [she may not eat of an offering of the holy things]<sup>16</sup> teaches that if she cohabits with one who is unfit for her,<sup>17</sup> he disqualifies her [to eat of the holy food] — And [similarly] if she was married to a Levite or an Israelite, since Scripture also states, [But if a priest's daughter be a widow or divorced,

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and have no child] and is returned unto her father's her house, as in her youth, [she shall eat of father's meat, i.e., of the holy food],<sup>18</sup> it shows that as long as her husband [a Levite or Israelite] is alive, she must not eat of the holy food.<sup>19</sup> Hence I would think that she should not be burnt; therefore the verse teaches otherwise.

Now this ruling [that even if married to a bastard, etc., she is burnt] does not agree with R. Meir's view. For it has been taught: If a priest's daughter, married to an Israelite, ate of terumah,<sup>20</sup> she must repay the principals but not the additional fifth.<sup>21</sup> [If she committed adultery] her penalty is burning. But if she was married to one unfit for her [e.g., a bastard, etc.] she must repay the principal and the added fifth, and her penalty is strangulation: this is the ruling of R. Meir. But the Sages hold that in both cases she must pay the principal but not the fifth, and her penalty is burning.

'R. Eliezer said: If with her father, she is burnt; if with her father-in-law, she is stoned.' What is meant by 'her father' and 'her father-in-law'? If we say 'her father' means [that she committed whoredom] with her father, and 'her father-in-law' [that she did so] with her father-in-law: why speak particularly of a priest's daughter; an Israelite's daughter too is thus punished — a daughter [for incest with her father] by burning, and a daughter-in-law by stoning? — But 'her father' means 'under her father's authority',<sup>22</sup> and 'her father-in-law' indicates 'under her father-in-law's authority'.<sup>23</sup> Whose view is this? If the Rabbis? Do they not maintain that a nesu'ah is excluded [from strangulation and punished] by burning, but not so an arusah [who is stoned]? If R. Simeon's? Does he not maintain that both an arusah and a nesu'ah are burnt? And if R. Ishmael's?<sup>24</sup> Does he not maintain that only an arusah is burnt, but not a nesu'ah, and accordingly, [when under the authority of] her father-in-law, she is strangled?<sup>25</sup> — Rabin sent a message in the name of R. Jose son of R. Hanina:<sup>26</sup> This is the explanation of

the teaching.<sup>27</sup> Indeed it is in accordance with the Rabbis' views and this is its meaning: Where an adulterous woman's death is more lenient than that of her father for incest [with his daughter], that is in the case of an Israelite's daughter, who is a arusah, her punishment being strangulation;<sup>28</sup> then in the case of a priest's daughter, her punishment is the same as her father's, viz., burning; but where an adulterous woman's penalty is greater than her father's, that is in the case of an Israelite's daughter, who is an arusah, her punishment being stoning,<sup>29</sup> then in the case of a priest's daughter, her punishment is as that of her father-in-law for incest with her, viz., by stoning.<sup>30</sup> R. Jeremiah objected to this explanation: Does then the Baraitha state 'greater' or 'lesser'? But R. Jeremiah explained it thus:

1. The Talmud explains further on why such an assumption should be made.
2. (Read with MSS 'Cuthean', v. Yad Ramah).
3. The issue of a marriage forbidden by priestly law'; cf. Lev. XXI, 7, 14.
4. The issue of adultery or incest forbidden on pain of death or *Kareth*: e.g., the offspring of a father and his daughter, cp. Yeb. 49a.
5. The Nethinim (Nathin, pl. Nethinim) are regarded in the Talmud as descendants of the Gibeonites, who, having obtained immunity during the Conquest of Canaan by a ruse, were degraded by Joshua to the position of 'hewers of wood and drawers of water' (Yeb. 78b; Josh. IX, 19-23). Actually they are first heard of as returning to Palestine after the Babylonian Exile (Ezra II, 58, VII, 20; Nehem. III, 26, 31). They served under the Levites in the Temple (Ezra VII, 24). Though first mentioned only after the return from the exile, it is stated that they were appointed by David to serve the Levites; hence they must have been well known in Israel long before the Babylonian Exile, in spite of their late mention. In Talmudic times they were placed on a very low level, being forbidden to intermarry with freeborn Israelites.
6. Because 'man' (E.V. 'any') is superfluous; hence it teaches that only her father need be a priest for this law to apply.
7. This is explained further on.
8. Stoning is the penalty for desecrating the Sabbath, and it is surely not commuted to burning for a priest's daughter.

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9. If this be taught according to R. Simeon, why should I think that though a priest is stoned for desecrating the Sabbath — since nowhere does the Scripture differentiate between a priest and an Israelite in this respect, — his daughter is punished more severely by being burnt?
10. All Sabbath laws were suspended in favor of the Temple service, for which male priests only were eligible.
11. Whom a priest may not marry (Lev. XXI, 7); hence in his view whoredom includes pre-marriage unchastity.
12. In Lev. XVIII, 10 it is stated: The nakedness of thy son's daughter, or of thy daughter's daughter, even their nakedness thou shalt not uncover: for they ([H] hennah) are thine own nakedness. Further it is written (ibid. XVIII, 17): Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness; for they ([H] hennah) are her near kinswomen: it is wickedness ([H] zimmah). Just as in the latter verse, intercourse with one's wife's daughter is treated as with her granddaughter, so in the former case, incest with one's daughter is the same offence as with one's granddaughter. Though this is not explicitly stated, it is deduced from the fact that hennah occurs in both cases. Further, in Lev. XX, 14 it is stated: And If a man take a wife and her mother, it is wickedness ([H] zimmah): they shall be burnt with fire. The use of zimmah in Lev. XX, 14 and in Lev. XVIII, 17 show that burning by fire is the penalty in both cases; and the use of hennah in Lev. XVIII, 17 and Lev. XVIII, 10 shows that in Lev. XVIII, 10 too the penalty is burning (cf. the Euclidean axiom: the equals of equals are equal). Thus we see that incest between a man, even an Israelite, and his daughter is punished by burning. How then could we assume that the verse under discussion, which decrees burning as a penalty for whoredom by a priest's daughter (implying the exclusion of an Israelite's daughter), refers to incest with one's father, and consequently what need is there for the deduction from she profaneth?
13. I.e., to show that only a priest's daughter committing incest is burnt, but not an Israelite's daughter, who is differently punished. In that case, the identical phrasing of the verses cited by Raba would have to be otherwise interpreted.
14. I.e., on what grounds could we assume at all that the law is applicable only if she married a priest?
15. I.e., through her whoredom.
16. Lev. XXII, 12.
17. E.g., a Nathin or bastard; that is the meaning attached to a stranger.
18. Ibid. 13.
19. This too is regarded as a measure of profanation.
20. Lit., 'that which is separated': the portion of the corn produce due to the priest.
21. Which a non-priest had to pay for eating *terumah*, ibid. 14.
22. I.e., when one is under the parental roof, viz., an arusah, v. p. 333, n. 3.
23. I.e., when she is to longer under the parental roof, viz., a nesu'ah.
24. His view is explained later.
25. Not stoned; for since he maintains that a nesu'ah, if a priest's daughter, does not differ from an Israelite's daughter, her penalty is strangulation, as in the case of the latter.
26. Here we have an example of a Talmudic responsum. Rabin migrated from Babylonia to Palestine, and wrote many letters from Babylonia to Palestine with the results of his researches. Cf. Keth. 49b; B.M. 114a; B.B. 139a. 'Rabin sent' then will mean from Palestine to Babylonia.
27. I.e., the Baraitha containing the statement of R. Eliezer.
28. Whilst her father's penalty is death by burning.
29. Which, according to the Rabbis, is severer than burning, the father's punishment.
30. Rashi points out that it is unnecessary to liken her punishment to her father-in-law's, since the penalty of every arusah is stoning. But in any case the Talmud refutes this explanation.

## Sanhedrin 51b

In truth, this is in accordance with R. Ishmael's views, and this is its meaning: 'with her father', i.e. whilst under her parental roof [i.e., an arusah], her punishment is burning; 'with her father-in-law', i.e., for incest with her father-in-law, she is stoned; but if she committed adultery with any other person, she is strangled. Raba objected to this: Why this difference [in the meaning attached to the two phrases]? Either each is to be understood literally,<sup>1</sup> or to refer to the authority under which she is?<sup>2</sup> Hence Raba explained it thus: This is in agreement with R. Simeon [who holds burning to be the severest penalty]. R. Eliezer [who taught this] maintaining that a nesu'ah is as an arusah: just as with an



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arusah, [the penalty of a priest's daughter] is raised in stringency by one degree more [than that of an Israelite's daughter], viz., from stoning to burning, so also with a nesu'ah the penalty is raised in stringency by one degree, viz., from strangulation to stoning.<sup>3</sup> R. Hanina objected: But R. Simeon maintains that in both cases the penalty is burning! Hence Rabina explained it thus: This is really according to the Rabbis, but you must reverse the text, thus: If 'with her father' [i.e. an arusah], she is stoned; if 'with her father-in-law', [i.e., a nesu'ah], she is burned. And as to the phrase 'with her father'?<sup>4</sup> He [R. Eliezer] is influenced by the general phraseology.<sup>5</sup>

R. Nahman said in the name of Rabbah b. Abbuha in the name of Rab: The *halachah* is in accordance with the message sent by Rabin in the name of R. Jose b. Hanina. R. Joseph queried: [Do we need] to fix a *halachah* for [the days of] the Messiah?<sup>6</sup> — Abaye answered: If so, we should not study the laws of sacrifices, as they are also only for the Messianic era. But we say: Study and receive reward;<sup>7</sup> so in this case too, study and receive reward: [He replied:] This is what I mean: Why state a *halachah*? In the course of the discussion, was there given a ruling at all?<sup>8</sup>

Now, what statement of R. Ishmael was referred to?<sup>9</sup> — It has been taught: And the daughter of any priest, If she profanes herself by playing the whore:<sup>10</sup> Scripture here speaks of a maiden [na'arah] who is an arusah. You say so, but perhaps it also refers to a nesu'ah? — The Writ sayeth: And the man that committeth adultery with another man's wife, even he that committeth adultery with his neighbor's wife, the adulterer and the adulteress shall be put to death.<sup>11</sup> Now all are included in the terms 'adulterer' and 'adulteress', but the Writ excluded the daughter of an Israelite, teaching that she is stoned,<sup>12</sup> and the daughter of a priest, teaching that she is burnt. Just as the exception made for an Israelite's daughter refers to an arusah, but not a nesu'ah,<sup>13</sup> so also, when a priest's daughter was excepted, an arusah was so excepted, but not a nesu'ah.

Further, false witnesses [in respect of the charge of adultery] and the paramour [of an adulterous woman] were [originally] included in the verse: [If a false witness rise up against any man to testify against him that which is wrong ...] then ye shall do unto him, as he had thought to have done unto his brother.<sup>14</sup> — Now, how can the words, as he had thought apply to a Paramour!<sup>15</sup> — But say thus: The punishment of her false witnesses Is included in the text referring to the death of her paramour,<sup>16</sup> because Scripture states: then ye shall do unto him, as he had thought to have done unto his brother; implying, but not unto his sister.<sup>17</sup> This is R. Ishmael's opinion. R. Akiba said: [A priest's daughter], whether an arusah or a nesu'ah, is excepted [from the punishment of strangulation,] but is punished with fire. I might think that this applies even to an unmarried woman: but her father is mentioned in this passage, and her father is also mentioned elsewhere:<sup>18</sup> just as elsewhere the reference is to whoredom by one who is bound to a husband, so here too. Thereupon R. Ishmael said unto him: If so, just as the second passage refers to a maiden [na'arah] who is an arusah, so this verse [treating of a priest's daughter] should be taken to refer to a maiden who is an arusah; [but if a nesu'ah, her punishment should be different]. R. Akiba replied: My brother, I interpret the and the daughter, etc., when it would have been sufficient to say the daughter, etc., as teaching the inclusion of a nesu'ah.<sup>19</sup> R. Ishmael said to him: Shall we except this woman [i.e., a nesu'ah from the punishment of strangulation] and impose [the severer penalty of] death by fire, because you interpret the superfluous 'waw' ['and']; if this superfluous waw indicates the inclusion of a nesu'ah, then include an unmarried woman too;<sup>20</sup> whilst if it implies the exclusion of an unmarried woman [since the Deuteronomic passage explicitly relates to a married woman], then exclude a nesu'ah too. And R. Akiba?<sup>21</sup> — [He holds that] the gezerah shawah serves the purpose to exclude an unmarried woman, whilst the superfluous 'waw' serves to indicate the inclusion of a

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nesu'ah. And R. Ishmael? — In raising the foregoing [objection] he thought that since R. Akiba had replied. 'I interpret the superfluous waw', it proved that he had withdrawn his deduction from the *gezerah shawah*.<sup>22</sup> Now, how does R. Ishmael interpret this superfluous waw? — As showing that which was taught by the father of Samuel b. Abin: Since we find Scripture differentiating in male [priests] between the [physically] unblemished and the blemished,<sup>23</sup> I would think that a distinction must also be drawn in their daughters:<sup>24</sup> therefore Scripture writes a pleonastic 'waw' [to teach the inclusion of the daughter of a physically blemished priest].<sup>25</sup> And R. Akiba?<sup>26</sup> — He deduces this from the verse: [for the offerings of the Lord made by fire, and the bread of their God,] they [i.e. the priests] do offer: therefore they shall be holy.<sup>27</sup> And R. Ishmael? — He maintains that that verse could apply only to priests themselves,<sup>28</sup> but not to their daughters. Hence the necessity of the pleonastic 'waw'.

Now how does R. Ishmael interpret

1. I.e., incest with her father, or with her father-in-law.
2. I.e., under her father's authority, viz., an arusah; under her father-in-law's authority, viz., a nesu'ah.
3. And 'with her father', 'with her father-in-law', refer to status, under whose authority she is.
4. Why is such a roundabout expression used instead of simply 'arusah' and 'nesu'ah'?
5. This is in accordance with the printed text. Rashi, apparently on the basis of a slightly different reading, renders 'He is influenced by the phraseology of the first Tanna', who quotes from Lev. XXI, 9, in which 'her father' is mentioned. Tosaf., however, points out, that in many versions the text reads: why does he say, (if with) her father she is burnt? According to this, the question is: how did such an error arise in the text? To which the answer is: he is influenced by the Biblical phraseology: And the daughter of any priest ... she shall be burnt with fire. Lev. XXI, 9.
6. Since the Sanhedrin no longer had jurisdiction in capital offences, there is no practical utility in this ruling, which can become effective only in the days of the Messiah.

7. [Learning has its own merit, quite apart from any practical utility that may be derived therefrom].
8. Surely not! Since Rabin and Rabina agree on the point of law, and differ only on the interpretation of R. Eliezer's statement.
9. This reverts to the former discussion, when it was said, this is according to R. Ishmael.
10. Ibid.
11. Ibid. XX, 10. Wherever the manner of death is unspecified, strangulation is meant.
12. Deut. XXII, 23f. referring to adultery by an arusah.
13. Ibid. This explicitly treats of an arusah: if it be applied to a nesu'ah too, there is none to which Lev. XX, 10 can refer.
14. Deut. XIX, 16, 19.
15. This is an interjection.
16. That is, they are punished by the same death which they intended to have brought about on the paramour.
17. Where the penalties differ; e.g., when a priest's daughter commits adultery, she is burned, but her paramour is stoned; hence, if witnesses testified falsely on such a charge, they are to be stoned, not burned.
18. Ibid. XXII, 21f.
19. I.e., the deduction from the verbal identity (Gezerah Shawah, v. [Glos.](#)) of 'her father' does in fact apply only to an arusah: but the superfluous copulative waw (u) extends the law to embrace a nesu'ah too.
20. So the commentary of Hananel; Rashi interprets: if the *gezerah shawah* (identical use of 'her father' in both passages) indicates the inclusion of a nesu'ah, etc. This interpretation is rather difficult, as R. Akiba did not include nesu'ah through the *gezerah shawah*.
21. How would he meet this objection?
22. For mere identity of phraseology is insufficient to deduce similarity of law. There must be a tradition from one's teacher, and supposedly handed down from scholar to scholar, going right back to Moses. (Pes. 66a: so Rashi's interpretation of the rule: No one may draw conclusions from identical phraseology on his own authority). Thus R. Ishmael thought that R. Akiba had abandoned this *gezerah shawah*, being doubtful of the authenticity of its tradition.
23. Lev. XXI, 17, forbidding priests with a physical blemish to perform the sacrificial service.
24. With respect to adultery. viz., that only the daughter of a physically perfect priest is burnt.
25. Weiss, Dor, Vol. II, p. 105, quotes R. Ishmael's remark in this connection 'shall we exclude a nesu'ah because thou interpretest a

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superfluous 'waw' as being a protest against R. Akiba's method of interpretation? From the whole passage, however, we see that R. Ishmael was not fundamentally opposed to this at all, but merely disagreed on the actual application of the extension and apparent inconsistency in R. Akiba's distinction between a nesu'ah and an unmarried woman.

26. Whence does he derive this latter deduction?
27. Ibid. XXI, 6. Therefore they shall be holy is an emphatic assertion of their holiness, implying that they do not lose it even if blemished.
28. Teaching that they retain their holiness even if blemished, e.g. that they may not be defiled by the dead.

## Sanhedrin 52a

the verse, she profaneth her father?<sup>1</sup> — He employs it in accordance with R. Meir's dictum, as it has been taught: R. Meir used to say: What is meant by the verse, *she profaneth her father*? If he [the father] was regarded as holy, he is now regarded as profane;<sup>2</sup> if he was treated with respect, he is now treated with contempt; and men say, 'Cursed be he who begot her, cursed be he who brought her up, cursed be he from whose loins she sprung. R. Ashi said: in accordance with whose view is a wicked man called 'the son of a wicked man', even if he is actually the son of a righteous man? — It is in accordance with this Tanna's dictum.<sup>3</sup>

THAT IS THE MANNER OF STONING. To what does this refer?<sup>4</sup> — To the statement [in a preceding Mishnah]: When the verdict [of guilty] was finally announced, he [the accused] was led out to be stoned ...<sup>5</sup> Now, the scaffolding [for stoning] was twice a man's height, etc.<sup>6</sup> And because the *Tanna* is about to teach the manner of death by fire, he sums up the foregoing with the words: THAT IS THE MANNER OF STONING, etc.

MISHNAH. THE MANNER IN WHICH BURNING IS EXECUTED IS AS FOLLOWS: HE WHO HAD BEEN THUS CONDEMNED WAS LOWERED INTO DUNG UP TO HIS ARMPITS, THEN A HARD CLOTH WAS PLACED WITHIN A SOFT ONE,<sup>7</sup> WOUND ROUND HIS NECK, AND THE TWO LOOSE ENDS PULLED

IN OPPOSITE DIRECTIONS, FORCING HIM TO OPEN HIS MOUTH. A WICK WAS THEN LIT, AND THROWN INTO HIS MOUTH, SO THAT IT DESCENDED INTO HIS BODY AND BURNT HIS BOWELS. R. JUDAH SAID: SHOULD HE HOWEVER HAVE DIED AT THEIR HANDS [BEING STRANGLER BY THE BANDAGE BEFORE THE WICK WAS THROWN INTO HIS MOUTH, OR BEFORE IT COULD ACT], HE WOULD NOT HAVE BEEN EXECUTED BY FIRE AS PRESCRIBED. HENCE IT WAS DONE THUS: HIS MOUTH WAS FORCED OPEN WITH PINNERS AGAINST HIS WISH, THE WICK LIT AND THROWN INTO HIS MOUTH, SO THAT IT DESCENDED INTO HIS BODY AND BURNT HIS BOWELS. R. ELEAZAR B. ZADOK SAID: IT ONCE HAPPENED THAT A PRIEST'S DAUGHTER COMMITTED ADULTERY, WHEREUPON BUNDLES OF FAGGOTS WERE PLACED ROUND ABOUT HER AND SHE WAS BURNT. THE SAGES REPLIED, THAT WAS BECAUSE THE *BETH DIN* AT THAT TIME WAS NOT WELL LEARNED IN LAW.

GEMARA. What is meant by a WICK? — R. Mathna said: A lead bar.<sup>8</sup>

Whence do we know this?<sup>9</sup> — It is inferred from the fact that burning is decreed here;<sup>10</sup> and was also the fate of the assembly of Korah,<sup>11</sup> just as there the reference is to the burning of the soul, the body remaining intact, so here too. R. Eleazar said: It is deduced from the employment of the word 'burning' here and in the case of Aaron's sons;<sup>12</sup> just as there the burning of the soul is meant, while the body remained intact, so here too.

Now, he who deduces it from the assembly of Korah, whence does he know [that they were thus burnt]? — Because it is written: [Speak unto Eleazar ... that he take up the censers out of the burning ... The censers of these sinners against their own souls,<sup>13</sup> implying that their souls were burned, but their bodies were unharmed. And the other?<sup>14</sup> He maintains that they were literally burnt [i.e., their bodies], and what is the meaning of

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against their own souls? — That they incurred the punishment of fire because of [the pollution of] their souls; as Resh Lakish [taught]. For R. Simeon b. Lakish said: What is the meaning of the verse, with hypocritical mockers in feasts, they gnashed upon me with their teeth?<sup>15</sup> Because they hypocritically [i.e., polluting their own sincerity] flattered Korah in return for the feast he set before them, the Prince of Gehenna<sup>16</sup> gnashed his teeth against them [for their destruction].

Now he [R. Eleazar] who infers it from the sons of Aaron, whence does he know [that their bodies were not burnt]? — Because it is written, And they died before the Lord,<sup>17</sup> teaching that it was like normal death [from within]. And the other? — He maintains that they were actually burnt, whilst the verse, And they died before the Lord, shows that the fire commenced from within, as in normal death. For it has been taught: Abba Jose b. Dosesthai said: Two streams of fire issued from the Holy of Holies, branching off into four, and two entered into each of their nostrils and burned them.<sup>18</sup> But it is written, And the fire devoured them?<sup>19</sup> — This implies them but not their garments.

But why should we not learn [the manner of death by fire] from the bullocks that were burnt,<sup>20</sup> just as there they were actually burnt, so here too? — It is logical to learn this from man, because these have the following points in common: — [i] man, [ii] sin, [iii] soul, and [iv] piggul.<sup>21</sup> On the contrary, should we not compare it rather to the burnt bullocks, since they have in common [i] the carrying out of God's command, and [ii] permanency?<sup>22</sup> — Even so, the others have more in common.

Now, he who deduces it from the assembly of Korah, why did he not learn it from Aaron's sons? — Because they were actually burnt [this being his opinion]. Then why not deduce from them [that this shall be the method of burning]? — R. Nahman answered in the name of Rabbah b. Abbuha: The verse saith, But thou shalt love thy neighbor as thyself,<sup>23</sup>

[which implies:] choose an easy death for him.<sup>24</sup> Now, since we have R. Nahman's dictum, what need is there of the *gezerah shawah*? — But for the *gezerah shawah* — I would think that burning of the soul, the body remaining intact, is not deemed burning at all; whilst as for [the implication of the verse], Thou shalt love thy neighbor as thyself, this can be fulfilled by piling up an abundance of faggots to cause a speedy death. Hence the teaching of the *gezerah shawah*.

Moses and Aaron once walked along, with Nadab and Abihu behind them, and all Israel following in the rear. Then Nadab said to Abihu, 'Oh that these old men might die, so that you and I should be the leaders of our generation.' But the Holy One, blessed be He, said unto them: 'We shall see who will bury whom.' R. Papa said: Thus men say: Many an old camel is laden with the hides of younger ones.<sup>25</sup>

R. Eleazar said:

1. Ibid. XXI, 9. Since R. Ishmael maintains that an arusah is burnt, but not a nesu'ah, deducing this by analogy, and not admitting the *gezerah shawah* based upon the phrase 'her father', what do these words teach?
2. In the sense of not holy.
3. That the father is cursed and reviled for his offspring's misdemeanors.
4. [This is Rashi's reading, found also in MS.M.; cur edd.: What does he teach that he states?]
5. *Supra* 42b.
6. *Supra* 45a.
7. The soft one alone could not exert sufficient pressure to open his mouth; whilst a hard one alone would bruise the skin and unnecessarily disfigure him (Rashi).
8. 'Lit' in the Mishnah will therefore mean 'melted'.
9. That death by fire was thus carried out, instead of burning the body.
10. Lev. XXI, 9. She shall be burnt with fire.
11. Num. XVII, 4. And Eliezer the priest look the brazen censers, wherewith they that were burnt had offered.
12. Lev. X, 6. Let your brethren ... bewail the burning which the Lord hath kindled.
13. Num. XVII, 2f (E. V. XVI, 37f).
14. R. Eleazar.
15. Ps. XXXV, 16.



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16. In the valley to the south of Jerusalem, known as the valley of the son of Hinnom, children were at one time sacrificed to Moloch (II Kings XXIII, 10; Jer. II, 23; VII, 31f). For this reason the valley was deemed accursed, and Gehenna thus became a synonym for hell. It is assumed to be in charge of a demon prince, who voraciously demands multitudes of victims (Shab. 104a).
17. Lev. X, 12.
18. So that the fire commenced, within and spread without.
19. Ibid. This implies limitation: 'them', but not something else; now, if they were entirely burnt, what does this word exclude?
20. As sacrifices, where, of course, the carcasses were burnt. Lev. IV, 12 et passim.
21. I.e., both refer to (i) man, (ii) punishment for sin, (iii) destruction of the soul, and (iv) in both there is no law of piggul. Piggul, lit., 'abomination,' a sacrifice slaughtered with the unlawful intention of eating it beyond the prescribed limits of time; for the flesh of sacrifices had to be eaten within prescribed times (v. Zeb. V, 2. 53a). But the burnt bullocks differed from man on all these points
22. I.e., they have the following in common: (i) each is performed by man in obedience to God's command, but Aaron's sons and the assembly of Korah were destroyed by God himself; (ii) the law of execution by fire, as that of sacrifices, was of permanent validity, whereas in the other two cases their deaths were unique, the result of miracles confined to particular times.
23. Lev. XIX, 18.
24. But the burning of the body is a most painful death.
25. I.e., many an old man surprises the young.

## Sanhedrin 52b

How is the scholar regarded by the ignorant? — At first, like a golden ladle; if he converses with him, like a silver ladle; if he [the scholar] derives benefit from him, like an earthen ladle, which once broken cannot be mended.<sup>1</sup>

Imarta the daughter of Tali, a priest, committed adultery. Thereupon R. Hama b. Tobiah had her surrounded by faggots and burnt. R. Joseph<sup>2</sup> said: He [R. Hama] was ignorant of two laws. He was ignorant of R. Mathna's dictum<sup>3</sup> and of the following Baraitha: And thou shalt come unto the priests, the Levites, and unto the judge that

shall be in those days:<sup>4</sup> This teaches that when the priesthood is functioning [in the Temple], the judge functions [in respect of capital punishment]; but when the priesthood is not functioning, the judge may not function.<sup>5</sup>

R. ELEAZAR B. ZADOK SAID, IT ONCE HAPPENED THAT A PRIEST'S DAUGHTER COMMITTED ADULTERY, etc. R. Joseph said: It was a Sadducee<sup>6</sup> *Beth din* that did this. Now, is this what R. Eleazar b. Zadok said, and did the sages answer him so? Has it not been taught: R. Eleazar b. Zadok said, 'I remember when I was a child riding on my father's shoulder that a priest's adulterous daughter was brought [to the place of execution], surrounded by faggots, and burnt.' The Sages answered him: 'You were then a minor, whose testimony is inadmissible'?<sup>7</sup> — There were two such incidents.<sup>8</sup> Now which incident did he first relate to them? Shall we say that he first told them of the incident first mentioned here [which happened in his majority]: but if he told them what happened in his majority, and they paid no attention to him, surely he would not proceed to tell them what occurred in his minority? — But he must have related this one [of the Baraitha] first, to which they replied: 'You were a minor.' Then he told them of the case that occurred in his majority, and they replied, 'That was done because the *Beth din* at that time was not learned in the law.'

**MISHNAH.** EXECUTION BY THE SWORD WAS PERFORMED THUS: THE CONDEMNED MAN WAS DECAPITATED BY THE SWORD, AS IS DONE BY THE CIVIL AUTHORITIES.<sup>9</sup> R. JUDAH SAID: THIS IS A HIDEOUS DISFIGUREMENT; BUT HIS HEAD WAS LAID ON A BLOCK AND SEVERED WITH AN AXE.<sup>10</sup> THEY REPLIED, NO DEATH IS MORE DISFIGURING THAN THIS.

**GEMARA.** It had been taught: R. Judah said to the Sages: I too know that this is a death of repulsive disfigurement, but what can I do, seeing that the Torah hath said, neither shall

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ye walk in their ordinances?<sup>11</sup> But the Rabbis maintain: Since Scripture decreed the sword, we do not imitate them [when using their method]. For if you will not agree to this, then how about that which was taught: Pyres may be lit in honor of deceased kings,<sup>12</sup> and this is not forbidden as being of the 'ways of the Amorites': but why so? Is it not written, neither shall ye walk in their ordinances? But because this burning is referred to in the Bible, as it is written, [But thou shalt die in peace:] and with the burnings of thy fathers ... [so shall they burn for thee],<sup>13</sup> it is not from them [the heathens] that we derive the practice. So here too, since the Torah decreed the sword,<sup>14</sup> it is not from them [the Romans] that we derive the practice. Now we have learnt in another chapter, 'The following are decapitated: A murderer, and the inhabitants of a seduced city.'<sup>15</sup> We know this to be true of the inhabitants of a seduced city, because it is written, ['Thou shalt surely smite the inhabitants of that city] with the edge of the sword.<sup>16</sup> But whence do we know it of a murderer? — It has been taught: [And if a man smite his servant ... and he die under his hand,] he shall surely be avenged.<sup>17</sup> Now I do not know what form this vengeance is to take; but when the Writ saith, And I will bring a sword upon you, that shall execute the vengeance of the covenant,<sup>18</sup> I learn that vengeance is by the sword. But perhaps it means that he must be pierced through? — The Writ saith, with the edge of the sword. Then perhaps it means that he must be cut in two [lengthwise]? — R. Nahman said in the name of Rabbah b. Abbuha: Scripture teaches, But thou shalt love thy neighbor as thyself<sup>19</sup> choose an easy death for him. Now we find this law [of execution by the sword] when one murdered a slave; whence do we know that this law holds good if he murdered a free man? — Surely this can be deduced by reasoning from the minor to the major: if the murderer of a slave is decapitated, shall he who slays a free man be only strangled! Now, this answer agrees with the view that strangulation is an easier death; but what of the view that strangulation is more severe? It

is then deduced from the following: It has been taught:

[The verse], *So shalt thou put away the guilt of the innocent blood from among you,*<sup>20</sup> serves to denote that all that shed blood are likened [in treatment] to the atoning heifer:<sup>21</sup> just as there, it is done with a sword and at the neck, so here too, execution is with the sword and at the neck [i.e., the throat]. If so, just as there it was done with an axe, and on the nape of the neck, so here too? — R. Nahman answered in the name of Rabbah b. Abbuha: Scripture saith: *But thou shalt love thy neighbor as thyself:*<sup>22</sup> choose an easy death for him.

**MISHNAH.** STRANGULATION WAS THUS PERFORMED: — THE CONDEMNED MAN WAS LOWERED INTO DUNG UP TO HIS ARMPITS, THEN A HARD CLOTH WAS PLACED WITHIN A SOFT ONE, WOUND ROUND HIS NECK, AND THE TWO ENDS PULLED IN OPPOSITE DIRECTIONS UNTIL HE WAS DEAD.

**GEMARA.** Our Rabbis taught: [*And the man that committeth adultery with another man's wife, even he that committeth adultery with his neighbor's wife the adulterer and the adulteress shall surely be put to death*].<sup>23</sup> 'The man' excludes a minor; 'that committeth adultery with another man's wife' excludes the wife of a minor; 'even he that committeth adultery with his neighbor's wife' excludes the wife of a heathen; 'shall surely be put to death', by strangulation. You say, by strangulation; but perhaps one of the other deaths decreed by the Torah is meant here? — I will answer you: Whenever the Torah decrees an unspecified death penalty, you may not interpret it stringently but leniently:<sup>24</sup> this is R. Josiah's view. R. Jonathan said: Not because strangulation is the most lenient death, but because by every unspecified death in the Torah strangulation is meant. Rabbi [proceeding to demonstrate this] said: Death by God is mentioned in Scripture;<sup>25</sup> and death by man is also decreed. Just as the death by God<sup>26</sup> leaves no mark [of violence on the body], so also death by man must leave no mark [of violence], a

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condition which only strangling fulfils. But may it not apply to burning?<sup>27</sup> Since the Divine Law explicitly decreed burning for a priest's adulterous daughter, it follows that the adulterous married [Israelite] woman is not put to death by burning.

1. This passage is inserted here because the assembly of Korah has just been mentioned, who were scholars 'the elect men, of the assembly' (Num. XVI, 2). These, becoming over familiar with Korah and accepting gifts from him, lost his esteem, until ultimately he incited them to support him in his revolt against Moses.
2. (First of the Saboraim, v. Funk, *Die Juden in Babylonien*, II, 123.)
3. That burning was carried out by pouring molten lead down the condemned man's throat.
4. Deut. XVII, 9.
5. Thus R. Hama, an Amora living long after the destruction of the Temple, had no jurisdiction for capital punishment. [According to Funk, *loc. cit.*, R. Hama's rigorous sentence was prompted by his desire to combat the Mazdakian doctrine of the community of wives that had found many adherents in his day.]
6. The party opposed to the Pharisees, and drawing their support mainly from the aristocratic classes. As they represented the nobility and wealth of the country, their interests were centered chiefly in the political, not the religious life, of the people. Their origin is wrapped in obscurity (Weiss, *Dor*, 1, 100); but Halevy, *Doroth* Vol. III: 'The Sadducees and Boethusians', regards them as the children of the Hellenizing Jews in the days of the Maccabeans; he denies that they were a religious party at all. The passage from Josephus (*Ant.* XIII, 10, 6) upon which this assertion is commonly based is explained by him as referring to the rejection of distinctive Rabbinic ordinances as apart from laws derived through interpretation of Scripture. In regard to criminal jurisdiction, they were very rigorous and, as seen in this passage, carried out the penalty of death by fire in a literal manner. Halevy (*op. cit.* Vol. III, p. 412f) observes that the reply of the Sages to R. Eleazar b. Zadok, — Because the *Beth din* at that time (amplified by R. Joseph as meaning a *Beth din* of the Sadducees) were not well learned in the law', shows that their ruling was in the first instance not based on the principle of literal interpretation, but the result of ignorance, it was only subsequently

that such ruling crystallized into definite principles. J. Derenbourg (*Essai*, p. 251, n. 2) suggests that the burning of the priest's adulterous daughter, as described by R. Eleazar b. Zadok, took place during the short interval between the death of Festus, the Roman Procurator, (in 62 C.E.) and the coming of Albinus (63 C.E.) during the High-Priesthood of Hanan b. Hanan (a Boethusian mentioned in *Tosef. Yoma* i). Cp. also *ibid* p. 262.

7. This refutation differs from that of the Mishnah.
8. One taking place during R. Eleazar's minority, the other during his majority. The answer in the Mishnah was in respect of the other.
9. Under the Empire the Romans practiced various forms of execution. Execution by the axe after flogging, previously confined to slaves, was revised in the early Empire and applied to citizens too. (*Tac. An.* II, 32; *Suet. Nero*, 49). Beheading by the sword ('*decollatio*') was also common, Sandys: *A Companion to Latin Studies*, p. 339. With the introduction of the later, the former was prohibited (*Hast. Dict.* IV, 299), and therefore R. Judah stigmatizes beheading by the sword as a Roman practice, and prefers the axe instead, though that too was formerly employed by the Romans.
10. [G]
11. Lev. XVIII, 3. Hence the method of the civil authorities — i.e., the Romans — must not be used.
12. Cp. 'And with the burnings of thy fathers, the former kings which were before, so shall they make a burning for thee (*Jer.* XXXIV, 5). This does not refer to the cremation of the body, but to the funeral pyre lit in honor of kings. The pyre consisted of the royal bed and his general utensils. The same honor was paid to Patriarchs, and the greater the value of the things burnt, the greater the honor. *A.Z.* 11a. (The *A. V.* of *Jer.* XXXIV, 5, 'so shall they burn odors for thee', is not warranted by the text.)
13. *Jer.* XXXIV, 5.
14. *V. Infra*.
15. *Infra* 76b.
16. Deut. XIII, 18.
17. Ex. XXI, 20.
18. Lev. XXVI, 25.
19. *Ibid.* XIX, 18.
20. Deut. XXI, 9.
21. Lit., 'the heifer, the neck of which is broken.'
22. Lev. XIX, 18.
23. *Ibid.* XX, 10.

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24. Lit., 'attract it to stringency etc'. Hence strangulation, the easiest of deaths, must be meant.
25. E.g., God's slaying of Onan, Gen. XXXVIII, 10.
26. I.e., a normal death, which leaves the body intact.
27. Since, as explained above, an inner fire was applied, leaving the body intact.

## Sanhedrin 53a

Now, R. Jonathan's view raises no difficulty, its reason being explained by Rabbi. But on R. Josiah's view, how do we know that there is death by strangulation at all; perhaps the sword is meant?<sup>1</sup> — Raba replied: It is a tradition that there are four deaths. Why does R. Jonathan say, 'not because strangulation is the most lenient death'? — Because his dispute with R. Josiah is on the same lines as that of R. Simeon and the Rabbis.<sup>2</sup>

R. Zera asked of Abaye; Those who are stoned, but in whose case Scripture does not explicitly decree stoning,<sup>3</sup> so that we derive the penalty by analogy of a necromancer, or a wizard,<sup>4</sup> from which phrase do we deduce it: from 'they shall surely be put to death', or from 'their blood shall be upon them'?<sup>5</sup> — He replied: It is deduced from the phrase 'their blood shall be upon them', for if it is inferred from the passage 'they shall surely be put to death', what need is there of the words 'their blood shall be upon them'? But do you say that it is deduced from 'their blood shall be upon them'; what need is there then of the phrase 'they shall surely be put to death'? — Even as it has been taught: He that smote him shall surely be put to death; for he is a murderer.<sup>6</sup> I only know that he may be executed with the death that is decreed for him: Whence do I know that if you cannot execute him with that death, you may execute him with any other death? — From the verse: He that smote him shall surely be put to death, implying in any manner possible.<sup>7</sup>

R. Aha of Difti questioned Rabina: Now, had the deduction been from the phrase, they

shall surely be put to death — what would be R. Zera's difficulty?<sup>8</sup> Shall we say that his difficulty would be in respect of [adultery with] a married woman,<sup>9</sup> namely, that we ought to learn the manner of death from the law of a necromancer or a wizard; just as there it is stoning, so here too?<sup>10</sup> But since the Divine Law ordained stoning for an arusah,<sup>11</sup> it follows that a nesu'ah is not stoned!<sup>12</sup> If, again, the difficulty would arise in respect of one who smites his father or mother;<sup>13</sup> namely, that we ought to learn [by analogy of a necromancer or a wizard [that he is stoned]?<sup>14</sup> But instead of deducing it from the necromancer, etc., deduce it rather from adultery with a married woman [who is strangled], since you may not make a deduction in favor of a stringent penalty in preference to a lenient one.<sup>15</sup> — He replied: His difficulty would be in respect of all others who are stoned, for if it [the punishment of them by stoning] is deduced from the phrase, they shall surely be put to death, why deduce it from a necromancer and a wizard; deduce it rather from the adultery of a married woman?<sup>16</sup>

**MISHNAH.** THE FOLLOWING ARE STONED: HE WHO COMMITS INCEST WITH HIS MOTHER, HIS FATHER'S WIFE, OR HIS DAUGHTER-IN-LAW; HE WHO SEXUALLY ABUSES A MALE OR BEAST; A WOMAN WHO COMMITS BESTIALITY WITH A BEAST; A BLASPHEMER; AN IDOLATER; HE WHO GIVES OF HIS SEED TO MOLECH; A NECROMANCER OR A WIZARD; ONE WHO DESECRATES THE SABBATH; HE WHO CURSES HIS FATHER OR MOTHER; HE WHO COMMITS ADULTERY WITH A BETROTHED MAIDEN; HE WHO INCITES [INDIVIDUALS TO IDOLATRY]; HE WHO SEDUCES [A WHOLE TOWN TO IDOLATRY];<sup>17</sup> A SORCERER; AND A WAYWARD AND REBELLIOUS SON.

ONE WHO [UNWITTINGLY] COMMITS INCEST WITH HIS MOTHER INCURS A PENALTY IN RESPECT OF HER BOTH AS HIS MOTHER AND AS HIS FATHER'S WIFE.<sup>18</sup> R. JUDAH SAID: HE IS LIABLE IN RESPECT OF



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HER AS HIS MOTHER ONLY. ONE WHO COMMITS INCEST WITH HIS FATHER'S WIFE INCURS A PENALTY IN RESPECT OF HER BOTH AS HIS FATHER'S WIFE, AND AS A MARRIED WOMAN. [HE IS GUILTY IN RESPECT OF THE FORMER] BOTH DURING HIS FATHER'S LIFETIME AND AFTER HIS DEATH, WHETHER SHE WAS WIDOWED FROM ERUSIN<sup>19</sup> OR FROM NESU'IN.<sup>18</sup> HE WHO COMMITS INCEST WITH HIS DAUGHTER-IN-LAW INCURS A PENALTY IN RESPECT OF HER BOTH AS HIS DAUGHTER-IN-LAW AND AS A MARRIED WOMAN. [HE IS GUILTY IN RESPECT OF THE FORMER] BOTH DURING HIS SON'S LIFETIME AND AFTER HIS DEATH, WHETHER SHE WAS WIDOWED FROM ERUSIN OR FROM NESU'IN.

**GEMARA.** It has been taught: R. Judah said: If his mother was unfit for his father, he is guilty only in respect of her maternal relationship to him. What is meant by unfit for him? Shall we say, forbidden to him on pain of extermination<sup>20</sup> or death inflicted by the *Beth din*? This would prove that the Rabbis<sup>21</sup> hold that even for such he incurs a twofold penalty. But how so, seeing that his father cannot be legally married to her at all?<sup>22</sup> — Hence it must refer to a woman who is forbidden to him in virtue of a negative precept,<sup>23</sup> R. Judah agreeing with R. Akiba, who holds that *Kiddushin* is not valid between those who are interdicted to each other by a negative command.

R. Oshaia objected: [We have learnt:] A woman who is forbidden [to her deceased husband's brother] by a positive precept, or on the score of sanctity, must perform the *halizah* ceremony,<sup>24</sup> but may not marry her brother-in-law.

1. Since the only ground for his assertion is the leniency of strangulation, perhaps there are only three death penalties, and when unspecified death is decreed in the Torah, it means the sword, the most lenient of the three.
2. As to which is the easiest death (v. *supra* 50b). R. Jonathan maintaining that strangulation is not the easiest.

3. For a number of offences such as idolatry, adultery by a betrothed maiden, desecration of the Sabbath, etc., Scripture explicitly ordains stoning. But in the case of others, e.g., witchcraft, incest, incitement to idolatry, etc., Scripture merely decrees death, and by a *gezerah shawah* we learn that stoning is meant.
4. Cf. *infra* 54a.
5. Lev. XX, 27 A man also or a woman that hath a familiar spirit (necromancer), or that is a wizard, they shall surely be put to death: they shall stone them with stones: their blood shall be upon them. In the case of all other malefactors who are stoned, though stoning is not explicitly stated, the two phrases 'they' shall surely be put to death' and 'their blood shall be upon their head' occur.
6. Num. XXXV, 21.
7. This is learnt from the emphatic 'surely', expressed in Hebrew' as usual, by the insertion of the infinitive before the finite form of the verb. [H] \_ V. *supra* 45b.
8. For since he asked from which phrase the deduction is made, it is obvious that if from one particular phrase, a difficulty would arise.
9. For which it was said above, that the death penalty being unspecified, it is strangulation.
10. I.e., instead of regarding it as an unspecified death penalty, why not treat it as explicit, in virtue of the phrase they shall surely be put to death, written also in the case of adultery with a married woman.
11. Deut. XXII, 23f.
12. So that this difficulty falls to the ground.
13. Who is strangled, *infra* 84b.
14. Since the phrase he shall surely be put to death (Ex. XXI, 15) is written of him too.
15. For as the same phrase (v. p. 375. n.<sup>2</sup>) occurs in the three places, viz., (i) necromancer, etc. (stoning), (ii) married woman (strangulation), and (iii) he that smites his father or mother, the last to be deduced from one of the first two, it follows, that one must incline to leniency. So that even if the deduction were made from the phrase, they shall surely be put to death, it would be still correct to say that one who smites his father or mother is strangled.
16. Since the deduction must be in favor of the more lenient death.
17. The former is called *mesith*: the latter *maddiah*.
18. Hence if unwittingly, he is bound to bring two sin-offerings.
19. V. p. 333, n. 3.
20. Divine punishment (*Kareth*) through sudden or premature death, opposed to capital punishment at the hand of man, v. [Glos.](#)

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21. Represented by the anonymous opinion in the Mishnah.
22. Lit., 'he has no claim of *kiddushin* in her regard'. *Kiddushin* (marriage betrothal) is invalid when contracted between parties forbidden to each other under such severe penalties. Consequently, she is not his wife, and her son, in committing incest, does not transgress the interdict attaching to one's father's wife.
23. Which carries with it the penalty of flogging, but not of death or extermination; e.g. a bastard or a nathin or a divorcee in respect of a priest. The Sages maintain that in such cases *kiddushin*, though forbidden, is valid if contracted.
24. V. p. 331, n. 7.

## Sanhedrin 53b

Now 'forbidden by a positive precept' means the prohibitions in the second degree,<sup>1</sup> imposed by the Soferim,<sup>2</sup> and why is it thus designated? Because it is a 'positive precept' to obey the Sages. 'Forbidden on the score of sanctity' refers to the prohibition of a widow to [marry] a High Priest, and of a divorcee or a *haluzah*<sup>3</sup> to marry an ordinary priest; and why is it so called? Because it is written, they [sc. the priests] shall be holy unto their God.<sup>4</sup> And it has been taught thereon: R. Judah reversed the definition. Now, though reversing the definition, he agreed on the fundamental law, that these required *halizah* [before being free to marry others]. But if you maintain that R. Judah agreed with R. Akiba [on the invalidity of *kiddushin* between those who are forbidden by a negative command], then consider: R. Akiba places those who are forbidden by a negative command in the same category as those who are forbidden on pain of extermination; but are not the latter exempt from both *halizah* and Levirate marriage?<sup>5</sup> — R. Judah reverses the definition according to the ruling of the first Tanna, with which, however, he disagrees.<sup>6</sup>

When R. Isaac came,<sup>7</sup> he taught as we have learnt [in our Mishnah]: R. Judah said, he incurs guilt only on account of her maternal relationship to him.<sup>8</sup> Now why is this? — Abaye said: Scripture saith, The nakedness of

thy father, or the nakedness of thy mother, shalt thou not uncover, she is thy mother.<sup>9</sup> [This teaches:] You must punish him for maternal incest, but not for incest with his father's wife. If so, what of the verse, The nakedness of thy father's wife shalt thou not uncover: It is thy father's nakedness?<sup>10</sup> Does it not imply, you may penalize him for incest with his father's wife, but not for maternal incest? In that case, if she is both his mother and his father's wife, one verse implies the exclusion of maternal incest [as the incriminating offence] — and the other excludes incest with his father's wife [as punishable].<sup>11</sup> Now if he is punished for incest with his mother, even when not his father's wife, and with his father's wife, though not his mother—shall we say that when she is both his mother and his father's wife, he incurs no penalty at all? A further difficulty is this: Do not the Rabbis admit the existence of this verse, 'she is thy mother'?<sup>12</sup> But they interpret it as teaching the law deduced by R. Shisha, the son of R. Iddi,<sup>13</sup> in that case, R. Judah must also utilize it for the same purpose.<sup>14</sup> But R. Aha the son of Ika said thus: The Writ saith: [she is thy mother: thou shalt not uncover] her nakedness.<sup>15</sup> This teaches: You may penalize him for one degree of 'nakedness', but not for two degrees.<sup>16</sup> If so, what of the verse: Thou shalt not uncover the nakedness of thy daughter-in-law: She is thy son's wife: thou shalt not uncover her nakedness?<sup>17</sup> Does this too teach: You may penalize him for one degree of 'nakedness', but not for two? But we have learnt: HE WHO COMMITS INCEST WITH HIS DAUGHTER-IN-LAW INCURS A PENALTY IN RESPECT OF HER BOTH AS HIS DAUGHTER-IN-LAW AND AS A MARRIED WOMAN. (HE IS GUILTY IN RESPECT OF HER BOTH DURING HIS SON'S LIFETIME AND AFTER HIS DEATH); and R. Judah does not dispute this! But since she is but one person, though forbidden in a double capacity, the Writ saith, 'her nakedness' [singular]: here too then, [in the case of one's mother who is also the father's wife] since she is one person, even

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if she were doubly forbidden, the Writ saith: 'her nakedness'.<sup>18</sup> — But Raba answered thus: R. Judah maintains that the nakedness of thy father [thou shalt not uncover], means thy father's wife, deducing this by a *gezerah shawah*,<sup>19</sup> and it applies to her whether she is his mother or not; whence do we know then that one's mother who is not his father's wife is likewise forbidden? — From the verse, the nakedness of thy mother shalt thou not uncover. [Hence the phrase,] 'she is thy mother' teaches that he is guilty only on account of her maternal relationship, but not because she is his father's wife.<sup>20</sup>

1. This refers to a Rabbinical ordinance extending the prohibition of incest to one degree beyond the Biblical interdict, e.g., the Bible forbids one's mother: the Rabbis added one's maternal grandmother. The Bible forbids the father's wife: the Rabbis extended this to the grandfather's wife. The full list is given in Yeb. 21a. V. *supra* 27b seqq.
2. *Soferim*, lit., 'scribes.' Originally it meant people skilled in writing (cf. II Sam. VIII, 17; II Kings XIX. 2). Later, in the time of Ezra, it referred to the body of teachers who interpreted the Law to the people, and then it came to mean teachers generally. Usually, when employed in the Talmud, it applies to teachers up to and including Simon the Just. Consequently, when an ordinance is described as a measure of the *Soferim*, it must have been of great antiquity. But occasionally the designation is applied to later teachers too; e.g., in J. Ber. I, 7, and R.H. 19a.
3. A woman freed from Levirate marriage, by the ceremony of *halizah*.
4. Lev. XXI, 6. This relates to these forbidden marriages.
5. I.e. 'a woman standing in such relationship to her brother-in-law is automatically free, without the *halizah* ceremony.
6. I.e., R. Judah maintains that in such cases there is neither *halizah* nor levirate marriage; but granted the view of the first teacher that *halizah* is obligatory, he holds that the definition must be reversed.
7. From Palestine to Babylon. With the decay of the Palestinian academies in the fourth century, many scholars emigrated from Palestine. These brought with them traditional teachings of the Tannaim.
8. In all cases, not, as stated in the Baraita, only when she is forbidden to his father.
9. Lev. XVIII, 7.
10. Ibid. 8.
11. Thus leaving no grounds for punishment at all. Or, as Rashi prefers, though admitting that this is undoubtedly punishable, the two verses contradict each other as to the grounds of punishment. On this interpretation, Rashi omits the following passage, 'Now ... at all'.
12. I.e., of course they do, yet they do not agree with R. Judah's view.
13. This is given further on.
14. Thus the question remains, what is R. Judah's reason?
15. Ibid.
16. Where a woman stands in a dual relationship of consanguinity, a penalty is incurred only in respect of one.
17. Ibid. XVIII, 15.
18. I.e., the use of the singular cannot teach that a penalty can be imposed only for one degree of consanguinity.
19. As shown further on.
20. Thus, Raba agrees with Abaye that R. Judah's reason is the limitation implied in the phrase 'she is thy mother'. But he disposes of the consequent difficulty. viz., that of the verse, it is thy father's nakedness in the following way: The dictum, The nakedness of thy father shalt thou not uncover, refers to his father's wife, whether his mother or not; and so far, (without an additional limiting phrase) it is implied that in both cases the interdict is on account of paternal, not maternal consanguinity. Hence, when the following verse states, (The nakedness of thy father's wife thou shalt not uncover:) it is thy father's nakedness, it cannot mean that guilt is incurred only on account of paternal, but not maternal relationship, since that has already been implied in the preceding verse, the nakedness of thy father ... shalt thou not uncover. Therefore the limitation undoubtedly intended by the latter verse must be otherwise interpreted. (This is done further on.) Now, since the nakedness of thy father should imply that whether she is his mother or not he is penalized on account of paternal consanguinity, it follows that when the same verse inserts a limiting clause, 'she is thy mother', the limitation must apply to that which has already been expressed, viz., that the father's wife, if also one's mother, is forbidden on account of maternal, not paternal, consanguinity. This is more fully explained in the next passage.

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## Sanhedrin 54a

It has been taught in support of Raba; [And the man that lieth with his father's wife hath uncovered his father's nakedness: both of them shall surely be put to death, their blood shall be upon them.]<sup>1</sup> The man excludes a minor; that lieth with his father's wife, implies whether she is his mother or not. Whence do I know that his mother who is not his father's wife [is also thus forbidden]? — From the verse, [he] hath uncovered his father's nakedness. For this is redundant,<sup>2</sup> in order that an analogy may be drawn therefrom and identity of meaning based on a *gezerah shawah* deduced.<sup>3</sup> [They] shall surely be put to death, by stoning. You say, by stoning; but perhaps it means by one of the other deaths decreed in the Torah? — The Writ saith here, their blood shall be upon them; and in the case of a necromancer or a wizard, the Writ saith likewise, their blood shall be upon them;<sup>4</sup> just as there, stoning is meant, so here too. Now, in this verse, we are informed of the penalty: whence do we know the formal prohibition?<sup>5</sup> — From the verse, The nakedness of thy father ... shalt thou not uncover:<sup>6</sup> the nakedness of thy father means thy father's wife. You say so: but perhaps it has its literal meaning?<sup>7</sup> — It is here said, The nakedness of thy father ... shalt thou not uncover; and elsewhere<sup>8</sup> it is said, [he] hath uncovered his father's nakedness: just as there the reference is to the opposite sex, so here too; and it implies his father's wife, whether his mother or not. Whence do we know [that this law applies to] his mother, even if she is not his father's wife? — From the verse, The nakedness of thy mother thou shalt not uncover. From this I learn only the formal prohibition, viz., that the Scripture interdicts his mother, though not his father's wife, just as his father's wife. Whence do I derive the punishment?<sup>9</sup> — It is here stated, the nakedness of thy father ... thou shalt not uncover,' and It is said elsewhere, [he] hath uncovered his father's nakedness: just as the Writ assimilated his mother, when not his father's wife, to his mother who was also his

father's wife, in respect of formal prohibition, so it assimilated her in respect of punishment. She is thy mother; this teaches, you must punish him in respect of her as a mother, but not as his father's wife.<sup>10</sup> But the Rabbis contend: the nakedness of thy father is literally meant. But is this not taught by the verse: Thou shalt not lie with mankind as with womankind?<sup>11</sup> — This teaches that a double penalty is incurred; and as R. Judah said: If a heathen committed pederasty with his father or with his paternal uncle he incurs a double penalty. Raba said: This dictum of R. Judah presumably refers to a Jew, the offence having been committed unwittingly, and the penalty mentioned being a sacrifice; whilst the designation 'heathen' is a euphemism.<sup>12</sup> For if you will say that he meant a heathen literally, what is his penalty? Death! Will you slay him twice? It has been taught likewise: He who commits pederasty with his father or with his paternal uncle incurs a twofold penalty. Some say that this does not agree with R. Judah [of the Mishnah].<sup>13</sup> But others maintain that this may agree even with R. Judah, and he deduces a twofold penalty by reasoning from the minor to the major, basing his argument upon the law pertaining to a paternal uncle, [thus:] If for a paternal uncle, who is but a relation of one's father, a twofold penalty is incurred,<sup>14</sup> how much more so is a double penalty incurred for pederasty with one's father. These two conflicting views are involved in the dispute of Raba and Abaye,<sup>15</sup> one maintaining that punishment is imposed as a result of a minor to a major conclusion, the other maintaining that It is not.<sup>16</sup>

Now, whence do the Rabbis derive a formal prohibition against a father's wife?<sup>17</sup> — From the verse, The nakedness of thy father's wife thou shalt not uncover.<sup>18</sup> And R. Judah? — He maintains that this verse interdicts her after his father's death. And the Rabbis? They maintain that this is derived from it is thy father's nakedness.<sup>19</sup> And R. Judah? — He utilizes it to teach that he is punished in respect of her as his father's wife, but not as a married woman.<sup>20</sup> But we have learnt, ONE



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WHO COMMITS INCEST WITH HIS FATHER'S WIFE INCURS A PENALTY IN RESPECT OF HER BOTH AS HIS FATHER'S WIFE AND AS A MARRIED WOMAN. [HE IS GUILTY IN RESPECT OF THE FORMER] BOTH DURING HIS FATHER'S LIFETIME AND AFTER HIS DEATH; and R. Judah does not dispute it? — Abaye answered: He does dispute it in the Baraitha.

Now, whence do the Rabbis derive punishment for incest with one's father's wife after the former's death? It is all well according to R. Judah, for he derives it by means of the *gezerah shawah*; but whence do the Rabbis derive it? They answer thus: [he] hath uncovered his father's nakedness,<sup>21</sup> which R. Judah utilizes for a *gezerah shawah*, is rather to be employed as teaching punishment for incest with one's father's wife after his death.

Now, whence do the Rabbis derive punishment for incest with one's mother who is not his father's wife?<sup>22</sup> — R. Shisha the son of R. Iddi said: The Writ saith, she is thy mother,<sup>23</sup> thereby teaching that one's mother, even if not his father's wife, is exactly as his father's wife.<sup>24</sup>

HE WHO COMMITS INCEST WITH HIS DAUGHTER-IN-LAW, etc. Why is he not also guilty in respect of her as his son's wife?<sup>25</sup> — Abaye answered: The Writ commences with his daughter-in-law, and concludes with his son's wife,<sup>26</sup> teaching that they are identical.<sup>27</sup>

**MISHNAH.** HE WHO COMMITS SODOMY WITH A MALE OR A BEAST, AND A WOMAN THAT COMMITS BESTIALITY ARE STONED. IF THE MAN HAS SINNED, WHEREIN HAS THE ANIMAL OFFENDED? BUT BECAUSE MAN WAS ENTICED TO SIN THEREBY,<sup>28</sup> SCRIPTURE ORDERED THAT IT SHOULD BE STONED. ANOTHER REASON IS THAT THE ANIMAL SHOULD NOT PASS THROUGH THE STREETS, WHILST PEOPLE SAY, THIS IS THE ANIMAL ON ACCOUNT OF WHICH SO AND SO WAS STONED.

**GEMARA.** Whence do I know that pederasty is punished by stoning? — Our Rabbis taught: [If a man lieth also with mankind, as the lyings of a woman,<sup>29</sup> both of them have committed on abomination: they shall surely be put to death; their blood shall be upon them,]<sup>30</sup> A man — excludes a minor; [that] lieth also with mankind — denotes whether an adult or a minor; as the lyings of a woman — this teaches that there are two modes of intimacy,<sup>31</sup> both of which are punished when committed incestuously. R. Ishmael said: This verse comes to throw light [upon pederasty] but receives illumination itself.<sup>32</sup> They shall surely be put to death: by stoning. You say, by stoning: but perhaps some other death decreed in the Torah is meant? — Their blood shall be upon them is stated here, and also in the case of one who has a familiar spirit or is a wizard:<sup>33</sup> just as there the reference is to stoning, so it is here too.

1. Lev. XX, 11.
2. In a *gezerah shawah*, the word used as a basis of deduction must be otherwise redundant ([H]), being required for no other purpose. This is the opinion of R. Ishmael and R. Eliezer; the former deeming it sufficient if the redundancy is in one of the passages only, the latter insisting that the word must be superfluous in both. R. Akiba, however, maintained that such redundancy, even in one passage, is unnecessary.
3. The *gezerah shawah*, whereby this phrase is made to include one's mother, is given further on.
4. Lev. XX, 27. A man also or a woman that hath a familiar spirit (i.e., a necromancer), or that is a wizard, shall surely be put to death: they shall stone them with stones, their blood shall be upon them.
5. It is an axiom that before punishment can be imposed for any act, it must be explicitly prohibited. Now the whole of this verse merely decrees the punishment to be inflicted: hence the Talmud asks, where in the formal prohibition?
6. Ibid. XVIII, 7.
7. In which case it should be part of the wider injunction of Lev. XVIII, 22: Thou shalt not lie with mankind as with womankind.
8. Ibid. XX, 11.
9. I.e., that it is a punishable offence too; for no punishment is mentioned in this verse.

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10. Thus the whole Baraitha supports Raba's statement.
11. Lev. XVIII, 22.
12. Not wishing to ascribe such a gross offence to a Jew.
13. Since he does not interpret the verse, the nakedness of thy father, literally, there is only one prohibition against pederasty, viz., that of Lev. XVIII, 22; hence in his view there is only one penalty, no matter with whom the offence is committed.
14. This is deduced from the verse (Lev. XVIII, 14), thou shalt not uncover the nakedness of thy father's brother, thou shalt not approach to his wife. Since his wife is specifically prohibited, the first half of the verse must be understood literally. Consequently, it is twice prohibited. (for it is also included in the prohibition of Lev. XVII, 22) and hence a double penalty is incurred.
15. *Infra* 76a.
16. On the first view R. Judah may hold that a double penalty is incurred for pederasty with one's father. But on the second, this cannot be so. For he does not interpret the nakedness of thy father literally. Hence there is only one injunction (Lev. XVIII, 22) against this, and consequently only one penalty, the *ad majus* conclusion being insufficient to impose one.
17. Since they interpret the nakedness of thy father literally.
18. *Ibid.* XVIII, 8.
19. Which being redundant, extends the prohibition to after his father's death.
20. As she stands in a double relationship to him, being his father's wife and at the same time a married woman, which is separately forbidden in Lev. XVIII, 20, the emphatic 'she is thy father's nakedness' shows that the latter relationship is not considered in this matter.
21. *Ibid.* XX, 11.
22. This being nowhere stated.
23. *Ibid.* XVIII, 7.
24. I.e., the emphasis of the clause teaches that.
25. Since there are two prohibitions, viz. Thou shalt not uncover the nakedness of thy daughter-in-law; and, she is thy son's wife, thou shalt not uncover her nakedness (*ibid.* XVIII, 15).
26. She is thy son's wife refers back to the word daughter-in-law.
27. I.e., that it is to be regarded as one prohibition, not two, but that it applies even after the son's death.
28. Lit., 'a stumbling block has come to the man through it.'
29. Lit. rendering of [H] translated 'as he lieth with a woman'.
30. *Ibid.* XX, 13.

31. Natural and unnatural.
32. For the phrase, the lyings of a woman, is redundant in so far as it teaches that even unnatural pederasty is punishable, since all pederasty is such. Hence its teaching is thrown back upon itself, viz., that unnatural cohabitation is punishable when committed incestuously.
33. *Ibid.* XX, 27.

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This teaches the punishment: whence do we derive the formal prohibition? — From the verse, Thou shalt not lie with mankind, as with womankind: it is an abomination.<sup>1</sup> From this we learn the formal prohibition for him who lies [with a male]: whence do we know a formal prohibition for the person who permits himself thus to be abused? — Scripture saith: There shall be no sodomite of the sons of Israel:<sup>2</sup> and it is further said, And there were also sodomites in the land: and they did according to the abominations of the nations which the Lord had cast out before the children of Israel:<sup>3</sup> this is R. Ishmael's view. R. Akiba said: This is unnecessary, the Writ saith, thou shalt not lie with mankind as with womankind: read, 'thou shalt not be lain with.'<sup>4</sup> Whence do we learn a formal prohibition against bestiality? — Our Rabbis taught: [and if a man lie with a beast, he shall surely be put to death: and ye shall slay the beast].<sup>5</sup> A man excludes a minor; [that] lieth with a beast — whether it be young or old; he shall surely be put to death — by stoning. You, by stoning; but perhaps one of the other deaths decreed in the Torah is meant? — It is here said, [and] ye shall kill [the beast]; and it is stated elsewhere, But thou shalt surely kill him. [... And thou shalt stone in him with stones]:<sup>6</sup> just as there, stoning is meant, so here too.

We have learnt from this the punishment for him who commits bestiality; whence do we derive punishment for him who allows himself to be thus abused? — The Writ saith: Whosoever lieth with a beast shall surely be put to death.<sup>7</sup> Since this is redundant in respect of the person committing bestiality,<sup>8</sup>

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you must regard it as applying to the person permitting himself to be thus abused.<sup>2</sup> From the Writ we know that there is punishment both for him who commits bestiality and for him who permits himself to be thus abused; whence do we know the formal prohibition? — Scripture saith, neither shalt thou lie with any beast to defile thyself therewith.<sup>10</sup> From this verse we learn the formal prohibition for him who commits bestiality, whence do we derive the formal prohibition for him who allows himself to be thus abused? Scripture saith: There shall be no Sodomite of the sons of Israel; and it is elsewhere said, And there were also sodomites in the land, etc.<sup>11</sup> R. Akiba said: This is unnecessary. The Writ saith, Thou shalt not lie [with any beast], which means, thou shalt not permit thy lying [with any beast, whether actively or passively].

Now, he who [actively] commits pederasty, and also [passively] permits himself to be thus abused — R. Abbahu said: On R. Ishmael's view, he is liable to two penalties, one [for the injunction] derived from thou shalt not lie with mankind, and the other for [violating the prohibition,] There shall not be a Sodomite of the sons of Israel. But on R. Akiba's view, he incurs only one penalty, since thou shalt not lie and thou shalt not be lain with is but one statement.<sup>12</sup>

He who commits bestiality, and also causes himself to be thus abused — R. Abbahu said: On R. Ishmael's view, he incurs two penalties, one for the injunction, thou shalt not lie with any beast, and one for the prohibition, there shall be no sodomite of the sons of Israel. But on R. Akiba's view, he incurs but one penalty, since thy lying [actively] and thy lying [passively] is but one injunction. Abaye said: Even on R. Ishmael's view he incurs one penalty only, for there shall be no Sodomite applies to sodomy with mankind.<sup>13</sup> If so, whence does R. Ishmael derive a formal prohibition against permitting oneself to be bestially abused? — From the verse, Whosoever lieth with a beast shall surely be put to death.<sup>14</sup> Now, this being redundant in

respect of him who [actively] lies with a beast,<sup>15</sup> apply it to him who [passively] permits himself to be abused this; and the Divine Law designates the passive offender as the active offender:<sup>16</sup> this teaches that the punishment for, and the formal prohibition against, active bestiality<sup>17</sup> apply to passive submission too.<sup>18</sup>

He who submits both to pederasty and to bestiality — R. Abbahu said: On R. Akiba's view, he incurs two penalties; one for thou shalt not lie [with mankind], and the other for thou shalt not lie [with any beast]. But on R. Ishmael's view, he incurs only one punishment, both offences being derived from the single verse, There shall be no Sodomite.<sup>19</sup> Abaye said: Even on R. Ishmael's view, he incurs two penalties, because it is written, Whosoever lieth with a beast shall surely be put to death.<sup>20</sup> This being redundant in respect of active bestiality, it must be applied to passive submission, and the Divine Law thus designated passive submission as an active offence: just as for the active offence there is punishment and prohibitions so for the passive offence too.<sup>21</sup> But he who commits pederasty and causes himself to be abused thus; and also commits bestiality and causes himself to be abused too — both R. Abbahu and Abaye maintain that on R. Ishmael's view he is trebly guilty, and on R. Akiba's view he is doubly guilty.<sup>22</sup>

Our Rabbis taught: In the case of a male child, a young one is not regarded as on a par with an old one; but a young beast is treated as an old one.<sup>23</sup> What is meant by this? — Rab said: Pederasty with a child below nine years of age is not deemed as pederasty with a child above that. Samuel said: Pederasty with a child below three years is not treated as with a child above that.<sup>24</sup> What is the basis of their dispute? — Rab maintains that only he who is able to engage in sexual intercourse, may, as the passive subject of pederasty throw guilt [upon the active offender]; whilst he who is unable to engage in sexual intercourse cannot be a passive subject of pederasty [in that respect].<sup>25</sup> But Samuel

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maintains: Scripture writes, [*And thou shalt not lie with mankind*] as with the lyings of a woman.<sup>26</sup>

**It has been taught in accordance with Rab: Pederasty at the age of nine years and a day;**

1. Ibid. XVIII, 22.
2. Deut. XXIII, 18.
3. I Kings XIV, 24. Just as abomination applies to sodomy in the latter verse, so it applies to it in the former too: thus it is as though the former verse read, There shall be no Sodomite of the sons of Israel: it is an abomination. And just as the abomination implicit here applies to both parties, so the abomination explicitly stated in Lev. XIII, 22 refers to both.
4. I. e., the niph'al, the letters being the same, [H], and [H].
5. Ibid. XX, 15.
6. Deut. XIII, 10, referring to a mesith, one who incites to idolatry.
7. Ex. XXII, 18.
8. As it is taught elsewhere, viz., in Lev. XX, 15.
9. One of the methods of Talmudic hermeneutics is to apply a Biblical statement, superfluous in respect of its own law, to some other subject.
10. Lev. XVIII, 23.
11. Ibid. v. p. 368. n. 1: the same reasoning applying to bestiality as to pederasty.
12. I. e., though differently vocalized in order to deduce two injunctions, it is nevertheless one statement only, so that a person transgressing these two injunctions violates one Biblical prohibition only.
13. Not to bestiality at all, in spite of the fact that this was cited above in this connection.
14. Ex. XXII, 18.
15. Since it is stated in Lev. XVIII.
16. I. e., though as shown, this verse applies to a passive offender, yet its grammatical construction speaks of active bestiality.
17. The reference having been given above.
18. So that all is deduced from one verse, involving only one penalty.
19. Since R. Akiba maintains that the prohibition of passive sodomy is included in active sodomy, it follows that passive pederasty and bestiality are two distinct offences, for there are two distinct injunctions. But as R. Ishmael maintains that the injunction against active sodomy does not include passive submission, and that the latter, whether in pederasty or bestiality, is derived from the single injunction, There shall be no sodomite, the double offence incurs one penalty only.
20. Ex. XXII, 18.

21. Thus, this applies to passive bestiality, whilst there shall be no sodomite applies to passive pederasty. Hence, there being two separate injunctions for the two offences, a double punishment is incurred.
22. Thus: R. Abbahu maintains that on R. Ishmael's view: (i) active pederasty is forbidden by Thou shalt not lie with mankind; (ii) active bestiality by Thou shalt not lie with any beast; (iii) passive pederasty and bestiality by There shall be no sodomite. Whilst Abaye maintains that on R. Ishmael's view, (i) active pederasty is derived from Thou shalt not lie with mankind; (ii) submission thereto from There shall be no sodomite; and (iii) active and passive bestiality from Neither shalt thou lie with any beast to defile thyself therewith. (Lev. XVIII, 23) Hence, according to R. Abbahu and Abaye there are three injunctions for the four offences. Further, R. Abbahu and Abaye both teach R. Akiba's view to be that (i) active and passive bestiality are derived from Thou shalt not lie with mankind as with womankind; and (ii) active and passive bestiality from Neither shalt thou lie with any beast. Hence there are two injunctions for the four offences.
23. The reference is to the passive subject of sodomy. As stated *supra* 54a, guilt is incurred by the active participant even if the former be a minor, i. e., less than thirteen years old. Now, however, it is stated that within this age a distinction is drawn.
24. I. e., Rab makes nine years the minimum; but if one committed sodomy with a child of lesser age, no guilt is incurred. Samuel makes three the minimum.
25. At nine years a male attains sexual matureness.
26. Lev. XVIII, 22. Thus the point of comparison is the sexual matureness of woman, which is reached at the age of three.

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[he] who commits bestiality, whether naturally or unnaturally; or a woman who causes herself to be bestially abused, whether naturally or unnaturally, is liable to punishment.<sup>1</sup>

R. Nahman, son of R. Hisda stated in an exposition: In the case of a woman, there are



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two modes of intimacy, but in the case of a beast, only one.<sup>2</sup> R. Papa objected: On the contrary, since sexual intercourse with a woman is a natural thing, guilt should be incurred only for a natural connection, but for nothing else, whilst, since a connection with a beast is an unnatural thing, one should be punished for every such act, however it be done.<sup>3</sup>

It has been taught: Pederasty at the age of nine years and a day; she who commits bestiality, whether naturally or unnaturally, and a woman who causes herself to be bestially abused, whether naturally or unnaturally, are liable to punishment.<sup>4</sup>

Rabina asked Raba: What if one commits the first stage of pederasty? [He replied: Dost thou ask] what if one commits the first stage of pederasty! Is it not written, Thou shalt not lie with mankind as with womankind?<sup>5</sup> But [the question to be asked is] what if one commits the first stage of bestiality? — He replied: Since the culpability of the first stage of incest, which is explicitly stated with reference to one's paternal or maternal aunt, is redundant there, for it is likened to the first stage of intercourse with a niddah,<sup>6</sup> apply its teaching to the first stage of bestiality [as being punishable].<sup>7</sup> Now consider: bestiality is a capital offence, punishable by *Beth din*. Why then does the Scripture teach the capability of its first stage in a law relating to a sin punishable by extinction:<sup>8</sup> should it not rather have been indicated in a verse dealing with sexual intercourse as a capital offence too;<sup>9</sup> so that one capital offence might be deduced from another? Since this entire verse<sup>10</sup> is written for the sake of new interpretations [whereby additional laws are deduced] — another statement for the same purpose is inserted.<sup>11</sup>

R. Ahdaboi b. Ammi propounded a problem to R. Shesheth: What if one excited himself to the first stage [of masturbation]? — He replied: You annoy us!<sup>12</sup> R. Ashi said: What is your problem? This is impossible in self-stimulation; but it is possible in the case of

coition with a membrum mortuum. On the view that such, in incest, is not punishable, in masturbation too it is not punishable. But on the view that it is punishable, a twofold penalty is incurred here, since he is simultaneously the active and passive partner of the deed.

It was asked of R. Shesheth: What if a heathen committed bestiality [is the animal killed or not]? Must it have been both a stumbling block and a cause of degradation [in order for it to be stoned], but here it was only a stumbling block, but not a cause of degradation;<sup>13</sup> or perhaps, even if it was only a stumbling block, without having led to degradation, [it is still stoned]?<sup>14</sup> — R. Shesheth replied, We have learnt it: If in the case of trees, which neither eat nor drink nor smell, the Torah decreed that they should be burnt and destroyed,<sup>15</sup> because they had proved a stumbling block: how much more so [must thou destroy him] who seduces his neighbor from the path of life to that of death.<sup>16</sup> If so, where a heathen worships his cow, should it not be forbidden and killed?<sup>17</sup> — Is there anything which is not forbidden to an Israelite, yet forbidden to a heathen?<sup>18</sup> But why should it not be forbidden if an Israelite worshipped it: is it not analogous to bestiality? — Abaye answered: In the latter case [bestiality] the degradation is great; whilst in the former [animal worship] the disgrace is little.<sup>19</sup> But in the case of trees, the degradation is not great, yet did not the Torah order them to be burnt, destroyed, and annihilated? — We are speaking of living creatures, for which the All-Merciful One showed pity.<sup>20</sup> Raba said: The Torah ordered that the animal should be destroyed, because it too derived pleasure from sin.<sup>21</sup> But trees derive no pleasure, yet the Torah commanded that they should be destroyed, burnt, and annihilated! We are speaking of living creatures, for which the All-Merciful One showed pity. Come and hear!<sup>22</sup> ANOTHER REASON IS, THAT THE ANIMAL SHOULD NOT PASS THROUGH THE STREETS, WHILST PEOPLE SAY, THIS IS THE ANIMAL ON ACCOUNT OF

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WHICH SO AND SO WAS STONED. Now surely,

1. [Rashi reads [H] instead of the [H] in our printed texts. A male, aged nine years and a day who commits, etc.] There are thus three distinct clauses in this Baraitha. The first — a male aged nine years and a day — refers to the passive subject of pederasty, the punishment being incurred by the adult offender. This must be its meaning — because firstly, the active offender is never explicitly designated as a male, it being understood, just as the Bible states, *Thou shalt not lie with mankind*, where only the sex of the passive participant is mentioned; and secondly, if the age reference is to the active party, the guilt being incurred by the passive adult party, why single out pederasty: in all crimes of incest, the passive adult does not incur guilt unless the other party is at least nine years and a day? Hence the Baraitha supports Rab's contention that nine years (and a day) is the minimum age of the passive partner for the adult to be liable.
2. The reference is to bestiality. If a woman allows herself to be made the subject thereof, whether naturally or not, she is guilty. But if a man commits bestiality, he is liable only for a connection in a natural manner, but not otherwise. Thus Rashi. Tosaf., more plausibly, explains it thus: If one commits incest or adultery with a woman, whether naturally or not, guilt is incurred; but bestiality is punishable only for a connection in a natural manner, but not otherwise.
3. The meaning according to the interpretation of Tosafoth is clear. Yet R. Papa's objection is not made in order to prove that unnatural incest is not liable (which, in fact, it is), but that if a distinction is to be drawn, unnatural bestiality is far more likely to be liable than unnatural incest. On Rashi's interpretation, R. Papa's objection is explained thus: Since a woman is naturally the passive object of sexual intercourse, it follows that she should be punished for bestiality only when the connection is carried out in a natural way. But as man is the active offender in an unnatural crime he should be punished even for unnatural connection. It must be confessed that this is not without difficulty, and hence Tosaf. rejects Rashi's explanation, which is based on a slightly different reading.
4. V. *supra* p. 371. n. 5. This refutes the former view; and the latter too, on Rashi's interpretation.
5. Ibid. XVIII, 20. Hence, why ask? Obviously, just as the first stage of incest or adultery is punishable, so also the first stage of pederasty.
6. *Niddah*, a woman during her menstruation.
7. In respect of one's paternal or maternal aunt, Scripture states: And thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister: for he uncovereth his near kin. (Lev. XX, 19). The word for 'he uncovereth' (Heb. he'erah [H]) is understood as meaning the first stage of sexual intercourse, and this verse teaches that this is a culpable offence. But this teaching is superfluous, for in the preceding verse the same is taught of a *niddah*, which serves as a model for all forbidden human sexual intercourse. Hence the teaching, being redundant here, is applied to the first stage of bestiality. V. p. 368, n. 7.
8. Incest with a paternal or a maternal aunt is so punishable.
9. E. g., incest with one's mother, father's wife, or daughter-in-law is punished by stoning; v. *supra* 53a.
10. Lev. XX, 19, referring to incest with a paternal or maternal aunt.
11. In Yeb. 54b it is shown that the whole verse is superfluous, its provisions being stated in Lev. XVIII, 12f. Hence it is written in XX, 19 in order that additional laws might be deduced.
12. By a reprehensible sophistry, the thing being an impossibility. Other translations: 'You disgust us; insolent man that you are!'
13. Because bestiality was not unusual among the heathens, therefore he would not feel himself disgraced. This Talmudic judgment on heathen morals may appear very harsh and prejudiced, yet it is not a malicious slander. In the Gilgamesh epic Ebani, the primitive man, lives a wild life with the animals and satisfies his lust with them. Bestiality seems to have been prevalent among the Greeks and Romans of a later period, as is proved by an extremely unsavory adventure described in the *Metamorphoses* of Apuleius. Cf. 'A. Z. 22a, which forbids the stabling of cows with heathens, for fear of bestiality. (Hast. Dict. s.v. Bestiality.)
14. The point of the problem is this: The Mishnah states two reasons for the stoning of the animal. The first, that it had been a stumbling block; the second, that it was a constant reminder that someone had been executed through it, i.e., that man had degraded himself thereby. Hence the question whether both are necessary before the animal must be stoned, or only one.
15. Deut. XII, 3: And ye shall burn their groves with fire.

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16. I.e., to idolatry. That proves that that which caused sin, even without degradation, (the worship of trees by heathens not being accounted a disgrace to them) must be destroyed.
17. Since a heathen is liable to death for animal worship, though it is not accounted a disgrace to him.
18. Surely not. If a Jew worships his cow, it is not forbidden to benefit therefrom (Tem. 29a). Hence we cannot impose a prohibition if a heathen worships it. This is a general principle in the Talmud. It is very instructive as showing quite clearly the temper in which the Rabbis regarded the idea of election of Israel. So far from conferring special privileged dispensations, it could be taken as axiomatic that nothing permitted to the Jew was forbidden to the heathen. Cf. Joseph, M., *Judaism as Creed and Life*, pp. 153-4. 'In styling ourselves God's people we do not claim to possess any worldly advantage, or even any special share of the Divine love ... The pledge of God's affection for his people lies in his gift to them of a special opportunity of service, with its additional joys but also with its additional obligations. Nay, by taking upon himself the Yoke of the Law, Israel has been self-doomed to a life of trial.'
19. Thus Tosaf. and R. Han. and one interpretation of Rashi. Another explanation by Rashi (adopted by Jast., s. v. [H]) is: In this case (of a Jew being the criminal) his disgrace is great, but in the latter (that of a Gentile) his disgrace is little. The first explanation seems to be more suited to the context.
20. Hence, only where there is much degradation, as in bestiality, is the animal destroyed; but trees are destroyed even when the disgrace is not great.
21. This is another point of difference between bestiality and animal worship. In the former, the animal too derives pleasure, but not in the latter.
22. In answer to the problem, R. Shesheth's proof not being considered conclusive.

## Sanhedrin 55b

since the latter reason embraces both the reason of a stumbling block and of human degradation,<sup>1</sup> the former reason is that of stumbling block alone, e.g. when a heathen commits bestiality!<sup>2</sup> — No. The second reason is that of stumbling block and of degradation, but the first teaches that even if there is degradation without a stumbling

block, the animal is stoned, e.g., if a Jew committed bestiality in ignorance [of the fact that it is forbidden].<sup>3</sup> Even as R. Hamnuna propounded: What if a Jew committed bestiality in ignorance; must there have been both a stumbling block and degradation [for the animal to be stoned] and in this case there is only degradation, but no sin; or perhaps for degradation alone without there having been a stumbling block [the animal is stoned]?<sup>4</sup> — R. Joseph said: Come and hear! A maiden aged three years and a day may be acquired in marriage by coition, and if her deceased husband's brother cohabits with her, she becomes his. The penalty of adultery may be incurred through her; [if a *niddah*] she defiles him who has connection with her, so that he in turn defiles that upon which he lies, as a garment which has lain upon [a person afflicted with gonorrhoea].<sup>5</sup> If she married a priest, she may eat of *terumah*;<sup>6</sup> If any unfit person<sup>7</sup> has a connection with her, he disqualifies her from the priesthood<sup>8</sup> — If any of the forbidden degrees had intercourse with her, they are executed on her account,<sup>9</sup> but she is exempt.<sup>10</sup> Now, 'any of the forbidden degrees' implies even a beast: in this case, there is degradation but no stumbling-block, yet it is taught that they [including a beast] are slain on her account.<sup>11</sup> [No, this is not conclusive, as it can be argued that] since she deliberately offended there is a stumbling-block [though she is a minor] but the All-Merciful One had mercy upon her; now, He showed mercy to her, but not to the animal.

Raba said: Come and hear! A male aged nine years and a day who cohabits with his deceased brother's wife [the former having left no issue] acquires her [as wife]. But he cannot divorce her until he attains his majority.<sup>12</sup> He is defiled through coition with a *niddah*,<sup>13</sup> so that he in turn defiles that upon which he lies, as a garment which has lain upon [a person afflicted with gonorrhoea] — He disqualifies [a woman from the priesthood],<sup>14</sup> but cannot enable a woman to eat [of *terumah*].<sup>15</sup> He renders an animal unfit for the altar,<sup>16</sup> and it is stoned on his

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account,<sup>17</sup> and if he had intercourse with one of the degrees forbidden in the Torah, the latter is executed. Now here there is degradation, but no stumbling-block, yet it is taught: 'It is stoned on his account.' Since it was a deliberate offence, there is a stumbling-block, but the All-Merciful One had mercy upon him; now, He showed mercy to him, but not to the animal.

Come and hear! ANOTHER REASON IS THAT THE ANIMAL SHOULD NOT PASS THROUGH THE STREETS WHILST PEOPLE SAY, 'THIS IS THE ANIMAL ON ACCOUNT OF WHICH SO AND SO WAS STONED.' Now surely, since the latter reason embraces both stumbling-block and degradation, the former reason refers to degradation only, that is, when a Jew committed bestiality in ignorance.<sup>18</sup> No! The second reason is one of stumbling-block and degradation; but the first teaches that even if there is a stumbling block without degradation, the animal is stoned,<sup>18</sup> e.g., if a heathen committed bestiality, even as it was asked of R. Shesheth.<sup>19</sup>

**MISHNAH. THE BLASPHEMER IS PUNISHED ONLY IF HE UTTERS [THE DIVINE] NAME.<sup>20</sup>**  
**R. JOSHUA B. KARHA SAID:**

1. When people remark that so and so was stoned through this animal, its own part in enticing to sin and the degradation of the offender are brought to mind.
2. The reasoning is as follows: Since the second reason refers to both sin and disgrace, the first is superfluous; hence it must have been given in order to show that even where sin alone is incurred, without degradation, the animal is stoned.
3. According to this, the 'stumbling block' refers to the degradation involved, and not to the sin. When bestiality is committed in ignorance, one has not sinned, yet he has greatly degraded himself. The superiority of this explanation lies in the fact that both reasons now refer to a Jew, instead of one referring to a Jew and one to a heathen, which is not very plausible.
4. According to the latter explanation of the Mishnah, this problem is solved, whilst the first remains unanswered; but according to the first explanation, the first problem is

solved, but not the second. As we cannot be certain which is correct, both so far are unsolved.

5. A man who had sexual connection with a *niddah*, defiles that upon which he lies even if he does not actually touch it. But the degree of uncleanness it thereby acquires is not the same as that of bedding upon which a *niddah* herself, or a person afflicted with gonorrhoea, lies. For in the latter case, the defilement is so great that the bedding in turn renders any person or utensil with which it comes into contact unclean; whilst in the former, it can only defile foodstuffs and liquids. This is the same degree of uncleanness possessed by a garment which has lain upon, or been borne by a *zab* (i.e., one afflicted with issue).
6. As the law of an Israelite's (adult) daughter who married a priest. But if she was less than three years old, although the *Kiddushin* accepted on her behalf by her father is valid, yet since she is sexually immature, the marriage cannot be consummated, and hence she is not thereby enabled to eat of *terumah*. On *terumah*, the priest's portion of an Israelite's produce, v. Glos.
7. E.g., a heathen, *hallal*, *nathin*, or bastard.
8. I.e., if a priest's daughter, or if the daughter of a Levite or Israelite married to a priest, she may not eat of *terumah*.
9. If they are of those forbidden on pain of death, v. *supra* 53a.
10. As she is a minor.
11. This solves R. Hamuna's problem.
12. For, being a minor, he has no power to release her from a bond laid upon her, in the first place, by an adult (his brother).
13. This rendering follows the more correct text of the Mishnah, *Niddah* 45a, of which this is a quotation, which has *umittamma beniddah* (through or by a *niddah*), instead of the reading here: *umittamma keniddah*, as a *niddah*.
14. V. p. 343, n. 6.
15. If he is a priest, and has sexual connection with an Israelite's daughter with marital intent, this does not authorize her to eat of *terumah*, because he has no legal powers of acquisition in marriage, excepting over his levirate sister-in-law, who is already bound to him.
16. If he committed bestiality therewith, only one witness attesting the offence, the animal is not killed, nor does it become unfit for secular use, but it may no longer be offered as a sacrifice.
17. If his bestiality was attested by two witnesses.
18. Which solves the problem propounded by R. Hamnunah.
19. V. p. 373, *supra*.



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20. I.e., the Tetragrammaton.

## Sanhedrin 56a

THE WHOLE DAY [OF THE TRIAL] THE WITNESSES ARE EXAMINED BY MEANS OF A SUBSTITUTE FOR THE DIVINE NAME, THUS, 'MAY JOSE SMITE JOSE.'<sup>1</sup> WHEN THE TRIAL WAS FINISHED, THE ACCUSED WAS NOT EXECUTED ON THIS EVIDENCE, BUT ALL PERSONS WERE REMOVED [FROM COURT], AND THE CHIEF WITNESS WAS TOLD, 'STATE LITERALLY WHAT YOU HEARD. THEREUPON HE DID SO, [USING THE DIVINE NAME]. THE JUDGES THEN AROSE AND RENT THEIR GARMENTS, WHICH RENT WAS NOT TO BE RESEWN. THE SECOND WITNESS STATED; I TOO HAVE HEARD THUS' [BUT NOT UTTERING THE DIVINE NAME], AND THE THIRD SAYS: 'I TOO HEARD THUS'.

**GEMARA.** It has been taught: [The blasphemer is not punished] unless he 'blesses' the Name, by the Name.<sup>2</sup> Whence do we know this? — Samuel said: The Writ sayeth, *And he that blasphemeth [nokeb] the name of the Lord ... when he blasphemeth the name of the Lord, shall be put to death.*<sup>3</sup> How do you know that the word *nokeb*<sup>4</sup> [used in the Hebrew] means a 'blessing'? — From the verse, *How shall I curse [Ekkob]<sup>5</sup> whom God hath not cursed;*<sup>6</sup> whilst the formal prohibition is contained in the verse, *thou shalt not revile God.*<sup>7</sup> But perhaps it means 'to pierce,'<sup>8</sup> as it is written, *[So Jehoiada the priest took a chest,] and bored [wa-yikkob]<sup>9</sup> a hole in the lid of it,*<sup>10</sup> the formal injunction against this being the verses, *Ye shall destroy the names of them [idols] out of that place. Ye shall not do so unto the Lord your God?*<sup>11</sup> — The Name must be 'blessed' by the Name, which is absent here. But perhaps the text refers to the putting of two slips of parchment, each bearing the Divine Name, together, and piercing them both? — In that case one Name is pierced after the other.<sup>12</sup> But perhaps it prohibits the engraving of the Divine Name on the Point of a knife and piercing therewith [the Divine Name written

on a slip of parchment]? — In that case, the point of the knife pierces, not the Divine Name. But perhaps it refers to the pronunciation of the ineffable Name, as it is written, *And Moses and Aaron took these men which are expressed [nikkebu]<sup>13</sup> by their names;*<sup>14</sup> the formal prohibition being contained in the verse, *Thou shalt fear the Lord thy God?*<sup>15</sup> — Firstly, the Name must be 'blessed' by the Name, which is absent here; and secondly, it is a prohibition in the form of a positive command, which is not deemed to be a prohibition at all.<sup>16</sup> An alternative answer is this: The Writ saith, *[And the Israelitish woman's son] blasphemed wa-yikkob<sup>17</sup> [and cursed],*<sup>18</sup> proving that blasphemy [*nokeb*] denotes cursing. But perhaps it teaches that both offences must be perpetrated?<sup>19</sup> You cannot think so, because it is written, *Bring forth him that hath cursed,*<sup>20</sup> and not 'him that hath blasphemed and cursed', proving that one offence only is alluded to.

Our Rabbis taught: *[Any man that curseth his God, shall bear his sin.*<sup>21</sup> It would have been sufficient to say], 'A man, etc.' What is taught by the expression *any man?*<sup>22</sup> The inclusion of heathens, to whom blasphemy is prohibited just as to Israelites, and they are executed by decapitation; for every death penalty decreed for the sons of Noah is only by decapitation.<sup>23</sup>

Now, is [the prohibition of blasphemy to heathens] deduced from this verse? But it is deduced from another, viz., *The Lord*, referring to the 'blessing' of the Divine Name.<sup>24</sup> — R. Isaac the smith<sup>25</sup> replied; This phrase [*any man*] is necessary only as teaching the inclusion of substitutes of God's name,<sup>26</sup> and the Baraita is taught in accordance with R. Meir's views For it has been taught: *Any man that curseth his God shall bear his sin.*<sup>27</sup> Why is this written? Has it not already been stated, *And he that blasphemeth the name of the Lord, he shall surely be put to death?*<sup>28</sup> Because it is stated, *And he that blasphemeth the name of the Lord shall surely be put to death*, I might think that death is meted out only when the ineffable

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Name is employed. Whence do I know that all substitutes [of the ineffable Name] are included [in this law]? From the verse, *Any man that curseth his God* — showing culpability for any manner of blasphemy [even without uttering the Name, since the Name is not mentioned in this sentence]: this is the view of R. Meir. But the Sages maintain: [Blasphemy] with use of the ineffable Name, is punishable by death: with the employment of substitutes, it is the object of an injunction. [but not punishable by death].

This view [of R. Isaac the smith] conflicts with that of R. Miyasha; for R. Miyasha said: If a heathen [son of Noah] blasphemed, employing substitutes of the ineffable Name, he is in the opinion of the Sages punishable by death. Why so? — Because it is written, *as well the stranger, as he that is born in the land [when he blasphemeth the name of the Lord, shall be put to death].*<sup>29</sup> This teaches that only the stranger [i.e., a proselyte], and the native [i.e., a natural born Israelite] must utter the ineffable Name; but the heathen is punishable even for a substitute only. But how does R. Meir interpret the verse, 'as well the stranger, as he that is born in the land'? — It teaches that the stranger and citizen are stoned, but a heathen is decapitated. For I would think, since they are included [in the prohibition], they are included [in the manner of execution too]: hence we are taught otherwise. Now how does R. Isaac the smith interpret the verse, 'as well the stranger, as he that is born in the land', on the view of the Rabbis?<sup>30</sup> — It teaches that only a stranger and a native must revile the Name by the Name, but for a heathen this is unnecessary. Why does the Torah state *any man*?<sup>31</sup> — The Torah employed normal human speech.<sup>32</sup>

Our Rabbis taught: seven precepts were the sons of Noah commanded: social laws;<sup>33</sup> to refrain from blasphemy, idolatry; adultery; bloodshed; robbery; and eating flesh cut from a living animal.<sup>34</sup>

1. The witnesses, in giving testimony, do not state that they heard the accused say, 'May He slay himself', uttering the actual divine name, but use the word 'Jose' as a substitute for the divine name. 'Jose' is chosen as a substitute, because it contains four letters, like the actual Tetragrammaton, which must have been used by the blasphemer for him to be punished. Moreover, the numerical value of 'Jose' is the same as of *Elohim* [81]. According to Levy, s.v. [H], the first Jose [H] stands for Jesus ([H], son), and the second is an abbreviation of [H], Joseph, the Father, by which, however, God was to be understood. The witnesses were accordingly asked whether the accused in his blasphemy had set Jesus above God. (R. Joshua b. Karha, the author of this saying, lived at a time when Judeo-Christians ascribed more power to Jesus than to God.)
2. As in the Mishnah, 'Jose strike Jose'. 'Bless' is here a euphemism for curse, and is so in the whole of the ensuing discussion.
3. Lev. XXIV, 16. The repetition shows that the Divine Name must be cursed by the Divine Name.
4. [H]
5. [H]
6. Num. XXIII, 8.
7. Ex. XXII, 27.
8. I.e., it is a capital offence to pierce the Divine Name, written on a slip of parchment, and thus destroy it.
9. [H]
10. II Kings XII, 10.
11. Deut. XII, 3f. The interpretation is based on the juxtaposition of the two verses; v. Mak. 22a.
12. The knife passes successively from one slip to the other, but one Name does not pierce the other.
13. uceb
14. Num. 1, 17.
15. Deut. VI, 13, which is interpreted as a prohibition against the unnecessary utterance of His Name.
16. The statement, Thou shalt fear the Lord thy God, though implying abstention from something, is nevertheless given as a positive command, but punishment is imposed for the violation only of a direct negative precept.
17. [H]
18. Lev. XXIV, 11.

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19. I.e., only he who both blasphemes, that is, utters the ineffable Name, and curses it, is executed.
20. Ibid. XXIV, 14.
21. Ibid. XXIV, 15.
22. Lit., 'A man, a man', Heb. *ish ish*, [H].
23. The only place where death is explicitly decreed for non-Israelites is in Gen. IX, 6: Whoso sheddeth man's blood, by man shall his blood be shed. It is a general law, applicable to all, having been given in the pre-Abrahamic era; his blood shall be shed must refer to the sword, the only death whereby blood is shed.
24. V. *infra* 56b. *And the Lord God commanded the man, saying, of every tree of the garden, thou mayest freely eat.* Gen. II, 16. Every word or phrase in this verse is separately interpreted, the Lord teaching the prohibition of blasphemy to a Noachide.
25. In the Talmudic period the Rabbi was an honorary official; consequently, he had to have a private occupation e.g., R. Joshua, who came into conflict with R. Gamaliel, was a blacksmith, (Ber. 28a.) others translate, charcoal-burner.
26. I.e., even if only a substitute was employed in blasphemy, the death penalty is incurred.
27. Lev. XXIV, 15
28. Ibid. 16.
29. Ibid.
30. That a heathen too must use the ineffable Name for incurring punishment.
31. This is a difficulty For R. Isaac and R. Miyasha, as they explain the opinions of the Sages. They both maintain that the culpability of a heathen is deduced from *And the Lord (God commanded, etc.)* When employing substitutes, his culpability, in the view of R. Miyasha is deduced from as well the stranger, etc.; Whilst R. Isaac denies that it is punishable at all. Hence the difficulty, why the repetition *ish ish, a man, a man*?
32. I.e., no particular significance attaches to the repetition, it being the usual idiom.
33. I.e., to establish courts of justice, or, perhaps, to observe social justice (Nahmanides on Gen. XXXIV, 13): *Hast. Dict.* (s.v. Noachian precepts) translates 'obedience to authority'.
34. These commandments may be regarded as the foundations of all human and moral progress. Judaism has both a national and a universal outlook in life. In the former sense it is particularistic, setting up a people distinct and separate from others by its peculiar religious law. But in the latter, it recognizes that moral progress and its concomitant Divine love and approval are the privilege and obligation of all mankind. And hence the Talmud lays down the seven Noachian precepts, by the

observance of which all mankind may attain spiritual perfection, and without which moral death must inevitably ensue. That perhaps is the idea underlying the assertion (passim) that a heathen is liable to death for the neglect of any of these. The last mentioned is particularly instructive as showing the great importance attached to the humane treatment of animals; so much so, that it is declared to be fundamental to human righteousness.

## Sanhedrin 56b

R. Hanania b. Gamaliel said: Also not to partake of the blood drawn from a living animal. R. Hidka added emasculation. R. Simeon added sorcery. R. Jose said: The heathens were prohibited everything that is mentioned in the section on sorcery. viz., *There shall not be found among you any one, that maketh his son or daughter to pass through the fire, or that useth divination, or an observer of times, or an enchanter, or a witch, or a charmer, or a consulter with familiar spirits, or a wizard, or a necromancer. For all that do these things are an abomination unto the Lord: and because of these abominations the Lord thy God doth drive them* [sc. the heathens in Canaan] *out from before thee.*<sup>1</sup> Now, [the Almighty] does not punish without first prohibiting.<sup>2</sup> R. Eleazar added the forbidden mixture [in plants and animals]: now, they are permitted to wear garments of mixed fabrics [of wool and linen] and sow diverse seeds together; they are forbidden only to hybridize heterogeneous animals and graft trees of different kinds.

Whence do we know this? — R. Johanan answered: The Writ saith: *And the Lord God commanded the man saying, of every tree of the garden thou mayest freely eat.*<sup>3</sup> *And [He] commanded,* refers to [the observance of] social laws, and thus it is written, *For I know him, that he will command his children and his household after him, and they shall keep the way of the Lord, to do justice and judgment.*<sup>4</sup> *The Lord* — is [a prohibition against] blasphemy, and thus it is written, *and he that blasphemeth the name of the Lord, he shall surely be put to death.*<sup>5</sup> *God* — is [an

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injunction against] idolatry, and thus it is written, *Thou shalt have no other gods before Me.*<sup>6</sup> *The man* — refers to bloodshed [murder], and thus it is written, *Whoso sheddeth man's blood, by man shall his blood be shed.*<sup>7</sup> *Saying* — refers to adultery, and thus it is written, *They say, If a man put away his wife, and she go from him, and became another man's.*<sup>8</sup> *Of every tree of the garden* — but not of robbery.<sup>9</sup> *Thou mayest freely eat* — but not flesh cut from a living animal.<sup>10</sup>

When R. Isaac came,<sup>11</sup> he taught a reversed interpretation. And He commanded — refers to idolatry; God [Heb. *elohim*] to social law. Now 'God' may rightly refer to social laws, as it is written, And the master of the house shall be brought unto *elohim* [i.e., the judges].<sup>12</sup> But how can 'and He commanded' connote a prohibition of idolatry? — R. Hisda and R. Isaac b. Abdimi-one cited the verse, They have turned aside quickly out of the way which I commanded them: they have made them a molten calf, etc.<sup>13</sup> And the other cited, Ephraim is oppressed and broken in judgment, because he willingly walked after the commandment.<sup>14</sup> Wherein do they differ? — In respect of a heathen who made an idol but did not worship it: On the view [that the prohibition of idolatry is derived from] they have made them a molten calf, guilt is incurred as soon as the idol is made [even before it is worshipped]; but according to the opinion that it is from, because he willingly walked after the commandment, there is no liability until the heathen actually follows and worships it. Raba objected: Does any scholar maintain that a heathen is liable to punishment for making an idol even if he did not worship it? Surely it has been taught: With respect to idolatry, such acts for which a Jewish Court decrees sentence of death [on Jewish delinquents] are forbidden to the heathen; but those for which a Jewish Court inflicts no capital penalty on Jewish delinquents are not forbidden to him.<sup>15</sup> Now what does this exclude? Presumably the case of a heathen who made an idol without worshipping it?<sup>16</sup> R. Papa answered: No. It excludes the embracing and kissing of idols.<sup>17</sup>

Of which idols do you say this? Is it of those whose normal worship is in this manner; but in that case he is surely liable to death? — Hence it excludes the embracing and kissing of idols which are not usually worshipped thus.

'Social laws.' Were then the children of Noah bidden to observe these? Surely it has been taught: The Israelites were given ten precepts at Marah, seven of which had already been accepted by the children of Noah, to which were added at Marah social laws, the Sabbath, and honoring one's parents; 'Social laws,' for it is written, There [sc. at Marah] he made for them a statute and an ordinance;<sup>18</sup> 'the Sabbath and honoring one's parents'. for it is written, As the Lord thy God commanded thee!<sup>19</sup> — R. Nahman replied in the name of Rabbah b. Abbuha: The addition at Marah was only in respect of an assembly, witnesses, and formal admonition.<sup>20</sup> If so, why say 'to which were added social laws'?<sup>21</sup> — But Raba replied thus: The addition was only in respect of the laws of fines.<sup>22</sup> But even so, should it not have been said, 'additions were made in the social laws'? — But R. Aha b. Jacob answered thus: The Baraitha informs us that they were commanded to set up law courts in every district and town. But were not the sons of Noah likewise commanded to do this? Surely it has been taught: Just as the Israelites were ordered to set up law courts in every district and town, so were the sons of Noah likewise enjoined to set up law courts in every district and town! — But Raba answered thus: The author of this Baraitha [which states that social laws were added at Marah] is a Tanna of the School of Manasseh, who omitted social laws and blasphemy<sup>23</sup> [from the list of Noachian precepts] and substituted emasculation and the forbidden mixture [in plants, plowing., etc.].<sup>23</sup> For a Tanna of the School of Manasseh taught: The sons of Noah were given seven precepts. viz., [prohibition of] idolatry, adultery, murder, robbery, flesh cut from a living animal, emasculation and forbidden mixtures. R. Judah said: Adam was prohibited idolatry only, for it is written,



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And the Lord God commanded Adam.<sup>24</sup> R. Judah b. Bathyra maintained: He was forbidden blasphemy too. Some add social laws. With whom does the following statement of Rab Judah in the name of Rab agree: viz., [God said to Adam,] I am God, do not curse Me; I am God, do not exchange Me for another; I am God, let My fear be upon you?<sup>25</sup> — This agrees with the last mentioned [who adds social laws to the list].

Now, what is the standpoint of the Tanna of the School of Manasseh? If he interprets the verse, And the Lord God commanded, etc. [as interpreted above], he should include these two [social laws and blasphemy] also, and if he does not, whence does he derive the prohibition of the rest? — In truth, he does not accept the interpretation of the verse, 'And the Lord God commanded, etc., but maintains that each of these [which he includes] is separately stated: Idolatry and adultery.

1. Deut. XVIII, 10ff.
2. Therefore, since it is stated that they are being expelled as a punishment for these sins, they must first have been warned (i.e., prohibited) against them.
3. Gen. II, 16.
4. Gen. XVIII, 19. Thus 'command' relates to justice and judgment.
5. Lev. XXIV, 16 — 'The Lord' being used in connection with blasphemy.
6. Ex. XX, 3.
7. Gen. IX, 6.
8. Jer. III, 1. Thus 'saying' is used in connection with adultery.
9. Since it was necessary to authorize Adam to eat of the trees of the garden, it follows that without such authorization — i.e., when something belongs to another — it is forbidden.
10. By interpreting thus: Thou mayest eat that which is now ready for eating, but not whilst the animal is alive. It is perhaps remarkable that a verse, the literal meaning of which is obviously permission to enjoy, should be interpreted as a series of prohibitions. Yet it is quite in keeping with the character of the Talmud: freedom to enjoy must be limited by moral and social considerations, and indeed only attains its highest value when so limited. Cf. Ab. VI, 2: No man is free but he who labors in the Torah.
11. V. p. 361, n. 5.
12. Ex. XXII, 7. The root idea of '*elohim*' is power, majesty.
13. Ex. XXXII, 8.
14. Hos. V, 11, referring to idolatry; thus in both cases 'command' is used in connection with idolatry.
15. V. Mishnah 60b.
16. For which a Jew is not punished by death.
17. Teaching that these are not punishable.
18. Ex. XV, 25. Ordinance (Heb. *mishpat*) refers to social law.
19. Deut. V, 16. This occurs in the fifth commandment of the second Decalogue. Similar words are used in the fourth commandment: therefore the Lord thy God commanded thee to keep the Sabbath day. In both cases then there is a reference to some previous event, shown by the use of the past tense: commanded thee. Now the second Decalogue, though spoken by Moses towards the end of his life in the plains of Moab many years after the first at Sinai, was nevertheless a repetition thereof. Therefore this reference back must have been made in the first promulgation also, and can only relate to Marah, where, as stated above, 'he made for them a statute and an ordinance', i.e., gave certain laws to the Israelites.
20. I.e., that Justice should be meted out by an 'assembly'. viz., a Sanhedrin; that an accusation was to be attested by at least two witnesses, and that a formal warning or admonition was to be given to the accused before he committed his offence, as otherwise he was not liable to the prescribed penalty. But the sons of Noah, though bidden to observe civil laws, were not bound by these regulations.
21. Since the addition was only in the method of procedure, but not in actual content.
22. E.g., Deut. XXII, 19, 29, where a slanderer of a woman's honor is ordered to pay 100 silver *shekels* to her father, and a seducer of a virgin 50 silver *shekels*. These payments are not regarded as equitable indemnifications against loss sustained, but as fines for reprehensible acts. These laws were wanting in the civil code of the sons of Noah, and only these commands added at Marah.
23. The text employs abbreviations for these commands.
24. Which means that He commanded him to remember His Godhead, and not to reject it for a different deity.
25. 'Let my fear be upon you' is an exhortation to dispense justice uprightly, without fear of man.

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## Sanhedrin 57a

for it is written, The earth also was corrupt before God;<sup>1</sup> and a Tanna of the School of R. Ishmael taught: Wherever corruption is mentioned, it must refer to immorality and idolatry.<sup>2</sup> 'Immorality,' as it is written, for all flesh had corrupted his way upon the earth.<sup>3</sup> 'Idolatry,' for it is written, Lest ye corrupt yourselves and make you a graven image, etc.<sup>4</sup> And the other teacher [who deduces this from the verse, and the Lord God commanded, etc.]?<sup>5</sup> He maintains that this verse [sc. the earth also, etc.] merely describes their way of living.<sup>6</sup> 'Bloodshed', as it is written, Whoso sheddeth man's blood, etc.<sup>7</sup> And the other?<sup>8</sup> — This verse [he will maintain] merely teaches the manner of execution.<sup>9</sup> Robbery, for it is written, As the wild herbs have I given you all things;<sup>10</sup> upon which R. Levi commented: as the wild herbs, but not as the cultivated herbs.<sup>11</sup> And the other?<sup>12</sup> — He will hold that this verse is written to permit animal flesh,<sup>13</sup> [but not to prohibit robbery]. Flesh cut from the living animal, as it is written, But flesh with the life thereof, which is the blood thereof, shall ye not eat.<sup>14</sup> And the other?<sup>15</sup> — He may hold that this verse teaches that flesh cut from live reptiles is permitted.<sup>16</sup> Emasculation, for it is written, Bring forth abundantly in the earth, and multiply therein.<sup>17</sup> And the other?<sup>18</sup> — He may regard this merely as a blessing.<sup>19</sup> Forbidden mixture, as it is said, Of fowls after their kind.<sup>20</sup> And the other?<sup>21</sup> — He will maintain that this was merely for the sake of mating.<sup>22</sup>

R. Joseph said, The scholars<sup>23</sup> stated: A heathen is executed for the violation of three precepts — Mnemonic G Sh R—<sup>24</sup> viz., adultery, bloodshed, and blasphemy. R. Shesheth objected: Now bloodshed is rightly included, since it is written, Whoso sheddeth the blood of man, by man shall his blood be shed;<sup>25</sup> but whence do we know the others? If they are derived from bloodshed,<sup>26</sup> the other four should also be included; whilst if their inclusion is taught by the extending phrase any man,<sup>27</sup> should not idolatry too be

included?<sup>28</sup> But R. Shesheth said thus: The scholars stated, A heathen is executed for the violation of four precepts [including idolatry]. But is a heathen executed for idolatry? Surely it has been taught: With respect to idolatry, such acts for which a Jewish court decrees sentence of death [on Jewish delinquents] are forbidden to the heathen. This implies that they are merely forbidden, but their violation is not punished by death! — R. Nahman b. Isaac answered: Their prohibition is their death sentence.<sup>29</sup>

R. Huna, Rab Judah, and all the disciples of Rab maintained: A heathen is executed for the violation of the seven Noachian laws; the Divine Law having revealed this of one [murder], it applies to all. Now is a heathen executed for robbery? Has it not been taught: 'With respect to robbery — if one stole or robbed<sup>30</sup> or [seized] a beautiful woman,<sup>31</sup> or [committed] similar offences,<sup>32</sup> if [these were perpetrated] by one Cuthean<sup>33</sup> against another, [the theft, etc.] must not be kept, and likewise [the theft] of an Israelite by a Cuthean, but that of a Cuthean by an Israelite may be retained'?<sup>34</sup> But if robbery is a capital offence, should not the Tanna have taught: He incurs a penalty? — Because the second clause wishes to state, 'but that of a Cuthean by an Israelite may be retained,' therefore the former clause reads, '[theft of an Israelite by a Cuthean] must not be kept.'<sup>35</sup> But where a penalty is incurred, it is explicitly stated, for the commencing clause teaches: 'For murder, whether of a Cuthean by a Cuthean, or of an Israelite by a Cuthean, punishment is incurred; but of a Cuthean by an Israelite, there is no death penalty'?<sup>36</sup> — How else could that clause have been taught? Could he state, 'forbidden' ... 'permitted'? Surely it has been taught; A Cuthean and a [Jewish] shepherd of small cattle [sheep, goats, etc.]<sup>37</sup> need neither be rescued [from a pit] nor may they be thrown [therein]!<sup>38</sup> 'And similar acts.' To what can this apply in the case of robbery? — R. Aha b. Jacob answered: To a worker in a vineyard [who eats of the grapes]. When so? If his is the finishing work, it is permitted?<sup>39</sup> If it is not

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the finishing work, is it not actual robbery?<sup>40</sup> — But R. Papa said: This applies to [the theft of] an article worth less than a *perutah*.<sup>41</sup> But if so, why say that such robbery of a Jew by a Cuthean must not be kept: does he not forgive him?<sup>42</sup> — Though he later forgives him, he is grieved when it occurs [therefore it is prohibited] — But how can you say that such robbery by one Cuthean from another is but a 'similar act' [i.e., bordering on robbery]: since a Cuthean does not forgive,<sup>43</sup> is it not actual theft? — But R. Aha, the son of R. Ika answered; It applies to the withholding of a laborer's wage.<sup>44</sup> One Cuthean from another, or a Cuthean from an Israelite is forbidden, but an Israelite from a Cuthean is permitted.<sup>45</sup> To what can 'a similar act' apply in the case of a beautiful woman? — When R. Dimi came,<sup>46</sup> he said in the name of R. Eleazar in the name of R. Hanina: To a heathen who allotted a bondwoman to his slave [for concubinage] and then took her for himself, for this he is executed.<sup>47</sup>

'A similar act', however, is not taught with reference to murder.<sup>48</sup> Abaye said: If it should be, however, that it is so taught, it would be in accordance with R. Jonathan b. Saul. For it has been taught; If one was pursuing his neighbor to slay him, and the latter could have saved himself by maiming a limb [of the pursuer, e.g., his foot], and did not thus save himself [but killed him instead],

1. Gen. VI, II
2. And once they were punished for these offences, they must first have been admonished against them.
3. Ibid. 'Corrupted his way' connotes immorality; cf. the way of a man with a maid. Prov. XXX, 19.
4. Deut. IV, 16.
5. How does he utilize this latter verse?
6. But is not intended to imply a prohibition.
7. Gen. IX, 6.
8. I.e., who deduces it from the verse, all the Lord commanded.
9. I.e., by the sword, v. p. 380 n. 5; but the fact of execution is taught elsewhere.
10. Ibid. 3.
11. I.e., only as that which grows wild, without any owners; but not as that which is

- cultivated, hence owned by someone. This proves that robbery was forbidden them.
12. V. n. 8.
  13. Which was prohibited to Adam, v. *infra* 59b.
  14. Ibid. 4. 'Flesh with the blood thereof' means flesh cut from the living animal.
  15. V. n. 8.
  16. V. *infra* 59a, b.
  17. Ibid. This, of course, is a direct negation of emasculation.
  18. V. p. 386, n. 8.
  19. But it is not intended to convey any prohibition.
  20. Ibid. VI, 20; hence different species are not to be crossed.
  21. V. p. 386, n. 8.
  22. It being easier to mate with the same species than with another; but no prohibition is implied thereby.
  23. The term *be Rab* does not necessarily mean the school presided over by Rab, though it may have that meaning occasionally. In one sense, it connotes the school founded by him, but lasting many generations after his lifetime. In another, it denotes schools in general. In this very instance, the views attributed to *be Rab* conflict with the teaching of Rab, Rab Judah, and all his disciples (Weiss. Dor II, p. 206.)
  24. [H]: a mnemonic is given to facilitate the remembering of the subjects of a discussion. Here it stands for Gilluy 'Arayoth — adultery; Shefikuth damin — murder; and birkath hashem — blasphemy.
  25. Gen. IX, 6.
  26. That as bloodshed was forbidden on pain of death, so were the others too.
  27. Heb. [H]. Lev. XXIV, 15: Any man ([H]) that curseth his God shall bear his sin. Ibid. XVIII, 6: No man ([H]) shall approach to any that is near of kin to him, to uncover their nakedness. In both cases one referring to blasphemy, and the other to incest, the repetition of *ish* extends the law to embrace heathens too.
  28. Lev. XX, 2: Whosoever he be (*ish ish*) of the children of Israel, or of the strangers that sojourn in Israel, that giveth any of his seed to Moloch (i.e., engages in idol worship); he shall surely be put to death. The repetition then, here too, should extend the death penalty for idolatry to heathens.
  29. I.e., in speaking of heathens, when the Tanna teaches that they are forbidden to do something, he *ipso facto* teaches that it is punishable by death; for only in speaking of Jews is it necessary to distinguish between prohibition and punishment.
  30. Stole (*ganab*) refers to secret stealing, robbed (*gazel*), to stealing by open violence.

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31. In war, v. Deut. XXI, 10-14 — a species of robbery. [This is the only possible and correct rendering of the text, contra Goldschmidt. Cf. Tosef A.Z.]
32. Acts which are not actual robbery, but partake of its nature.
33. 'Cuthean' (Samaritan) was here substituted by the censor for the original *goy* (heathen).
34. [I.e., though it is forbidden to rob the heathen (v. Yad, Genebah I, 2; VI, 8), the offence was non-actionable. For reason, v. B. K. (Sonc. ed.) note on Mishnah 37b.]
35. But actually it is punishable too. [This is merely a survival of old Semitic tribal law that regarded theft and robbery as a crime against the state, and consequently punishable by death. V. Muller, D. H., Hammurabi, 88]
36. Thus the Tanna does refer to punishment; since then he omits a reference to punishment in the clause under discussion, it shows that the heathen is not executed for robbery. In the whole of this discussion the punishment referred to is death.
37. Both are regarded as robbers the latter because they permit their charges to graze in other people's fields.
38. One need neither exert oneself to save them from death, nor may one encompass it. This, of course, is theoretical only, v. p. 388, n. 6. Not a few of these harsh utterances (where they do not reflect the old Semitic tribal law, v. p. 388, n. 7) were the natural result of Jewish persecution by the Romans, and must be understood in that light. In actual practice, these dicta were certainly never acted upon, and it is significant that a commission of Roman officers, after investigating Jewish law in its relation to Gentiles, took exception only to two laws, one relating to the damage done by a goring ox, and the other permitting a Jew the use of property stolen from a Gentile. R. Gamaliel repealed this latter law. (B.K. 38a: Sifre Deut. 344.) Hence, reverting to the discussion, the Tanna could not have stated that the murder of a Cuthean by a Jew is permissible, therefore he is forced to speak of punishment.
39. E.g., the gathering in of the grapes. Deut. XXIII, 25 is interpreted by the Rabbis as referring to work in connection with the finishing touch given to the produce.
40. Not merely bordering thereon.
41. A small coin, one-eighth of the Roman as.
42. One does not mind such a trifle, and readily forgives it.
43. Even such a trifle, v. *infra* 59a.

44. This only borders on a robbery, for actual robbery means depriving a person of what he already possesses
45. I.e., non-actionable.
46. R. Dimi was a Palestinian Amora of the fourth century, who travelled to and fro between, Babylon and Palestine, and was very zealous in transmitting the teachings of Palestine Scholars to his colleagues in Babylon (v. J. E. IV, 603; cf. p. 361, n. 5, *supra*).
47. This, though not actual robbery, is similar to it.
48. A deed is either actual murder or not. Even unwitting murder is murder, though the Almighty showed mercy by sparing the murderer.

## Sanhedrin 57b

he is executed for his death.<sup>1</sup> . Jacob b. Aha found it written in the scholars'<sup>2</sup> Book of Aggada:<sup>3</sup> A heathen is executed on the ruling of one judge, on the testimony of one witness, without a formal warning, on the evidence of a man, but not of a woman, even if he [the witness] be a relation. On the authority of R. Ishmael it was said: [He is executed] even for the murder of an embryo. Whence do we know all this? — Rab Judah answered: The Bible saith, And surely your blood of your lives will I require;<sup>4</sup> this shows that even one judge [may try a heathen].<sup>5</sup> At the hand of every living thing will I require it: even without an admonition having been given;<sup>6</sup> And at the hand of man: even on the testimony of one witness;<sup>7</sup> at the hand of man:<sup>8</sup> but not at the hand [i.e., on the testimony] of a woman; his brother: teaching that even a relation may testify. On the authority of R. Ishmael it was said: [He is executed] even for the murder of an embryo. What is R. Ishmael's reason? Because it is written, Whoso sheddeth the blood of man within [another] man, shall his blood be shed.<sup>9</sup> What is a man within another man? — An embryo in his mother's womb.<sup>10</sup> But the first Tanna [who excludes the murder of an embryo from capital punishment] is a Tanna of the school of Manasseh, who maintains that every death penalty decreed for the heathens is by strangulation. He



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connects the [second] 'man' with the latter half of the sentence, and interprets thus: Whoso sheddeth man's blood, within man [i.e., within him], shall his blood be shed. Now, how can man's blood be shed, and yet be retained within him? By strangulation.

R. Hamnuna objected: Now, is not a [heathen] woman commanded [to keep the social laws]? Surely it is written, For I know him, that he will command his sons and his household [which includes the womenfolk] after him, and they shall keep the way of the Lord to exercise charity, and judgment?<sup>11</sup> — He raised the objection, and he answered it himself: he would command 'his sons' to exercise judgment; 'his daughters' to perform charity.

R. Awia the elder said to R. Papa: Let us say that a heathen woman who committed murder must not be executed, since it is written, at the hand of every man [who committed murder], etc. implying,<sup>12</sup> 'but not at the hand of woman'? — He replied: Thus did Rab Judah say: Whoso sheddeth man's blood implies whosoever it be [even a woman]. Let us say that a heathen woman who committed adultery is not executed, since it is written, therefore shall a man forsake [his father and mother, and cleave to his wife], implying<sup>12</sup> that a man [must cleave], but not a woman? — He replied: Thus did Rab Judah say: The verse, And they shall be as one flesh, reassimilated them to each other [making the law of fidelity applicable to both].

Our Rabbis taught: [A man, a man shall not approach to any that is near of kin to him, to uncover their nakedness.<sup>13</sup> It would have been sufficient to state,] A man shall not approach, etc. What is taught by the repetition, A man, a man? — The extension of the law to heathens, that they too are forbidden incest [including adultery]. Now is this deduced from this verse; is it rather not deduced from a different text, viz., [And the lord God commanded...] saying, which refers to adultery?<sup>14</sup> — The latter text refers to

adultery with a woman of their own [i.e., with a heathen married woman]; the former to adultery with one of ours [i.e., a Jewish married woman], for the second clause teaches: If he committed incest with a Jewess, he is judged according to Jewish law. With regard to what is this?<sup>15</sup> — R. Nahman said in the name of Rabbah b. Abbuha: With regard to an assembly, witnesses and formal admonition.<sup>16</sup> Is a Jewess then of less account?<sup>17</sup> But R. Johanan answered thus: It is with regard to a betrothed Jewish maiden,<sup>18</sup> whose violation by heathen law is not a capital offence;<sup>19</sup> hence they are judged by Jewish law.

But if their offence was against a fully married woman, are they judged according to their law? Surely it has been taught: 'If a heathen committed adultery with a [Jewish] betrothed maiden, he is stoned; with a fully married woman, he is strangled.' Now if we judged them according to the law pertaining to them, should he not be decapitated? — R. Nahman b. Isaac answered: By a 'married woman' this Baraita means one whose huppah ceremony<sup>20</sup> has been performed, but without the marriage being consummated. Since by their law her violation is not a capital offence, they are judged by ours. For R. Hanina taught: They recognize the inviolability of a woman whose union has been consummated, but not if she merely entered the huppah without the union having been consummated. It has been taught in agreement with R. Johanan: All prohibited [sexual] relationships for which a Jewish *Beth din* imposes capital punishment are forbidden to heathens, but those for which a Jewish *Beth din* does not impose death are permitted to heathens; this is R. Meir's view. But the Sages maintain: There are many relationships<sup>21</sup> for which a Jewish *Beth din* does not impose death, which are nevertheless forbidden to a Gentile. If a heathen committed incest with a Jewess, he is judged according to Jewish law; if with a heathen woman, he is judged according to heathen law. The only difference that this makes is with respect to a betrothed maiden.<sup>22</sup> But

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should not the Tanna include a woman whose huppah ceremony has been performed without the marriage being consummated? — The teacher of this Baraitha is the Tanna of the college of Manasseh, who maintains that every death penalty decreed for the heathens is by strangulation, and by both codes [Jewish and heathen] this last-mentioned offence is punished by strangulation.

Now, is R. Meir of the opinion that all relationships for which a Jewish *Beth din* imposes capital punishment are forbidden to heathens? Surely it has been taught: A proselyte,

1. Yet this cannot be regarded as real murder, and hence may be called 'a similar act'. But the sages dispute this, and maintain that he is not executed at all.
2. V. p. 387, n. 7. It may also mean the School of Rab (Bacher. Agad. Bab. Amor. p. 2).
3. *Aggadah* (or Haggadah, from nagad, to declare), means the whole non-legal portion of Jewish learning. Here however, an actual law is cited from the Book of *Aggadah*. In the T. J. and Midrashim, many statements cited in the T. B. as being from the Book of *Aggadah* of the schools, are those cited under the name of Noachian precepts. Hence it is possible that the reference is to a collection of laws relating to Gentiles, and in order to distinguish it from specifically Jewish laws, it was called the Book of *Aggadah* (Weiss, Dor, III, p. 158).
4. Gen. IX, 5.
5. The interpretation is based on the use of the singular, 'I' will require.
6. This is based on the extending word 'every'.
7. This is based on the singular.
8. Not the same phrase in Heb. as the preceding one.
9. Lit. rendering of Gen. IX, 6.
10. This law was directed against the Roman practice of prenatal murder. Weiss, Dor, II, 22.
11. Ibid. XVIII, 19. Why then should a woman's testimony be inadmissible?
12. According to Rab Judah's exegesis.
13. Lit. rendering of Lev. XVIII, 6.
14. V. p. 383.
15. Since by the Noachian Law also he is liable to death.
16. He must be tried by a full Sanhedrin; he cannot be convicted on the testimony of less than two witnesses, and he must have been formally admonished before committing the offence.

17. I.e., is he dealt with more leniently because his offence was against a Jewess? For when his offence is against a heathen, these are unnecessary.
18. V. p. 333, n. 3; p. 337, n. 5.
19. As they do not regard her as married until the actual consummation of the nuptials.
20. V. p. 333, n. 3.
21. The Gaon of Wilna deletes 'many': Maimonides likewise does not include it in his text. Actually, the dispute of the Sages and R. Meir is only in reference to a half sister by one's mother.
22. Tosef. 'A.Z. IX. Since heathen law does not recognize this as a capital offence, he is judged by our law. This statement supports R. Johanan's contention.

## Sanhedrin 58a

born, but not conceived in sanctity,<sup>1</sup> possesses kin on his mother's side but not on his father's side. E.g., if he married his sister by his mother, [born before his mother's conversion, and who subsequently became converted too,] he must divorce her; by his father, he may keep her; his father's sister by his father's mother, he must divorce her; by his father's father, he may keep her; his mother's sister by her mother, he must renounce her; by her father — R. Meir ruled that he must divorce her, but the Sages maintained that he may keep her; for R. Meir held that all forbidden degrees of consanguinity on the mother's side must be divorced; on the father's side may be kept.<sup>2</sup> He may marry his brother's wife,<sup>3</sup> his paternal uncle's wife, and all other relations by marriage are permitted to him, this including his father's wife. If he married a woman and her daughter<sup>4</sup> he retains one and must divorce the other. But in the first place, he must not marry them.<sup>5</sup> If his wife died, he may marry his mother-in-law; others say that he may not!<sup>6</sup> — Rab Judah said, There is no difficulty: one dictum is by R. Meir according to R. Eliezer, and one is by R. Meir according to R. Akiba.<sup>7</sup> For it has been taught: Therefore shall a man leave his father and his mother;<sup>8</sup> R. Eliezer said: His father means 'his father's sister'; his mother, 'his mother's

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sister'.<sup>9</sup> R. Akiba said: His father means 'his father's wife'; his mother is literally meant. And he shall cleave, but not to a male;<sup>10</sup> to his wife, but not to his neighbor's wife;<sup>11</sup> and they shall be as one flesh, applying to those that can become one flesh, thus excluding cattle and beasts, which cannot become one flesh with man.<sup>12</sup>

The Master stated: 'R. Eliezer said: His father means 'his father's sister'. But may it not mean his father literally?<sup>13</sup> — This is forbidden by and he shall cleave, but not to a male. But perhaps it means 'his father's wife'? — That is taught by to his wife, but not to his neighbor's wife [which includes his father's]. But perhaps it forbids her even after his father's death? — It must be similar to his mother: just as his mother is not his relation by marriage, so his father must refer to a non-marriage relationship.

'His mother means, his mother's sister'. But may it not be literally meant? — That is taught by to his wife, but not to his neighbor's wife. But perhaps it forbids her even after his father's death? — It must be similar to his father: just as his father is not literally meant, so his mother is not literally meant.

'R. Akiba said: His father, means, his father's wife'. But perhaps it is literally meant? — That is taught by and he shall cleave, but not to a male. If so, is not his father's wife taught by to his wife, but not to his neighbor's wife? — That teaches that she is forbidden even after his father's death.

'His mother is literally meant'. But is this not taught by to his wife, but not to his neighbor's wife'? — This refers to his mother who was violated by his father.<sup>14</sup>

What are the grounds of their dispute? — R. Eliezer is of the opinion

1. I.e., whose mother was a heathen at his conception, but became a Jewess before his birth.

2. The guiding principal in all this is: 'a proselyte is as a new born babe', who stands absolutely in no relationship to any pre-conversion relation. Consequently, his brothers and sisters, father, mother, etc. from before his conversion lose his relationship on his conversion. Should they too subsequently become converted, they are regarded as strangers to him, and he might marry, e.g., his mother or sister. This is the Biblical law. But since heathens themselves recognized the law of incest in respect of maternal relations, the Rabbis decreed that this should hold good for a proselyte too, i.e., that he is forbidden to marry his maternal relations who were forbidden to him before his conversion, so that it should not be said that he abandoned a faith with a higher degree of sanctity than the one he has embraced (since he cannot be expected to understand the principle of complete annulment of relationships). In this case, since he was born in sanctity, he is really not a proselyte at all. He is so styled because he too is legally a stranger to all his father's and mother's pre-conversion relations. As for his mother's paternal sister, R. Meir held that since she is partly maternally related, she is forbidden, as otherwise it would be thought that a proselyte is permitted to marry his maternal relations. But the Rabbis held that there was no fear of this, and since the relationship is in its source paternal, it is not forbidden.
3. By 'his brother's wife' is meant even his brother by his mother. For the heathens do not recognize consanguinity in relations by marriage, and consequently these are permitted to a proselyte.
4. I.e., who stood in that relationship before they were converted.

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5. This is explained in Yeb. 98b as referring to those relations whom, as stated above, he may retain
6. Now in this Baraitha a number of relations forbidden to Jews on pain of death e.g., his father's wife and his mother-in-law, are permitted to the proselyte, and hence to heathens in general; whilst a number of relations not forbidden on pain of death, e.g., his sister, his paternal and maternal aunts, are prohibited to him: This, taught in R. Meir's name, contradicts his other ruling that all forbidden degrees of consanguinity punishable by death are forbidden to heathens.
7. Rashi states that both were his teachers, and cites Bezah 3b as proof. The J.E. (v. Meir) and Weiss, Dor II, 132, do not give R. Eliezer as one of his teachers. Nevertheless he may well have transmitted some of his rulings.
8. Gen. II, 24.
9. I.e., that union with these relations are forbidden.
10. I.e., a prohibition against pederasty. This is deduced from the fact that it is natural only for the opposite sexes to cleave to each other.
11. This is a prohibition of adultery.
12. Hence R. Meir's dictum that heathens are forbidden those relations which are prohibited to Jews on pain of death, e.g., the father's wife, reflects R. Akiba's teaching, whilst his ruling in the Baraitha that a proselyte may marry his father's wife is R. Eliezer's view, who does not interpret 'his father' as his father's wife.
13. Thus prohibiting pederasty.
14. But not made his wife.

## Sanhedrin 58b

that only by referring to collateral relations<sup>1</sup> can his father and his mother bear similar interpretations.<sup>2</sup> But R. Akiba prefers to interpret his father as his father's wife, who is designated as the nakedness of his father,

rather than his father's sister, who, is designated as his father's kin, not his father's nakedness.<sup>3</sup>

Come and hear: And Amram took him Jochebed his father's sister to wife.<sup>4</sup> Does it not [presumably] mean his father's sister on her mother's side [too]?<sup>5</sup> — No. It means his father's paternal sister.<sup>6</sup>

Come and hear: And yet indeed she is my sister; she is the daughter of my father, but not of my mother.<sup>7</sup> Does not this prove that his mother's daughter is forbidden?<sup>8</sup> — Now, is this logical: was she then his sister? She was his brother's daughter, and therefore, whether by his father or mother,<sup>9</sup> permitted to him. But Abram declared to him [i.e., Abimelech] thus: I am fraternally related to her, [i.e., she is my brother's daughter] on my father's side [i.e., my brother by my father] but not on my mother's side.<sup>10</sup>

Come and hear! Why did not Adam marry his daughter?<sup>11</sup> So that Cain should marry his sister, as it is written, For I said, the world shall be built up by grace.<sup>12</sup> But otherwise, she would have been forbidden [to Cain]?<sup>13</sup> — Once however that it was permitted, it remained so.

R. Huna said: A heathen may marry his daughter. But should you ask, If so, why did not Adam marry his daughter? — In order that Cain might marry his sister, that the world might be built up by grace. Others give this version: R. Huna said: A heathen may not marry his daughter; the proof being that Adam did not marry his daughter. But that proof is fallacious: The reason was that Cain should marry his sister, so that the world should be built up by [Adam's] grace.

R. Hisda said: A heathen slave [owned by a Jew] may marry his daughter and his mother, for he has lost the status of a heathen, but has not yet attained that of a Jew.<sup>14</sup> When R. Dimi came,<sup>15</sup> he said in the name of R. Eleazar in the name of R. Hanina: A heathen



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who allotted a bondwoman to his slave [for concubinage] and then took her for himself is executed on her account. From when [is she regarded as the particular concubine of that slave]? — R. Nahman said: When she is referred to as so and so's mistress.<sup>16</sup> When is she free again [to others]? — R. Huna said: From the time that she goes bareheaded in the streets.<sup>17</sup>

R. Eleazar said in R. Hanina's name: If a heathen had an unnatural connection with his wife, he incurs guilt; for it is written, *and he shall cleave*, which excludes unnatural intercourse.<sup>18</sup> Raba objected: Is there anything for which a Jew is not punishable and a heathen is?<sup>19</sup> But Raba said thus: A heathen who violates his neighbor's wife unnaturally is free from punishment — Why so? — [Scripture saith:] *To his wife*, but not to his neighbor's; *and he shall cleave*, which excludes unnatural intercourse.<sup>20</sup>

R. Hanina said: If a heathen smites a Jew, he is worthy of death,<sup>21</sup> for it is written, *And he looked this way and that way, and when he saw that there was no man, he slew the Egyptian.*<sup>22</sup>

R. Hanina also said: He who smites an Israelite on the jaw, is as though he had thus assaulted the Divine Presence; for it is written, *one who smiteth<sup>23</sup> man* [i.e. an Israelite] *attacketh<sup>24</sup> the Holy One.*<sup>25</sup>

(Mnemonic: *lifts, his servant, Sabbath.*)<sup>26</sup> Resh Lakish said: He who lifts his hand against his neighbor, even if he did not smite him, is called a wicked man as it is written, *And he said unto the wicked man, Wherefore wouldst thou smite thy fellow?*<sup>27</sup> 'Wherefore hast thou smiteth is not said, but *wherefore wouldst thou smite*, showing that though he had not smitten him yet, he was termed a wicked man. Ze'iri said in R. Hanina's name: He is called a sinner, for it is written, *But if not, I will take it by force;*<sup>28</sup> and it is further written, *Wherefore the sin of the young men was very great before the Lord.*<sup>29</sup> R. Huna said: His hand should be cut off, as it is written, *Let the uplifted arm be broken.*<sup>30</sup> R. Huna had the

hand cut off [of one who was accustomed to strike other people].<sup>31</sup> R. Eleazar said: The only thing to be done with him is to bury him, as it is written, *And a man of [uplifted] arm, for him is the earth.*<sup>32</sup> R. Eleazar also said: The earth was given only to the strong.<sup>33</sup> as it is said, *But as for the mighty man, for him is the earth.*<sup>34</sup> Resh Lakish said also: What is the meaning of the verse, *He that serveth his land shall be satisfied with bread?*<sup>35</sup> If one enslaves himself to his land [continually toiling thereon] he shall be satisfied with bread: if not, he shall not be satisfied with bread. Resh Lakish also said: A heathen who keeps a day of rest, deserves death, for it is written, *And a day and a night they shall not rest,*<sup>36</sup> and a master has said: Their prohibition is their death sentence.<sup>37</sup> Rabina said: Even if he rested on a Monday. Now why is this not included in the seven Noachian laws? — Only negative injunctions are enumerated, not positive ones.<sup>38</sup>

1. I.e., to the father's sister or mother's sister.
2. For they cannot both be literal, since his father is prohibited by 'and he shall cleave'; nor can they both refer to relationship by marriage, since his mother is a blood relation.
3. Lev. XVIII, 8: The nakedness of thy father's wife thou shalt not uncover it is thy father's nakedness; Lev. XVIII, 12: Thou shalt not uncover the nakedness of my father's sister: she is thy father's near kinswoman. Since his father's wife is designated his father's nakedness she forms part and parcel of himself, as it were, in contradistinction to his father's sister, who by being described as his father's kin, is recognized as a separate entity. Consequently, in the interests of literalness 'his father's wife' is a more preferable interpretation.
4. Ex. VI, 20.
5. This refutes R. Eliezer's ruling. [Belonging to the pre-Sinaitic era, the

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- Patriarchs were accounted Noachians.]
6. Only this relation was permitted in the pre-Sinaitic era. But his father's maternal sister would have been forbidden.
  7. Gen. XX, 12. Spoken by Abraham about Sarah.
  8. This contradicts R. Akiba's ruling. For since he interprets the verse as referring us his father's wife and his mother, who are forbidden on pain of death, he evidently regards those who are forbidden under penalty of extinction as permissible, and his mother's daughter is only thus forbidden, but not on pain of death.
  9. This refers to his brother.
  10. Not that she would have been forbidden in that case, but this was stated merely for the sake of exactness.
  11. [Or why could not Adam have married his daughter? Eve's offence should have been followed by her death, and as to Adam, he could have found a help-meet in his daughter (Tosaf.)]
  12. Ps. LXXXIX, 2. It was an act of grace on Adam's part to deny himself his sister; or, as Rashi states, God commanded Adam to deal graciously with Cain, so that Cain, by marrying her, should build up the world.
  13. This proves that one's paternal sister was forbidden to the sons of Noah.
  14. Heathen slaves owned by Jews occupied an intermediate position in respect to Judaism. The males were circumcised, and permitted to eat of the Passover sacrifice. Like women, they were bound to observe all negative commandments and all positive ones not limited to certain times. We see here that this applied to marriage too. Their status was neither that of a heathen nor of an Israelite proper. As they were no longer heathens, they stood in no relationship to their former relations. But as they were not Jews either, there was no need to forbid them their former maternal relations through fear that it would be said that they had left a higher sanctity for a lower one.
  15. V. *supra* p. 390, n. 1.
  16. Lit., 'girl'.
  17. Even non-Jewish married women did not walk bareheaded in the streets, and this bondwoman, though not legally married, would do likewise. If she appeared bareheaded, it was a sign that her connection with the slave to whom she had been allotted was now broken.
  18. His wife derives no pleasure from this, and hence there is no cleaving.
  19. A variant reading of this passage is: Is there anything permitted to a Jew which is forbidden to a heathen. Unnatural connection is permitted to a Jew.
  20. By taking the two in conjunction, the latter as illustrating the former, we learn that the guilt of violating the injunction '*to his wife*' but not to his neighbor's wife' is incurred only for natural, but not unnatural intercourse.
  21. [By the Hand of God, V. *Yad, Melakim*. I, 6].
  22. Ex. II, 12. Thus Moses slew the Egyptian for striking an Israelite, proving that he had merited it.
  23. Deriving *mokesh* from, *nakosh*.
  24. *Yala'* [H] is here derived from *loa'* [H] the jaw: lit., 'smiteth the jaw'.
  25. Prov. XX, 25.
  26. V. 387 n. 8.
  27. Ex. II, 13.
  28. I Sam. II, 16. This refers to the sons of Eli, who demanded their portion of the sacrifices before it was due, threatening physical violence if their demands were not satisfied.
  29. *Ibid.* 16.
  30. Job XXXVIII, 15. The editions give the reference as Job XXXI, but this is an error caused by a slightly similar passage in XXXI, 22.

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31. This is not actually permitted in the Torah. Weiss (Dor, II. 14) holds that R. Huna was influenced by Persian practice in this.
32. I.e., he is to be buried, homiletical rendering of Job XXII, 8.
33. I.e., only a strong man should wish to possess land, as there are always quarrels in connection therewith.
34. Ibid.
35. Prov. XII, 11
36. Gen. VIII, 22. 'They' is here made to apply to men, and 'shall not' is taken to mean 'may not'.
37. Eisenstein, J. E., V. p. 623. suggests that this may have been directed against the Christian Jews, who disregarded the Mosaic law yet observed the Sabbath, and quotes Maimonides who advances the following reason: 'The principle is, one is not permitted to make innovations in religion or to create new commandments. He has the privilege to become a true proselyte by accepting the whole law.' (Yad. Melakim, X, 9.) He also points out that 'Deserves death' expresses strong indignation, and is not to be taken literally; [cf. the recurring phrase. 'He who transgresses the words of the Sages deserves death.' Ber. 6b.]
38. The seven Noachian laws deal with things which a heathen must abstain from doing. But when we say that a heathen must not observe a day of rest, we bid him to do a positive action, viz., work.

## Sanhedrin 59a

But the precept of observing social laws is a positive one, yet it is reckoned? — It is both positive and negative.<sup>1</sup>

R. Johanan said: A heathen who studies the Torah deserves death, for it is written, *Moses commanded us a law for an inheritance*;<sup>2</sup> it is *our* inheritance, not theirs.<sup>3</sup> Then why is this not included in the Noachian laws? — On the

reading *morasha* [an inheritance] he steals it; on the reading *me'orasah* [betrothed], he is guilty as one who violates a betrothed maiden, who is stoned.<sup>4</sup> An objection is raised: R. Meir used to say. Whence do we know that even a heathen who studies the Torah is as a High Priest? From the verse, [*Ye shall therefore keep my statutes, and my judgments:*] *which, if man do, he shall live in them.*<sup>5</sup> Priests, Levites, and Israelites are not mentioned, but *men*: hence thou mayest learn that even a heathen who studies<sup>6</sup> the Torah is as a High Priest! — That refers to their own seven laws.<sup>7</sup>

'R Hanania b. Gamaliel said: [They were also commanded] not to partake of the blood drawn from a living animal.'

Our Rabbis taught: *But flesh with the life thereof, which is the blood thereof, shall ye not eat,*<sup>8</sup> this prohibits flesh cut from the living animal. R. Hanina b. Gamaliel said: It also prohibits blood drawn from a living animal. What is his reason? — He reads the verse thus: *flesh with the life thereof [shall ye not eat]: blood with the life thereof shall ye not eat.* But the Rabbis maintain that this reading teaches that flesh cut from live reptiles is permitted.<sup>9</sup> Similarly it is said, *Only be sure that thou eat not the blood: for the blood is the life,* and thou mayest not eat the life with the flesh.<sup>10</sup> But the Rabbis maintain that the verse teaches that the blood of arteries, with which life goes out, [is also forbidden as blood].<sup>11</sup>

Why was it first enjoined upon the sons of Noah, and then repeated at Sinai? — As the dictum, of R. Jose b. Hanina. For R. Jose b. Hanina said: Every precept which was given to the sons of Noah and repeated at Sinai was meant for both [heathens and Israelites]; that which was given to the sons of Noah but not repeated at Sinai was meant for the Israelites, but not for the heathens. Now, the only law thus commanded to the children of Noah and not repeated at Sinai was the prohibition of the sinew that shrank [nervous ischiadicus], and in accordance with R. Judah's view.<sup>12</sup>

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The Master said: 'Every precept which was given to the sons of Noah and repeated at Sinai was meant for both [Noachides and Israelites]'. On the contrary, since it was repeated at Sinai, should we not assume it to be meant for Israel only?<sup>13</sup> — Since idolatry was repeated at Sinai, and we find that the Noachides were punished for practicing it,<sup>14</sup> we must conclude that it was meant for both.

'That which was given to the sons of Noah but not repeated at Sinai was meant for the Israelites, but not for the heathens.' On the contrary, since it was not repeated at Sinai, should we not assume that it was meant for the Noachides and not for Israel?<sup>15</sup> — There is nothing permitted to an Israelite yet forbidden to a heathen. Is there not? But what of a beautiful woman?<sup>16</sup> — There it is because the heathens were not authorized to conquer.<sup>17</sup> But what of a thing worth less than a *Perutah*?<sup>18</sup> — There it is because the heathens do not forgive.<sup>19</sup>

'Every precept which was given to the sons of Noah and repeated at Sinai was meant for both [Noachides and Israelites]'.

1. Positive: In dispense justice; negative: to refrain from injustice. But the Sabbath is entirely positive.
2. Deut. XXXIII, 4.
3. This seems a very strong expression. In the J. E. (loc. cit.) it is suggested that R. Johanan feared the knowledge of Gentiles in matters of Jurisprudence, as they would use it against the Jews in their opponents' courts. In support of this it may be observed that the Talmud places R. Johanan's dictum (which, of course, is not to be taken literally) immediately after the passage dealing with the setting up of law courts by Gentiles. It is also possible that R. Johanan's objection was to the studying of Oral Law by Jewish Christians, as the possession of the Oral Law was held to be the distinguishing mark of the Jews. It is significant that it was R. Johanan who also said that God's covenant with Israel was only for the sake of the Oral Law. (Cf. Ex. Rab. 47.)

4. In Pes. 49b two opinions on the reading of this verse are recorded. One view is that it should be read, Moses commanded us a law for an inheritance (morasha [H]), in accordance with the Scriptural text. Another version is Moses commanded us a law for a betrothal (reading me'orasah [H]=[H] i.e., as something betrothed, consecrated to us, from [H]=[H]). On the first view, this prohibition is included in that of robbery; on the second, in that of adultery.
5. Lev. XVIII, 5.
6. Which includes observing.
7. It is meritorious for them to study these; but not laws which do not pertain to them.
8. Gen. IX, 4.
9. V. *infra* 59b.
10. Deut. XII, 23. Thus, the blood being equated with the life, it may not be eaten whilst 'the life' is with the 'flesh', i.e., whilst the animal is alive.
11. The prohibition of blood is mentioned in the same chapter in connection with the slaughtering of the animal: 15 seq., Notwithstanding thou mayest kill and eat flesh in all thy gates ... Only ye shall not eat the blood. Now, owing to this juxtaposition, I might think that only the blood that gushes forth from the throat when the animal is slaughtered is forbidden. Therefore the second injunction in v. 23 equates the prohibition of blood with that of flesh cut from the living animal. Just as the latter is forbidden in itself, so the former is forbidden irrespective of any connection with slaughtering. In Ker. 22a R. Johanan and Resh Lakish dispute as to what is meant by 'the blood with which life goes out'.
12. R. Judah maintains that this was forbidden to the children of Jacob, who, living before the giving of the Law, are accounted Noachians. But the Rabbis maintain that this was given at Sinai, but that Moses when writing the whole Pentateuch, was commanded to insert it in Gen. XXXII, 33, so as to elucidate its reason.
13. For if it were not so repeated, it would be natural to suppose that its application was a universal one. Hence its repetition would seem to limit it to Israel.
14. V. p. 382, n. 3.
15. The stand point of this objection is that the code promulgated at Sinai to the Israelites should cancel any previous code not given specifically to them.
16. V. *supra* 57a.
17. I.e., Palestine. For even the Israelites were permitted this only in the course of their conquest of Palestine, but not otherwise.



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18. The theft of which is regarded as an offence by heathens but not by Jews. V. *supra* 57a.
19. Actually, it would be theft in the case of a Jew too, but that Jews are not particular about such a trifle, and readily forgive. Heathens, however, do not forgive, and therefore it is theft in their case.

## Sanhedrin 59b

But circumcision, which was given to the Sons of Noah, for it is written, Thou shalt keep my covenant,<sup>1</sup> and repeated at Sinai, And in the eighth day the flesh of his foreskin shall be circumcised,<sup>2</sup> yet was meant for Israel, and not for the Noachides? — That repetition was inserted to permit circumcision on the Sabbath, by interpreting, on the day [whichever it is], and even on the Sabbath.<sup>3</sup>

But procreation, which was enjoined upon the Noachides, for it is written, And you be ye fruitful and multiply.<sup>4</sup> and repeated at Sinai, as it is written, Go say to them, get you in to your tents again,<sup>5</sup> was nevertheless commanded to Israel but not to the heathens? — That repetition was to teach that whatever has been constitutionally forbidden by a majority vote requires another majority vote to abrogate it.<sup>6</sup> If so, may we not say of each [of the Noachian laws] that it was repeated for a definite purpose?<sup>7</sup> — He means this: why should the prohibition be repeated?<sup>8</sup>

'Now the only law [thus commanded to the children of Israel and not repeated at Sinai] was the prohibition of the sinew that shrank [nervus ischiadicus], and in accordance with R. Judah's view.' But these<sup>9</sup> too were not repeated.<sup>10</sup> — These two were repeated, though for a purpose, but this was not repeated at all.

An alternative answer is this:<sup>11</sup> Circumcision was from the very first commanded to Abraham only [and not to the Noachides in general]: Thou shalt keep my covenant, therefore, thou and thy seed after thee in their generations,<sup>12</sup> meaning, thou and thy seed are to keep it, but no others. If so, should it not be incumbent upon the children of

Ishmael [Abraham's son]? — For in Isaac shall thy seed be called.<sup>13</sup> Then should not the children of Esau be bound to practice it? — In Isaac,<sup>14</sup> but not all Isaac. R. Oshaia objected: If so, the children of Keturah should have been exempt!<sup>15</sup> — Did not R. Jose b. Abin, or as others say, R. Jose b. Hanina, state: [And the uncircumcised man child whose flesh of his foreskin is not circumcised, that soul shall be cut off from his people;] he hath broken my covenant<sup>16</sup> — this extends the precept [of circumcision] to the children of Keturah?<sup>17</sup>

Rab Judah said in Rab's name: Adam was not permitted to eat flesh, for it is written, [Behold I have given you all the herbs, etc.] to you it shall be for food, and to all the beasts of the earth,<sup>18</sup> implying, but the beasts of the earth shall not be for you.<sup>19</sup> But with the advent of the sons of Noah, it was permitted, for it is said, [Every moving thing that liveth shall be meat for you;] even as the green herb have I given you all things.<sup>20</sup> Now one might think that the prohibition of flesh cut from the living animal does not apply to them [sc. the Noachides]: therefore the Writ teacheth, But flesh with the life thereof, which is the blood thereof, shall ye not eat.<sup>21</sup> One might think that this prohibition applies even to reptiles; therefore it is stated — but.<sup>22</sup> How is this implied? — R. Huna said [But flesh with the life thereof, which is] the blood thereof: this shows that the prohibition applies only to those creatures whose flesh is distinct from their blood [in its prohibition]; excluding reptiles, whose flesh is not distinct from their blood.<sup>23</sup>

An objection is raised: And rule over the fish of the sea;<sup>24</sup> surely that means that they should serve as food?<sup>25</sup> — No. It refers to toil.<sup>26</sup> But can fish be made to work? — Yes, even as Rahabah propounded: What if one drove [a wagon] with a goat and a shibbuta?<sup>27</sup> Come and hear: and over the fowl of the heaven.<sup>28</sup> Surely this is in respect of food? — No. It refers to toil. But can fowl be made to work? — Yes, even as Rabbah, son of R. Huna propounded: According to the

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ruling of R. Jose b. R. Judah, what if one threshed [corn] with geese or cocks?<sup>29</sup>

Come and hear: And over every living creature that moveth upon the earth!<sup>30</sup> — That refers to the serpent. For it has been taught: — R. Simeon b. Manassia said: Woe for the loss of a great servant. For had not the serpent been cursed, every Israelite would have had two valuable serpents, sending one to the north and one to the south to bring him costly gems, precious stones and pearls.<sup>31</sup> Moreover, one would have fastened a thong under its tail, with which it would bring forth earth for his garden and waste land.<sup>32</sup>

A [further] objection is raised: R. Judah b. Tema said: Adam reclined in the Garden of Eden, whilst the ministering angels roasted flesh and strained wine for him. Thereupon the serpent looked in, saw his glory, and became envious of him?<sup>33</sup> — The reference there is to flesh that descended from heaven. But does flesh descend from heaven? — Yes; as in the story of R. Simeon b. Halafta, who was walking on the road, when lions met him and roared at him. Thereupon he quoted: The young lions roar after their prey;<sup>34</sup> and two lumps of flesh descended [from heaven]. They ate one and left the other. This he brought to the schoolhouse and propounded: Is this clean [fit for food] or not? — They [sc. the scholars] answered: Nothing unclean descends from heaven. R. Zera asked R. Abbahu: What if something in the shape of an ass were to descend? — He replied: Thou howling yorod:<sup>35</sup> did they not answer him that no unclean thing descends from heaven?<sup>36</sup>

'R. Simeon said, They were also forbidden to practice sorcery.' What is R. Simeon's reason? — Because it is written,

1. Gen. XVII, 9. Abraham and his descendants until Sinai are also accounted sons of Noah.
2. Lev. XII, 3.
3. Hence, being repeated for a purpose, the above principle does not apply to it.
4. Gen. IX, 7.
5. Deut. V, 27. This is interpreted as a command to resume their marital obligations, which

were suspended for three days before the Revelation, v. Ex. XIX, 15.

6. Although the prohibition in Ex. XIX, 15 was explicitly limited to three days, yet after that it did not cease automatically, but was formally abrogated. This proves that any prohibition constitutionally imposed, as by a majority of the Sanhedrin, even for a limited period, must be constitutionally repealed thereafter. Hence the repetition being necessary, it is not subject to the general principle. — So Rashi. Tosaf however, (here and in Bezah 5a) maintains that a temporary prohibition automatically ceases at the end of its period. Accordingly, Ex. XIX, 15 is to be translated: Be ready against the third day (for God's Revelation); approach not your wives (for an unspecified period). Tosaf. therefore substitutes this explanation: A prohibitory measure, constitutionally passed, does not automatically cease when its reason no longer exists. Thus in this case the prohibition was obviously on account of the approaching Revelation, yet after the Revelation, when there was no longer any reason for its continuance, it had to be formally revoked.
7. E.g., idolatry, to show which acts of devotion are forbidden; incest, to teach its punishment.
8. I.e., if some additional detail had to be taught, that alone could have been stated without repeating the basic law. Such repetition must have been to enlarge its scope, as embracing both Israelites and heathens.
9. I.e., circumcision and procreation.
10. For, as explained above, their repetition being for a definite purpose, is not a repetition at all.
11. This is in answer to the first difficulty of circumcision having been given to the Noachides and repeated at Sinai.
12. Gen. XVII, 9.
13. Ibid. XXI, 12.
14. Heb. [H] the [H] (in) being taken as partitive preposition.
15. Keturah was Abraham's wife after Sarah's death, by whom he had six sons. Gen. XXV, 1f. According to the verse For in Isaac, etc. these should not have been included in the precept.
16. Gen. XVII, 14.
17. This is the reply. The verse teaches the inclusion of the immediate sons of Keturah, but not of their descendants.
18. Gen. I, 29f.
19. I.e., the herbs, etc. have been given to you and to the beasts of the earth, but the beasts of the earth have not been given to you for food.
20. Ibid. IX, 3.
21. Ibid. 4.
22. Heb. [H]. It is a principle of Talmudic hermeneutics that the particles *akh* (but) and

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rak (save) always indicate a limitation or exclusion. Here akh is interpreted as teaching the exclusion of reptiles from the law under discussion.

23. The mention of blood is redundant, for the verse should have read, but flesh with the life thereof shall ye not eat, meaning, whilst life is in it thou must not eat its flesh; it being self evident that the life force lies in the blood. The redundancy teaches that this applies only to those creatures that have a separate prohibition for its flesh (cut from, the living animal), and a separate one for its blood. But the blood of reptiles is not separate from its flesh and is forbidden by the same injunction, there being no separate law. Hence they are excluded from the present verse.
24. Ibid. I, 28.
25. This was said to Adam.
26. Adam was given dominion over the lower creatures, to make them work for him.
27. Name of a fish, conjectured by Jastrow to be the mullet (Cephalus, v. Payne Smith, Thesaurus Syriacus 4029). The problem raised is whether this would involve the transgression of the prohibition, Thou shalt not plow an ox and ass together, Deut. XXII, 10.
28. Continuing the verse.
29. V. B.M. 91b. The problems raised in connection with the prohibition, Thou shalt not muzzle the ox when he treadeth out the corn. Deut. XXV, 4 shows that birds may be utilized for service.
30. The Heb. [H] translated 'living creature', denotes literally a wild animal, which cannot be put to service, but can only be caught and eaten.
31. Heb. [H] from [G] (Levy) or [G] (Krauss).
32. Thus the Serpent was intended to be put to service before it was cursed.
33. This proves that flesh was permitted to Adam.
34. Ps. CIV, 21.
35. Yarod is a bird of solitary habits, or a jackal (Rashi). The meaning is: what a foolish question to ask!
36. Hence thy supposition is an impossible one; and if it did happen, it would be fit for food.

## Sanhedrin 60a

Thou shalt not suffer a witch to live;<sup>1</sup> and this is followed by, Whosoever lieth with a beast shall surely be put to death;<sup>2</sup> thus, all who are included in the second prohibition are included in the first.<sup>3</sup>

'R. Eleazar said; They were also enjoined against the forbidden mixtures.' Whence do we derive this? — Samuel replied: Because Scripture saith, My statutes ye shall keep,<sup>4</sup> implying the statutes which I have already decreed:<sup>5</sup> viz., Thou shalt not let thy cattle gender with a diverse kind: Thou shalt not sow thy field with mingled seed.<sup>6</sup> This teaches: just as in the case of animal life, the prohibition is against hybridization, so in plant life, the injunction is against grafting;<sup>7</sup> and just as the former holds good both within the land [sc. Palestine] and without,<sup>8</sup> so the latter holds good both within and without Palestine. But if so, does the verse, Ye shall therefore keep my statutes<sup>2</sup> also imply the statutes which I imposed long ago?<sup>10</sup> — There the verse reads, Ye shall therefore keep my statutes which I [now] command you: but here it reads, My statutes ye shall keep, implying the statutes decreed from of old shall ye keep.<sup>11</sup>

R. JOSHUA B. KARHA SAID, etc. R. Aha b. Jacob said: He is not guilty unless he cursed the Tetragrammaton, excluding a biliteral Name,<sup>12</sup> the blaspheming of which is not punishable. Is this not obvious, the Mishnah stating, May Jose smite Jose?<sup>13</sup> — I might think that the name is used as a mere illustration;<sup>14</sup> he therefore teaches otherwise.

Others give this version: — R. Aha b. Jacob said: This proves that the Tetragrammaton is also a Divine Name.<sup>15</sup> But is it not obvious, since the Mishnah states: JOSE SMITE JOSE [using a four-lettered name]? — I might think that the great<sup>16</sup> Name must be employed, whilst Jose is merely an illustration [of the mode of testifying]; therefore he teaches otherwise.

WHEN THE TRIAL WAS FINISHED, etc. Whence do we know that they arose? — R. Isaac b. Ami said, because the Writ saith — And Ehud came unto him: and he was sitting in a summer parlor, which he had for himself alone. And Ehud said, I have a message from God unto thee. And he arose out of his seat.<sup>17</sup> Now, does this not afford an ad majus

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conclusion: If Eglon king of Moab, who was only a heathen and knew but an attribute of God's name, nevertheless arose, how much more so must an Israelite arise when he hears the Shem Hameforash.<sup>18</sup>

Whence do we know that they rent their garments? — From the verse, Then came Eliakim the son of Hilkiah, which was over the household, and Shebna the scribe, and Joah the son of Asaph the recorder, to Hezekiah with their clothes rent, and told him the words of Rab-Shakeh.<sup>19</sup>

**WHICH RENT WAS NOT TO BE RESEWN.** Whence do we derive this? — R. Abbahu said: A *gezerah shawah* is deduced from the word 'rent'.<sup>20</sup> This verse states, with their clothes rent; whilst elsewhere is written, And Elisha saw it [sc. Elijah's ascension] and he cried, My father, my father, the chariot of Israel and the horsemen thereof. And he saw him no more; and he took hold of his own clothes and rent them in two rents.<sup>21</sup> Now, do we not understand from, 'and he rent them in two' that the cognate object is 'rents'; why then does the Writ expressly state 'rents'? — To teach that they were always to remain thus.<sup>22</sup>

Our Rabbis taught: He who hears [the Name blasphemed], and he who hears it from the person who first heard it [i.e., from the witness who testifies], are both bound to rend their garments. But the witnesses are not obliged to rend their clothes [when they hear themselves repeating the blasphemy in the course of their testimony], because they had already done so on first hearing it. But what does this matter: do they not hear it now too?<sup>23</sup> — You cannot think so, because it is written, And it came to pass, when king Hezekiah heard it [sc. the report of Rab-Shakeh's blasphemy] that he rent his clothes. Thus, Hezekiah rent his clothes, but they did not.

Rab Judah said in Samuel's name: He who hears the Divine Name blasphemed by a gentile need not rend his clothes. But if you

will object, what of Rab-Shakeh?<sup>24</sup> — He was an apostate Israelite.

Rab Judah also said in Samuel's name: One must rend his clothes only on hearing the Shem hameyuhad<sup>25</sup> blasphemed, but not for an attribute of the Divine Name. Now both of these statements conflict with R. Hiyya's views. For R. Hiyya said: He who hears the Divine Name blasphemed nowadays need not rend his garments, for otherwise one's garments would be reduced to tatters.<sup>26</sup> From whom does he hear it? If from an Israelite — are they so unbridled [as to sin thus so frequently]? But it is obvious that he refers to a gentile. Now, if the Shem hameyuhad is meant, are the gentiles so well acquainted with it [as to make such frequency possible]? Hence it must refer to an attribute, and concerning that he says that only nowadays is one exempt, but formerly one had to rend his clothes. This proof is conclusive.

**THE SECOND WITNESS STATED, I TOO HAVE HEARD THUS.** Resh Lakish said: This proves that 'I too have heard thus' is valid evidence in civil and capital cases,<sup>27</sup> but that the Rabbis imposed a greater degree of stringency [insisting that each witness should explicitly testify]. Here, however, since this is impossible [on account of the desire to avoid unnecessary blasphemy], they reverted to Biblical law. For should you maintain that such testimony is [Biblically] invalid, can we execute a person when it is impossible for the evidence to be validly given?<sup>28</sup>

**AND THE THIRD DID LIKEWISE.** This anonymous statement agrees with R. Akiba, who likens three witnesses to two.<sup>29</sup>

1. Ex. XXII, 17.
2. Ibid. 18.
3. Therefore, since the Noachides were forbidden bestiality, they were also forbidden sorcery.
4. Lev. XIX, 19.
5. Since other precepts are not introduced by this formula, we interpret it thus.
6. Hence these were pre-Sinaitic, i.e., given to the sons of Noah.
7. For the first is a law against crossing two actual animals to produce a hybrid. So the



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- second must refer to the grafting of one tree upon another of a different kind, but not to the sowing of different seeds together, which are trees in posse but not in esse.
8. It is a general principle that any obligation imposed upon man and not dependent upon the soil is binding outside Palestine too.
  9. Ibid. XVIII, 26.
  10. That verse refers to God's statutes in general, and if Samuel's interpretation is correct, it follows that all the statutes of the Torah were given to the Noachides.
  11. The answer is based on the fact that in Lev. XIX, 19 'statutes' comes first in the verse, implying that they were already in existence, whilst in XVIII, 26 'Ye shall keep' is first, teaching that the statutes which follow were only then imposed.
  12. EL or YH.
  13. Thus, as a substitute a four lettered name is used, showing that the Tetragrammaton must have been employed.
  14. Of how the witnesses gave their testimony. But the choice of a four lettered name — Jose — might be quite fortuitous.
  15. In addition to the Tetragrammaton, there were twelve-lettered, forty-two-lettered, and seventy-two-lettered Names. (Kid. 71a; Lev. Rab. XXIII; Gen. Rab. XLIV) R. Aha b. Jacob states that since 'Jose' is used as a substitute, it proves that even if the longer Names are not employed, but merely the Tetragrammaton, the guilt of blasphemy is incurred.
  16. I.e., of forty-two letters.
  17. Judg. III, 20.
  18. Lit., 'the distinguished Name', synonymous with the Shem hameyuhad, the unique Name. Both words designate something which is distinguished from other objects of its kind. (V. J. E., XI, 262) The term also means 'preeminent'. From Rashi here and in 'Er. 18b it appears that he does not regard the Shem hameforash as the Tetragrammaton. But Maimonides (Yad, Yesode Hatorah, VI, 2; Tefilah, XIV, 10) declares that they are identical. In general it was regarded as sinful to utter this Name (Sanh. 90a; 'A.Z. 17b; Kid. 71a), nor was it widely known, being an object of esoteric knowledge (Kid. Ibid; Yer. Yoma 40), though there were exceptions
  19. II Kings XVIII, 37. Their clothes were rent on account of Rab-Shakeh's blaspheming of God. Cf. Ibid. XIX, 4.
  20. Ibid. II, 11.
  21. Ibid. 12.
  22. I.e., never to be re sewn; and by analogy, the same interpretation is placed upon II Kings XVIII, 37.
  23. Hence they should be obliged to rend their clothes again.
  24. Who was a gentile, and yet his hearers rent their clothes: in fact, that incident is the basis of the law.
  25. V. p. 408, n. 1.
  26. Blasphemy being of such frequent occurrence.
  27. I.e., in these cases, when the first witness has testified, it is sufficient, by Biblical law, for the second to say, 'I too heard (or saw) thus', without explicitly stating what he had heard or seen.
  28. If the testimony must be given in particular form, but cannot, it is obvious that the malefactor should not be executed.
  29. This is in reference to Deut. XIX, 15: at the mouth of two witnesses, or at the mouth of three witnesses shall the matter be established. The difficulty arises, if two witnesses are sufficient, surely three are: then why state it? R. Akiba answers, To teach that just as in the case of two, if one is proved invalid, the whole testimony loses its validity (since only one witness is left), so also, even if there are three or more, and one was proved invalid, the testimony of all is valueless, though there are still two or more valid witnesses left. Now, when the Mishnah states that the third also must testify 'I too heard thus', it is in conformity with R. Akiba's ruling, so that should he be contradicted as having been absent, the entire testimony is null. Otherwise, it would be unnecessary for the third witness to be examined at all.

## Sanhedrin 60b

**MISHNAH.** HE WHO ENGAGES IN IDOL-WORSHIP [IS EXECUTED]. IT IS ALL ONE WHETHER HE SERVE IT, SACRIFICE, OFFER INCENSE, MAKE LIBATIONS, PROSTRATE HIMSELF, ACCEPT IT AS A GOD, OR SAY TO IT, 'THOU ART MY GOD.' BUT HE WHO EMBRACES, KISSES IT, SWEEPS OR SPRINKLES THE GROUND BEFORE IT, WASHES IT, ANOINTS IT, CLOTHES IT, OR PUTS ON ITS SHOES, HE TRANSGRESSES A NEGATIVE PRECEPT [BUT IS NOT EXECUTED]. HE WHO VOWS OR SWEARS [LIT. CONFIRMS A THING] BY ITS NAME, VIOLATES A NEGATIVE PRECEPT. HE WHO UNCOVERS HIMSELF BEFORE BAAL-PEOR<sup>1</sup> [IS GUILTY, FOR] THIS IS THE MODE OF WORSHIPPING HIM. HE WHO CASTS A

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STONE ON MERCULIS<sup>2</sup>— THEREBY WORSHIPS IT.

**GEMARA.** What is meant by 'WHETHER HE SERVE IT'?<sup>3</sup> — R. Jeremiah said: This is what is meant: Whether he serve it in its normal way, or sacrifice, make libations, offer incense, or prostrate himself, even if these acts are not the normal mode of worshipping that particular deity. Why is blood sprinkling not included? — Abaye said: Because sprinkling is the same as offering LIBATIONS,<sup>4</sup> as it is written, their drink libations of blood will I not offer.<sup>5</sup>

Whence do we derive all these?<sup>6</sup> — Our Rabbis taught: Had Scripture written, He that sacrificeth shall be utterly destroyed.<sup>7</sup> I would have thought that the Writ refers to sacrificing without the Temple precincts;<sup>8</sup> therefore Scripture adds: to any God, showing that it refers to sacrificing to idols.<sup>9</sup> From this I know only that sacrificing [as an abnormal act or worship] is punishable: Whence do I learn the same of offering incense and making libations? — From the additional words, save unto the Lord alone, whereby the Writ restricted all these services to the worship of the Divine<sup>10</sup> name. Now, since sacrificing was singled out from the general statement,<sup>11</sup> teaching that the latter applies to all services performed within the Temple precincts,<sup>12</sup> whence can it be extended to include prostration? — From the verse, And he hath gone and served other gods, and prostrated himself before them,<sup>13</sup> which is followed by, Thou shalt bring forth that man or that woman ... and shalt stone them with stones.<sup>14</sup> From this we learn the punishment: whence do we derive the formal prohibition? From the verse, For thou shalt prostrate thyself to no other god.<sup>15</sup> I might think that I may also include embracing, kissing, and putting on its shoes [as punishable by death]:<sup>16</sup> but the Writ saith, He hath sacrificeth.<sup>17</sup> Now, sacrificing was included in the general statement;<sup>18</sup> wherefore was it singled out? — That a comparison therewith might be drawn, and to teach you: just as sacrificing is distinguished,

in that it is a service within the Temple precincts, and the death penalty is incurred through it, so for all services performed in the Temple precincts [in lawful worship] one is liable to death [when performing them idolatrously]. Hence prostration was singled out to illumine itself alone, whilst sacrificing was singled out to throw light upon the general proposition.<sup>19</sup>

The Master stated: 'I would have thought that the Writ refers to sacrificing without the Temple precincts'. But is that not punishable by extinction?<sup>20</sup> — I might have thought: if he was warned, he is executed; if not, he is punished by extinction. It is therefore taught otherwise.

Raba, son of R. Hanan asked Abaye: Let us say that prostration was singled out in order to throw light upon the general law; and if you answer, in that case, why was sacrificing singled out too?<sup>21</sup> To throw light upon itself, viz., that the intention to perform one act in the service of idolatry, even if made during the performance of another [non-idolatrous] act, renders one liable to punishment. For it has been taught: If one slaughtered a cow with the intention of sprinkling its blood and burning its fat idolatrously, — R. Johanan said,

1. A Moabite deity. 'That the statements of the Rabbis (on the repulsive mode of worship) are not wholly imaginative and do not take their coloring from the rites of some heathen or antinomian-Gnostic sects is shown by the fact that the worship of Peor is ridiculed, but nowhere stigmatized as moral depravity, by the Rabbis, which latter might have been expected, had the assertion of the Rabbis been based on the Gnostic cults mentioned.' J. E. s.v. Baal-Peor.
2. Mercurius, a Roman divinity, identified with the Greek Hermes; also a statue or a way-mark dedicated to Hermes, the patron deity of the wayfarer.
3. Are not all the actions mentioned modes of worship?
4. And already included in the Mishnah.
5. Ps. XVI, 4.

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6. I.e., that guilt is incurred for all these acts of worship.
7. Omitting the words, to any God, Ex. XXII, 19.
8. Since this is forbidden elsewhere; Lev. XVIII, 3f; 8f.
9. Now the reference must be to sacrificing as an abnormal mode of worship, for the normal act of worship is designated in Heb. by [H] (to serve), and the verse should have read, He who serves any other god by sacrificing to it. Every normal act of service is derived from Deut. XVII, 3.
10. Heb. Shem Hameyuhad, v. p. 408, n. 1.
11. In Deut. XVII, 2-5; v. next note.
12. The penalty of death for idolatry is stated in Deut. XVII, 2-5; If there be found among you ... a man or woman that hath wrought wickedness ... And hath gone and served other gods and prostrated himself before them ... thou shalt stone them with stones, till they die. 'And hath gone and served other gods' is a general statement, not particularizing any mode of service. Consequently, the verse in Ex. XXII, 19, which ordains the death penalty for sacrificing, is a singling out of a particular service from the general proposition of Deut. XVI, 3. Now it is one of the principles of exegesis that in such a case the particularized statement is intended to illumine and define the general proposition as a whole: thus just as sacrificing is a form of service performed within the Temple precincts (in lawful worship), so the general statement, 'and hath ... served other gods' refers to such services, e.g., sprinkling of the blood, offering incense, and making libations. But prostration was not a mode of worship within the Temple precincts.
13. Ibid. 3.
14. Ibid. 4.
15. Ex. XXXIV, 14.
16. Since prostration is specially stated, I might think that it teaches that for any act of adoration, even if it is not the normal mode of worship, and not performed within the Temple precincts, just as prostration, guilt is incurred.
17. Ibid. XXII, 19.
18. Of Deut. XVIII, 3.
19. For if prostration was singled out in order to throw light upon the general law, viz., that for paying honor to an idol in any shape one is liable to death, why should sacrificing have been singled out too, since thereby one certainly honors the deity?
20. *Kareth*, v. [Glos.](#) cf. Lev. XVIII, 3f; 8f; whilst here the penalty of death is decreed.
21. V. p. 411, n. 9.

## Sanhedrin 61a

the animal is forbidden for any use;<sup>1</sup> but Resh Lakish ruled that it is permitted.<sup>2</sup> Now this difficulty is disposed of on R. Johanan's view;<sup>3</sup> but on the view of Resh Lakish,<sup>4</sup> [why not say that] the verse is required [for this purpose]?

**R. Papa demurred:** Would the verse singling out sacrificing be superfluous on R. Johanan's view? Surely he merely rules that the animal is forbidden [as a result of the analogy from piggul], but the person may not be liable to death. Hence the verse teaches [by singling out sacrificing] that he is so liable!

**R. Aha the son of R. Ika demurred:** Would the verse singling out sacrificing not be superfluous on the view of Resh Lakish? Surely he merely rules that the animal is permitted, yet the person may be punishable by death, just as in the case of one who prostrates himself before a mountain, the mountain remaining free for use though the person thereby renders himself liable to decapitation!<sup>5</sup>

**R. Aha of Difti said to Rabina:** According to Raba son of R. Hanan's question to Abaye, vi., 'let us say that prostration was singled out in order to throw light upon the general law,' what is excluded by the verse, [Take heed to thyself ... that thou enquire not after their gods, saying,] How did these nations serve their gods<sup>3</sup> even so will I do likewise]?<sup>6</sup> Should you say, it excludes the act of uncovering oneself before deities whose normal mode of worship is sacrifice — but that is derived from prostration: just as prostration is an act of honor, so every act [to be punishable] must be one of honor! — But it excludes the act of uncovering oneself before mercuris: for I would think, since its normal mode of worship is a contemptuous act [viz. — casting stones thereon], therefore any other degrading action [incurs guilt]; hence the verse excludes it. But what of R. Eleazar's dictum: Whence do we know that, if one sacrificed an animal to mercuris, he is

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liable to punishment? — From the verse, And they shall no more offer their sacrifices unto demons.<sup>7</sup> Since this is redundant in respect of normal worship, being derived from, How did these nations serve their gods,<sup>8</sup> apply it to abnormal worship [as being punishable].<sup>9</sup> Now, [on Raba son of R. Hanan's hypothesis that prostration throws light on the general statement] is not abnormal worship derived from prostration? — That verse teaches that even if he sacrificed to mercuris merely as an act of provocation<sup>10</sup> [but without thereby accepting it as a divinity], he is punished.

R. Hamnuna lost his oxen. [On going to seek them] he was met by Rabbah, Who showed a contradiction in two Mishnahs. We have learnt: He WHO ENGAGES IN IDOL-WORSHIP [ IS EXECUTED]; implying, only if he actually worshipped it, but if he merely said that he would serve it, he is not punished. But we have learnt: If he [the seduced person] says — 'I will worship.' or 'I will go and worship'. or we will go and worship' [the seducer is executed].<sup>11</sup> — He replied, The first Mishnah refers to one who said, 'I will not accept it as a god before I serve it.' R. Joseph said: You have chosen Tannaim at random!<sup>12</sup> This is a conflict of Tannaim. For it has been taught: If a man said, 'Come and worship me,' R. Meir declared him liable to death [as any other seducer], but R. Judah ruled that he is not. Now if they [his listeners] did actually worship him, all agree that he is executed, for it is written, Thou shalt not make unto thee any idol.<sup>13</sup> Their dispute is only if they merely affirmed that they would worship him: R. Meir maintaining that a mere affirmation is of consequence,<sup>14</sup> whilst R. Judah holds that a mere affirmation is of no consequence.<sup>15</sup> Subsequently R. Joseph said: My answer is groundless for even R. Judah maintains that guilt is incurred for a mere assertion, as it has been taught: R. Judah said: He [the seducer] is not liable to execution unless the seduced person declares, 'I will worship it,' or 'I will go and worship,' or 'Let us go and worship.'<sup>16</sup> But the dispute of R. Meir and R. Judah applies to a case where he incited others to worship him, and

they replied. 'Yes!', R. Meir maintaining that when a man incites others to worship him, he is paid heed to, and the 'yes' was said in earnest; whilst R. Judah holds that no heed is paid to him, for they say,

1. Although it was not slaughtered with idolatrous intent, and even if subsequently the blood was not sprinkled idolatrously, the unlawful intention at the time of slaughtering, though in respect of a different service, renders the animal unfit for use. R. Johanan deduces this by drawing an analogy from piggul (v. [Glos.](#)).
2. Resh Lakish does not accept the analogy of piggul.
3. Since R. Johanan draws an analogy in respect of the animal itself, he can apply the same analogy to the offender-viz., that an idolatrous intention in respect of one service is punishable, even though made in another act. Consequently, if prostration was singled out in order to illumine the entire law, the special statement of sacrificing is superfluous. Hence we are forced to the conclusion that prostration was singled out only for itself.
4. For since he does not accept the analogy, we can argue thus. Prostration was singled out to illumine the whole, and sacrificing was singled out to teach that though an unlawful intention in respect of one act of service made in the course of another does not affect the animal's fitness for use, it is nevertheless punishable.
5. I.e., though Resh Lakish rejects the analogy of piggul, he might accept that of mountain worship. For he rejects the former because piggul is in the course of service within the Temple, whilst ordinary slaughter is without. But mountain service, being also without, may provide the basis of an analogy.
6. Deut. XII, 30. This implies that only the normal mode of serving the deities is forbidden. But, as shown above, the light thrown upon the general statement of Deut. XVII, 3, whether by prostration or by sacrificing, is in respect of abnormal acts of worship. Now, if prostration teaches that even extra-Temple acts are punished, what is excluded by this verse?
7. Lev. XVII, 7.
8. Deut. XII, 30.
9. Hence sacrificing to mercuris, though not its normal mode of worship, incurs guilt.
10. I.e., to God.
11. *Infra* 67a.
12. I.e., there is no warrant for assuming both Mishnahs to be of the same Tanna.



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13. Ex. XX, 4. Hence, since they worshipped him, he is guilty as a seducer.
14. And renders the seducer liable.
15. Hence the first Mishnah is taught in accordance with R. Judah; the second agrees with R. Meir.
16. Thus though he did not actually worship it, even R. Judah maintains that he is executed.

## Sanhedrin 61b

'Wherein does he differ from us'? and in saying 'yes' they were but mocking him.<sup>1</sup> The two Mishnahs however are to be reconciled thus: The first Mishnah refers to a multitude who were seduced; the second to an individual. For an individual will not reconsider his resolve, hence he will surely go astray after the seducer; but a multitude do reconsider [because they discuss it with each other], and will therefore not go astray after the seducer.<sup>2</sup>

R. Joseph said: Whence do I know it [that the seducer is liable in the case of an individual]? — From the verse, [If thy brother ... entice thee ...] Thou shalt not consent unto him, nor hearken unto him.<sup>3</sup> Hence, if he consented and hearkened unto him [declaring that he would do as the seducer urged], guilt is incurred. Abaye demurred to this: Is there any difference whether the one or the many are seduced? Surely it has been taught: If thy brother, the son of thy mother, entice thee;<sup>4</sup> it is all one whether the one or the many are seduced. Scripture however excludes an individual from the law pertaining to a multitude, and a multitude from the provisions of an individual; [viz..] an individual is excluded from the law pertaining to a multitude, in that his person is punished with greater severity, whilst his property is treated with greater leniency, whilst a multitude are excluded from the law of an individual, being personally punished with greater leniency, but their property is treated with greater severity.<sup>5</sup> Hence the distinction is only in this respect, but in all other matters they are alike.<sup>6</sup> Abaye therefore answered thus:<sup>7</sup> The first Mishnah refers to one who is self-persuaded, the

second to enticement by others; if he is self-persuaded, he may reconsider the matter [therefore he is punished only if he actually engages in worship]; but if he is enticed by others, he will be dragged after them [therefore for his mere assertion the penalty is merited]. Abaye said: Whence do I know this? From the verse, Thou shalt not consent unto him, nor hearken unto him: hence if he consented and hearkened [unto the seducer by affirmation] he is liable.

Raba said: Both Mishnahs deal with one who was seduced by others; the second Mishnah refers to a seducer who [described the idol's might] saying, 'it eats thus,' 'it drinks thus,' 'it does so much good and so much harm;' but the first Mishnah treats of a seducer who did not thus descant upon the idol's greatness.<sup>8</sup> Raba said, Whence do I learn this? — From the verse, [If thy brother ... entice thee ... saying let us go and serve other gods; ...] Namely, of the gods of the people which are round about you, nigh unto thee or far from thee.<sup>9</sup> Now, what does it matter whether they are far or near? — But the Writ means this: from the character of the near idols you can learn the nature of the distant ones.<sup>10</sup> Surely then it means that the seducer had said to the seduced; 'It eats thus, it drinks thus, it does so much good and so much harm.' This proof is conclusive.

R. Ashi said; The second Mishnah refers to a non-conforming Israelite.<sup>11</sup> Rabina said: The two Mishnahs teach 'not-only-this. but-even-that.'<sup>12</sup>

It has been taught; If one engages in idolatry through love or fear [of man, but does not actually accept the divinity of the idol], Abaye said, he is liable to punishment; but Raba said, he is free from a penalty. Abaye ruled that he is liable, since he worshipped it; but Raba said that he is free: only if he accepts it as a god is he liable, but not otherwise.

Mnemonic; '*ebed yishtahaveh lemoshiah.*'<sup>13</sup> Abaye said, how do I know it? Because we have learnt, HE WHO ENGAGES IN IDOL WORSHIP, IT IS ALL ONE WHETHER HE

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SERVE IT, etc. Surely it means: whether he serve it through love or fear, [or whether he sacrifice to it as a god].<sup>14</sup> But Raba answers you: That is not so, but as R. Jeremiah resolved the difficulty.<sup>15</sup>

Abaye [further] said, Whence do I know it? For it has been taught: *Thou shalt not bow down thyself to them*:<sup>16</sup> thou mayest not bow down to them, but thou mayest bow down to a human being like thyself. I might think that this applies even to one who is worshipped, like Haman; but the Writ adds, *nor serve them*.<sup>17</sup> But Haman was thus served through fear.<sup>18</sup> Raba, however, explains it thus: 'like Haman, but not altogether so. [To bow down to one] 'like Haman' [is forbidden], since he set himself up as a divinity; 'but not altogether so,' for Haman was worshipped through fear, whilst the prohibition of this verse applies only to a voluntary action.

Abaye said: Whence do I know it? — For it has been taught: [As for an anointed High priest's<sup>19</sup> [liability to a sacrifice] for [unwitting] idol-worship — Rabbi said: It holds good even if his inadvertency was in respect of the action only. But the Sages say, There must have been forgetfulness of the [principal] law itself.<sup>20</sup> They agree, however, that his sacrifice is a she-goat, as that of a private individual [who committed idolatry inadvertently].<sup>21</sup> They also agree that he is not bound to bring the guilt offering of doubt.<sup>22</sup> Now, how can the act of idol-worship be committed unwittingly? If he [saw an idolatrous shrine,] thought it to be a synagogue, and bowed down to it. — surely his heart was to heaven!<sup>23</sup> But it must mean that he saw a royal statue and bowed down to it;<sup>24</sup> now, if he accepted it as a god, he is a deliberate sinner;

1. And therefore he is not treated as a seducer, the likelihood of his obtaining a hearing being so remote
2. Therefore in their case guilt is incurred only for actual worship; but in the case of a single individual the mere declaration is punishable.
3. Deut XIII, 9, referring to an individual.
4. Ibid. 7.

5. Deut. XIII, 13-17 treats of a multitude that are seduced; they are to be decapitated (an easier death than stoning), and their property destroyed. Deut. XVII, 2-5 deals with an individual (or individuals) who engage in idol worship; he is to be stoned, but nothing is said about his property, whence it may be concluded that it is left intact. Thus the individual is excluded from the law pertaining to the multitude, and vice versa, there being an aspect of greater severity and leniency in each.
6. This refutes R. Joseph's distinction between an individual and a multitude.
7. The difficulty presented by the two Mishnahs.
8. Consequently his listener is likely to reconsider his resolve, and therefore punishment is not imposed until actual worship.
9. Ibid. 8.
10. A seducer generally seeks to entice one to worship distant idols by describing their great power, but avoids mention of the near ones, which his victims would themselves know to be powerless; therefore Scripture warns one against such enticement, by pointing out that the near (and known) idols are an object lesson for the distant ones. Scripture thus assumes that such blandishments were used.
11. Therefore his mere assertion is sufficient to condemn him, as it is certain that he will keep it. But an observant Israelite may reconsider his desire.
12. The first Mishnah states that the death penalty is imposed for engaging in idol worship, the second adds that this is so not only for actually worshipping idols but also for the mere statement of intention. Both Mishnahs will then refer to the same kind of Jew.
13. [H] Lit. 'The servant shall bow down to the anointed one.' Three passages are adduced, whose catchwords are respectively *Service, Prostration, The Anointed One*. S. Funk (*Die Juden in Babylonien*, P. 94. n. 2) sees in this mnemonic an allusion to the Christians' acceptance of Jesus, 'the servant' being the title claimed by those who worship him as the Messiah.
14. For, as in *supra* 60b the difficulty arises, what is meant by 'whether he serve it', Seeing that all other actions mentioned are forms of service. Abaye therefore proposes this solution.
15. *Supra* 60b.
16. Ex, XX, 5.
17. Ibid. This phrase is superfluous, and is therefore so interpreted.

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18. This proves that idolatry (which includes worshipping a human as a divinity) is forbidden even when done through fear.
19. Until the destruction of the First Temple, High Priests were consecrated by anointing (Ex. XXVIII, 41; XXX, 30; Lev, VII, 36. X, 7); and one thus consecrated was called Kohen ha-mashiah (the anointed priest). But during the second Temple, when no anointing took place (Sifra Zaw, Par. 3 ch, v.). they were consecrated by investiture in the official garments of the High Priesthood. Such a high priest was called merubeh begadim, i.e., distinguished by a larger number of garments (eight as against the ordinary priest's four).
20. Lit., 'the thing (in itself)'. This is in reference to Lev. IV, 2f: *If soul shall sin through ignorance... If the priest that is anointed do sin ... then let him bring for his sin ..., etc.* In Hor. 7b it is deduced that by ignorance in the case of the anointed priest is meant an inadvertence; viz., the action involving a complete forgetfulness of the prohibition on his part, as against an ordinary individual who has to bring an offering even if his inadvertency was only in regard to the action, but not to the prohibition itself. Now the Sages maintain that this applies to all sins, including idolatry. But Rabbi rules that if idolatry be committed inadvertently by the anointed Priest, though without forgetting that it is forbidden, he is still obliged to offer a sacrifice like an ordinary individual.
21. I.e., though in Lev. IV, 3, a young bullock is prescribed as the sacrifice for an anointed Priest's inadvertent sin, yet in the case of idolatry, even the Sages agree that he is treated as an ordinary individual, who offers a she-goat: Num. XV, 27. *And if any soul sin through ignorance, then he shall bring a she-goat of the first year for a sin offering.* By 'any soul' one understands even a High Priest; and 'sin' is interpreted as referring to idol-worship.
22. If one is in doubt whether he has committed a sin, for the certain (unwitting) transgression of which a sin-offering must be brought, he is bound to bring a guilt offering of doubt (Lev. V, 17-19). This, however, does not apply to a High Priest. Now, even if the doubt is in respect of idolatry, though Rabbi assimilates the High Priest in this case to the common people as to the measure of inadvertency required, he nevertheless concurs with the Sages that the High Priest differs from others, in that he need not bring a guilt-offering of doubt. All this is deduced from Scripture in Hor. 7b.

23. Hence, he has not even inadvertently committed idolatry.
24. It was customary to set up royal statutes to which homage was paid. This was quite permissible. But occasionally a royal statue was actually worshipped; thereafter it was forbidden to make obeisance to it.

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whilst if not, his action was not idolatrous at all. Hence, it surely must mean that he worshipped it idolatrously, through love or fear.<sup>1</sup> But Raba answers you thus: His inadvertency arose through his declaring that idolatry is permissible. But if he declares it permissible, is it not forgetfulness of the law? It refers to a declaration that it is entirely permissible; whilst forgetfulness consists of partial confirmation and partial annulment.<sup>2</sup>

R. Zakkai recited to R. Johanan: If one sacrificed, offered incense, made libations, and prostrated himself [before an idol] in one state of unawareness,<sup>3</sup> he is bound to bring only one sacrifice. Thereupon R. Johanan retorted: 'Go, teach this outside'.<sup>4</sup>

[But] R. Abba said, This teaching of R. Zakkai is the subject of a dispute between R. Jose and R. Nathan. For it has been taught: The prohibition of kindling [on the Sabbath] was singled out [from the general prohibition of work] to teach that it is merely the object of a negative precept — This is R. Jose's view. R. Nathan maintained, it was particularly specified to indicate 'separation'.<sup>5</sup> Now, on the view that kindling was specified to teach that it is merely the object of a negative precept, prostration too was singled out for that purpose. Whilst if kindling was singled out to indicate 'separation', prostration was likewise singled out for the same reason.<sup>6</sup> R. Joseph objected: Perhaps R. Jose maintains that kindling was singled out to teach that it is the object of a negative precept, only because he derives 'separation' of different acts of labor from the phrase 'of one of them'.<sup>7</sup> For it has been taught: R. Jose said, [If a soul shall sin through ignorance against any of the commandments of the Lord,

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concerning things which ought not to be done,] and shall do of one of them.<sup>8</sup> This teaches that sometimes one sacrifice is incurred for 'all of them' [transgressions], whilst at others for each one [of the transgressions] a separate sacrifice must be brought. Whereon, R. Jonathan remarked, What is the reason of R. Jose [i.e., how does he deduce this from the verse]? — Because It is written, and shall do of one of them.<sup>9</sup> This teaches that liability is incurred for one complete act of violation [i.e., 'one']; and for one which is but a part of one [i.e., 'of one']; and for transgressing actions forbidden in themselves [i.e., 'them'], and for actions [the prohibited nature of which is derived] from others [i.e., 'of them']; further, that one transgression may involve liability for a number of sacrifices [i.e. 'one' = 'them']. whilst many offences may involve but one sacrifice [i.e., 'them' = 'one']. Thus: 'one complete act of violation,' — the writing [on the Sabbath] of Simeon; 'one which is but a part of one,' — the writing of Shem as part of Simeon;<sup>10</sup> 'actions forbidden in themselves' [i.e., 'them'] — the principal acts of labor forbidden on the Sabbath; 'actions [the prohibited nature of which is derived] from others [i.e., "of them"]' — the derivatives;<sup>11</sup> 'One transgression may involve liability for a number of sacrifices [i.e., "one" = "them"]' — e.g., if one knew that it was the Sabbath [and that some work is forbidden on the Sabbath] — but was unaware that these particular acts are forbidden;<sup>12</sup> 'many offences may involve but one sacrifice [i.e., "them" = "one"]' — e.g., if he was unaware that it was the Sabbath, but knew that his actions are forbidden on the Sabbath.<sup>13</sup> But here [in idol worship]. since separation of actions is not derived from elsewhere, may we not say that all agree [even R. Jose] that prostration was singled out to indicate 'separation'?<sup>14</sup> [But is this so?] May not 'separation' of acts in the case of idolatry too be deduced from 'of one of them'?<sup>15</sup> Thus, 'one complete act of idolatry' — sacrificing [to idols]; a part of one [i.e., 'of one'] — the cutting of one organ.<sup>16</sup> 'Actions forbidden in

themselves' [i.e., 'them'] — principal acts; i.e., sacrificing, burning incense, making libations, and prostration; 'actions derived from others' [i.e., 'of them'] the derivatives of these — e.g., if he broke a stick before it;<sup>17</sup> 'one transgression may involve liability for a number of sacrifices,' [i.e., 'one'='them']. e.g., when one knows that it is an idol [and that idolatry is forbidden], but is unaware that the particular acts in question constitute idol-worship;<sup>18</sup> many offences may involve but one sacrifice, [i.e., 'them' = 'one']; if he is unaware that it is an idol, but knows that these acts are forbidden in idol worship?<sup>19</sup> — Now, how is the unawareness of the idolatrous nature of a thing possible?<sup>20</sup> If one [saw an idolatrous shrine,] thought it to be a synagogue, and bowed down to it? Surely his heart was to heaven! But it must mean that he saw a royal statue and bowed down to it. Now, if he accepted it as a god, he is a deliberate sinner; whilst if not, he has committed no idolatry at all. Hence it must surely mean that he worshipped it idolatrously through love or fear. Now, this interpretation [of the phrase 'of one of them'] is possible on Abaye's view that a penalty is incurred for this. But on Raba's view that there is no liability, what can you say? Hence you will have to explain it that his inadvertency arose through his declaring that idolatry is permissible.<sup>21</sup> But on that assumption you may solve the problem which Raba propounded to R. Nahman, viz., 'What if one forgot both?'<sup>22</sup> [Now on that assumption] you may deduce that he is liable only for one sacrifice?<sup>23</sup> — That causes no difficulty: then solve it!<sup>24</sup>

But canst thou apply this verse to idolatry? In this chapter,<sup>25</sup> for the sin of an anointed High priest a bullock is prescribed;<sup>26</sup> of a chief, a he-goat;<sup>27</sup> and of a private individual, a she-goat or a lamb;<sup>28</sup> whilst with respect to idolatry we have learnt: They agree that his sacrifice is a she-goat, as that of a private individual. There is nothing more to be said about the matter.<sup>29</sup>

When R. Samuel b. Judah came,<sup>30</sup> he said:



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1. Without knowing that this is idol worship. This constitutes inadvertency in respect of the action, but not forgetfulness (or ignorance) of the law, since he knows that idolatry per se is forbidden. Hence this Baraita supports Abaye's ruling.
2. E.g. if the priest declares: Sacrificing and offering incense to idols are forbidden, but prostration is permitted, that is called ignorance of the law; if he declares that idolatry is not prohibited at all, it is, in Raba's opinion, regarded as inadvertency of action.
3. I.e., he was not apprised between these actions of their forbidden character, subsequently forgetting it, but was unconscious thereof throughout.
4. I.e., it is incorrect, and not to be admitted to the school as authentic teaching.
5. In Ex. XX, 10, it is stated: But the seventh day is the Sabbath of the Lord thy God: in it thou shalt not do any work. This is repeated in XXV, 2, with a special prohibition against kindling a fire, v. 3: Six days shall work be done, but on the seventh day there shall be to you an holy day, a Sabbath of rest to the Lord: whosoever doeth work therein shall be put to death. Ye shall kindle no fire throughout your habitations on the Sabbath day. Now kindling is prohibited by the general law of Ex. XX, 10: why is it singled out? R. Jose answers, to teach that whereas other modes of work are punishable by death, this is merely punishable like any other negative precept (viz., by flagellation). But R. Nathan maintained that it was in order to show that if one did a number of separate acts on the Sabbath (in one state of forgetfulness) e.g., seething, reaping, and threshing, they are accounted as separate offenses, just as kindling was given as a separate offence, and a sacrifice must be brought on account of each.
6. On 63a (*infra*) it is stated that prostration is specifically forbidden three times: (i) Ex. XX, 5: Thou shalt not bow down thyself to them, nor serve them, (ii) Ibid. XXIII, 24: Thou shalt not bow down to their Gods, nor serve them; and (iii) Ibid. XXXIV, 14: For thou shalt not bow down to any other god. (The injunctions against prostration in Deut. are not included, since Deut. is a repetition of the preceding books). One prohibition teaches that prostration even as an abnormal mode of worship is forbidden; the second that as a normal mode of worship it is forbidden (v. 63a); and the third intimates 'separation', viz., that if a number of idolatrous acts were unwittingly committed (in one state of ignorance), separate atonement must be made for each. Now, R. Abba holds that interpretation to agree only with the view that kindling was specified in order to teach separation. But on the other view, prostration was singled out to indicate not 'separation' but that its deliberate transgression is the subject of a negative precept and not punished by extinction as other idolatrous acts, involving consequently no sin offering for its unwitting transgression, albeit here the punishment is greater, viz., death instead of extinction (v. Deut. XVII, 3, 5). Consequently, R. Zakkai's statement is not incorrect; it is in accord with the view of R. Jose.
7. Lev. IV, 2.
8. Ibid.
9. [H]. This is a peculiar construction. The Scripture should have written, 'and shall do one (not of) of them', or, 'and do of them' (one being understood), or, 'and shall do one' (of them being understood). Instead (of which, a partitive preposition is used before each. Hence each part of the pronoun is to be interpreted separately, teaching that he is liable for the transgression of 'one' precept; and for part of one (i.e. for 'of one'); for 'them' (explained as referring to the principal acts); and for the derivatives 'of them' (acts forbidden because they partake of the same nature as the fundamentally prohibited acts); also, each pronoun reacts upon the other, as explained in the discussion.
10. A sin offering for the unwitting violation of the Sabbath is not due unless a complete action is performed. The writing of a complete word — Simeon — is given as an example. Now, if one commenced writing the word Simeon [H], SHiMe'oN in Hebrew, and only wrote the first two letters thereof, viz., Shem, [H], SHeM, he is also liable, though his intention was only partly fulfilled, because Shem is a complete name in itself; similarly, if he commenced writing Daniel and only wrote Dan. This the Talmud calls one action which is part of another (i.e. — 'of one'). If, however, the part he wrote is not complete in itself, e.g., the first two letters of Reuben, in Hebrew, there is no liability.
11. Labor forbidden on the Sabbath is divided into two categories: (i) fundamental or principal acts, forbidden in themselves and named in the Talmud 'fathers' — 39 are enumerated in Shab. 73a; and (ii) derivative or secondary acts, regarded as species of the former, and called 'toledoth', lit., 'offspring'. E.g., Sowing, plowing, and reaping belong to the first category; planting, digging, and vintaging are their respective derivatives.
12. Hence, though he violated only one injunction, viz., the sacredness of the Sabbath, yet since

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he was ignorant of each of these acts, he is regarded as having committed a number of separate inadvertent transgressions, for each of which a sacrifice is due.

13. Therefore, since all his actions were the result of being unaware of one single fact, viz., that it was the Sabbath, only one sacrifice is due. In this discussion 'them' is taken to indicate more than one. We see from this Baraitha that R. Jose derives 'separation' of labor on the Sabbath from this verse, therefore he is bound to interpret the singling out of kindling as teaching something else, viz., that kindling is only subject to a negative precept.
14. This difficulty is left unanswered, and a further one is raised.
15. Since that verse refers to sin in general, not particularly to the Sabbath, its deductions apply to idolatry too.
16. The ritual slaughtering and the sacrificing of an animal consists of cutting through two organs, the windpipe and the gullet. Now, if one cuts only one organ (in idol worship) he commits 'part of one' forbidden action. Nevertheless, he incurs the penalty of idolatry, because this partial action is a complete action elsewhere, for a fowl sin-offering needs only the severing of one organ.
17. I.e., in honor of the idol. As an idolatrous act, this being similar to slaughter, whereby the neck is broken, is hence a derivative. A penalty is incurred only if this is the normal mode of worship of that particular deity. 'A.Z. 51a.
18. E.g., knowing that sacrifice is forbidden, but thinking that burning incense and offering libations are permitted.
19. The reasoning is the same as in the case of the Sabbath.
20. This is the answer.
21. Though this does not constitute unawareness that a particular thing is an idol and consciousness that these particular acts are forbidden in idol worship, yet it is a case where many transgressions involve but one sacrifice.
22. This refers to the Sabbath. If one did a number of forbidden acts on the Sabbath, unaware that it was the Sabbath and also ignorant that these particular acts are forbidden on the Sabbath.
23. For if one declared that idolatry is permissible, it is as though he were unaware that a particular thing was an idol, as explained at the beginning of 62a. Hence if we deduce from the verse that in idolatry only one sacrifice is needed for such inadvertence, the same must apply to the Sabbath. At this stage of the discussion it is assumed, however, that

this deduction is impossible, as otherwise Raba would not have propounded his problem. Consequently the verse cannot be applied to idolatry, and R. Abba is justified in regarding kindling and prostration as interdependent both in interpretation and in the resultant laws and R. Zakkai's statement is admissible as correct — according to R. Jose.

24. I.e., the fact that this interpretation solves Raba's problem does not militate against its correctness. Consequently, the verse can be applied to idolatry, and R. Abba's views are again refuted.
25. Introduced by the passage under discussion, viz., If a soul shall sin through ignorance against any of the commandments of the Lord ... and shall do of one of them.
26. Lev. IV, 3.
27. Ibid. 22f.
28. Ibid. 27f, 32.
29. I.e., to this no answer is possible. Consequently this verse cannot teach separation of idolatrous actions. In R. Joseph's view, as expressed by his objection, it is deduced from the singling out of prostration.
30. From Palestine to Babylon.

## Sanhedrin 62b

This is the teaching which he [R. Zakkai] recited to him [R. Johanan]: [In one respect] the Sabbath is more stringent than other precepts; [in another,] it is the reverse. Now the Sabbath is more stringent than other precepts — in that if one did two acts of work in one state of unawareness, he must make atonement for each separately; this is not so in the case of other precepts. Other precepts are more stringent than the Sabbath, for in their case, if an injunction was unwittingly and unintentionally violated, atonement must be made: this is not so with respect to the Sabbath.<sup>1</sup>

The Master said: 'The Sabbath is more stringent than other precepts, in that if one did two acts of work, etc.' How so? Shall we say that he reaped and ground [corn]? Then an analogous violation of other precepts would be the partaking of forbidden fat and blood — but in both cases, two penalties are incurred! But how is it possible in the case of other precepts that only one liability is incurred? E.g., if one ate forbidden fat

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twice;<sup>2</sup> then by analogy, the Sabbath was desecrated by reaping twice — but in each case, only one liability is incurred! Therefore R. Johanan said to him? 'Go, teach it outside!'

But what is the difficulty? Perhaps it can be explained after all as referring to reaping and grinding, whilst 'this is not so in the case of other precepts' refers to idolatry, and in accordance with the dictum of R. Ammi, who said: If one sacrificed, burnt incense, and made libations [to an idol] in one state of unawareness, only one penalty is incurred [though a number of services were performed]! — This cannot be explained as referring to idolatry, because the second clause states: 'Other precepts are more stringent than the Sabbath, for in their case, if an injunction was unwittingly and unintentionally violated, atonement must be made.' Now, how is an unwitting and unintentional transgression of idolatry possible? If one thought it [sc. an idolatrous shrine] to be a synagogue, and bowed down to it — but his heart was to heaven! But it must mean that he saw a royal statue, and bowed down to it; now, if he accepted it as a god, he is a deliberate sinner; whilst if he did not accept it as a god, he has not committed idolatry at all. Hence it must mean that he worshipped it idolatrously through love or fear. Now this agrees with Abaye's view that a penalty is incurred; but on Raba's view that there is no liability, what can you say? You will therefore explain that his inadvertency arose through his declaring that idolatry is permissible.<sup>3</sup> Then 'this is not so in the case of the Sabbath' will mean that there is no liability at all.<sup>4</sup> But this cannot be so, for when Raba propounded to R. Nahman, 'What if one is unaware of both [i.e. that it is the Sabbath, and that labor on the Sabbath is forbidden],' his problem was whether one sacrifice is incurred or two [one for each act of work]; but none maintain that he is entirely exempt? What difficulty is this! Perhaps after all, it ought be said, the first clause [dealing with the greater severity of the Sabbath] refers to idolatry, whilst the

second treats of other precepts; the unwitting and unintentional transgression of which consisted of thinking that [melted forbidden fat] was spittle, which he swallowed. [For this, liability is incurred,] which is not so with regard to the Sabbath, there being no liability [in an analogous case, e.g.,] if one intended lifting something detached from the soil, but accidentally tore out a plant from the earth, he is exempt from a penalty.<sup>5</sup> Now, this is in accordance with R. Nahman's dictum in Samuel's name, viz., He who violates the injunction of forbidden fat or consanguineous relationship whilst intending to do something else<sup>6</sup> is liable to a penalty, since he derived pleasure thereby. But he who mistakenly did a forbidden act on the Sabbath whilst intending to do another<sup>7</sup> is free from penalty — because the Torah prohibited only a calculated action.<sup>8</sup> But R. Johanan [who said, 'Go, teach it outside'.] was consistent with his attitude [elsewhere], that two clauses of a Mishnah must not be interpreted as referring each to different circumstances — for R. Johanan said: He who will explain to me the Mishnah of 'a barrel' to agree with one Tanna entirely, I shall carry his clothes for him to the baths.<sup>9</sup> To revert to the main text:

1. The Talmud discusses further on what is meant by unwittingly and unintentionally.
2. In one state of unawareness, not being reminded in between that this fat is forbidden,
3. And since he has never known of any prohibition, it is not only regarded as unwitting, but as unintentional too. Cf. 62a top.
4. If one worked on the Sabbath, not knowing that there is any prohibition against it.
5. Cutting or tearing out anything growing in the earth is a forbidden labor on the Sabbath. His offence was both unwitting and unintentional for (i) he had no intention of tearing out anything and (ii) he did not know that this was growing in the soil, Now, had he known that it was growing in the soil and deliberately uprooted it in ignorance of the forbidden nature of that action, his offence would have been unwitting but intentional. By analogy, had he intended to eat the melted fat, thinking that it was permitted, his offence would be regarded as unwitting but intentional. Since, however, he did not intend eating it at all, but accidentally swallowed it, thinking at the same

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time that it was spittle, his offence was both unwitting and unintentional.

6. E.g., if he reached out for a permitted piece, and accidentally took the forbidden fat, or mistook his sister for his wife.
7. Whether the other itself was forbidden or permitted. So Tosaf. Rashi, however, in Shebu. 19a explains it that he intended doing a permitted act, but mistakenly did a forbidden one, in accordance with the example given here.
8. Hence the distinction drawn in the second clause between the Sabbath and other precepts is quite feasible.
9. I.e., I would be his servant. The reference is to a Mishnah on B.M. 40b: If a barrel was entrusted to a man's keeping, a particular place being assigned to it, and this man moved it from the place where it was first set down, and it was broken. — Now, where it was broken whilst he was handling it, then if he was moving it for his own purposes (e.g., to stand on it), he must pay for it; if for its sake (e.g., if it was exposed to harm in the first place), he is not liable. But if it was broken after he had set it down, then in both cases he is not liable. If the owner, however, had assigned a place to it, and this man moved it, and it was broken, whether whilst in his hand or after he had set it down: if he moved it for his sake, he is liable; if for its own, he is not. The Talmud then proceeds to explain that the first clause is in accordance with R. Ishmael, who maintained that if one stole an article and returned it without informing its owner, he is free from all further liability in respect of it. Consequently, if he moved the barrel for his own purpose (which is like stealing), and set it down elsewhere, no particular place being assigned to it, his liabilities have ceased. But the second clause agrees with R. Akiba's ruling that if an article is stolen and returned, the liability remains until the owner is informed of its return. Consequently, if he moved it for his own purpose, he remains liable even after it is set down. But R. Johanan was dissatisfied with this explanation, holding that both clauses should agree with one Tanna. Now, the Talmud does actually explain that it can agree with one Tanna, viz., by assuming that in the first clause the barrel was subsequently returned to its original place, but that in the second clause it was not. Consequently, it concurs entirely with R. Ishmael, but his liability continues in the second instance because he did not return it to its first place. But R. Johanan rejects this explanation, not deeming it plausible to conceive of such different circumstances in the

two clauses of the Mishnah. For the same reason, when R. Zakkai taught that sometimes the Sabbath is more stringent than other precepts, and sometimes it is the reverse, R. Johanan would not accept an interpretation whereby 'other precepts' in the first clause means idolatry, whilst in the second it referred to forbidden fat.

## Sanhedrin 63a

**'R. Ammi said: If one sacrificed burnt incense and made libations [to an idol] in one state of unawareness, Only one penalty is incurred.' Abaye said: What is R. Ammi's reason?<sup>1</sup> — Scripture saith, [Thou shalt not bow down thyself to them] nor serve them ...<sup>2</sup> thereby the Writ declares that all idolatrous deeds constitute one act of service. But did Abaye say thus? Did he not say: 'Why is prostration forbidden three times?<sup>3</sup> Once to prohibit it when it is the normal mode of service, the second even if abnormal; and the third teaches separation'? — He explains R. Ammi's ruling, but disagrees with it himself.**

To revert to the main text: Abaye said: Why is prostration forbidden three times? Once to prohibit it when it is the normal mode of service, the second even if abnormal, and the third teaches separation' — But is not the normal mode of worship derived from [Take heed ... that thou enquire not after their gods saying,] How did these nations serve their gods? [Even so will I do likewise]?<sup>4</sup> — But [amend thus:] one teaches that prostration is forbidden when it is the appropriate but unusual mode of worshipping that deity;<sup>5</sup> the second forbids it even if it is not the normal mode of service;<sup>6</sup> and the third teaches separation.

**[WHETHER HE] ACCEPTS IT AS A GOD OR SAYS TO IT, THOU ART MY GOD.**

**R. Nahman said in the name of Rabbah b. Abbuha in Rab's name: As soon as he said, 'Thou art my God', he is liable, [Liable] to what? If to execution, this is stated [already] in the Mishnah? — Hence it means liable to a sacrifice. Now, is this so even in the view of**



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the Rabbis? But it has been taught: He [the idolater] is liable [to a sacrifice] only for that which entails an action, e.g., sacrificing, burning incense, making libations, and prostration. Whereon Resh Lakish observed: Which Tanna maintains that a sacrifice is due for prostration? R. Akiba, who rules that a deed entailing [much] action is unnecessary.<sup>7</sup> Does this not prove that the Rabbis maintain that [much] action is necessary? [Consequently, in their opinion, the declaration 'Thou art my god' made unwittingly, does not involve a sacrifice]? — Rab's dictum is only in accordance with R. Akiba. But if so, is it not obvious; for it is just like blasphemy?<sup>8</sup> — I might think that only for blasphemy does R. Akiba rule that a sacrifice is incurred, since extinction is prescribed for it [if committed deliberately]; but not in this case, since extinction is not prescribed. Therefore Rab teaches that a sacrifice is due, because they [sc. the sacrificing to an idol and the declaring 'thou art my god'] are equalized for it is written, [They have made them a molten calf,] and have worshipped it, and have sacrificed thereunto, and have said, these be thy gods, O Israel [which have brought thee up out of the land of Egypt].<sup>9</sup>

R. Johanan said: But for the *waw* in 'who have brought thee up', the wicked of Israel would have deserved extermination.<sup>10</sup> This is disputed by Tannaim: [It has been taught]: 'Others'<sup>11</sup> say, but for the *wow* in 'who have brought thee up', the wicked of Israel would have deserved extermination. Thereupon R. Simeon b. Yohai remarked; But whoever associates the Heavenly Name with anything else [as co-deities] is utterly destroyed [lit., 'eradicated from the world'], for it is written, He that sacrificeth unto any god, save unto the Lord alone, he shall be utterly destroyed.<sup>12</sup> What then is intimated by [the plural in] 'who have brought thee up'? — That they lusted after many deities.<sup>13</sup>

**BUT HE WHO EMBRACES, KISSES IT, SWEEPS OR SPRINKLES THE GROUND BEFORE IT, etc.**<sup>14</sup>

When R. Dimi came,<sup>15</sup> he said in R. Eleazar's name: For all these offences he is flagellated, except for vowing or swearing by its name. Now, why for 'Vowing or Swearing by its name'; because it is a negative precept the transgression of which involves no action? But those others too are only forbidden by a negative precept stated in general terms,<sup>16</sup> and for such one is not flagellated? For it has been taught: Whence do we know that the eating of the flesh of an animal before it has expired<sup>17</sup> is forbidden by a negative precept? From the verse, Ye shall not eat anything with the blood.<sup>18</sup> Another meaning of Ye shall not eat anything with the blood is, Ye shall not eat the flesh [of sacrifices] whilst the blood is in the sprinkling bowl.<sup>19</sup> R. Dosa said: Whence do we know that the meal of comfort is not eaten for criminals executed by *Beth din*?<sup>20</sup> From the verse Ye shall not eat [i.e., observe the funeral meal] for one whose blood has been shed. R. Akiba said: Whence do we know that a Sanhedrin which executed a person must not eat anything on the day of the execution? From the verse, Ye shall not eat anything with the [shedding of] blood. R. Jonathan said: Whence do we derive a formal prohibition against a wayward and rebellious son? From the verse, Ye shall not do anything to cause bloodshed.<sup>21</sup> Now, R. Abin b. Hiyya, or, as others state, R. Abin b. Kahana said: For none of these offences is the offender flagellated, because it is a negative precept in general terms.<sup>22</sup> But when Rabin came, he said in R. Eleazar's name: For none of these [embracing, kissing, etc.] is the offender flagellated, excepting for vowing and swearing by its name. Now, why are these not punished by flagellation: because it is a negative command in general terms? But these too [should be exempt, since they] are forbidden by a negative precept involving no action? That is in accordance with R. Judah, who said: One is flagellated for a negative precept involving no action. For it has been taught: And ye shall let nothing of it remain until the morning; and that which remaineth of it until the morning ye shall burn with

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fire.<sup>23</sup> Now, the Scripture follows up a negative precept with a positive one,

1. Why does he not agree that prostration is singled out to teach 'separation'?
2. Ex. XX, 5.
3. V. p. 420. n. 4.
4. Deut. XII, 30.
5. If the deity is worshipped by an act of honor, but not prostration. Since the latter too is an act of honor, it is an appropriate mode of service, yet not the usual mode.
6. And also an inappropriate form, e.g. prostration before Baal Peor. Not only is it unusual, but inappropriate too, since the normal mode of worship is by an act of contempt.
7. Even if little action is involved, as in, e.g., prostration, a sacrifice must be brought. The same will apply to a formal declaration of belief, in which the action is very slight. This excludes a mere mental affirmation.
8. I.e., since blasphemy consists only of speech, and yet R. Akiba rules that a sacrifice is due, it is obvious that for such a declaration, though also consisting only of speech, a sacrifice is likewise due.
9. Ex. XXXII, 8.
10. The verb [H] lit., 'they have brought thee up', is in the plural, the sign of which is a *waw* (u). By using the plural, they showed that they did not recognize the molten calf as the sole god, but admitted the divinity of the Almighty too. This circumstance in their favor saved them from complete annihilation.
11. [Heb. Aherim represents frequently R. Meir, v. Hor. 13b.]
12. Ex. XXII, 19. [To associate another deity with God is, according to R. Simeon, a graver offence than the total denial of God's existence.] Hence in his view, had they acknowledged other gods in addition to the Lord, they would the sooner have merited extermination.
13. Without associating them with God.
14. The negative precept for embracing, etc. is: Turn ye not unto idols (Lev. XIX, 4); for vowing and swearing by its name: and make no mention of the name of other gods (Ex. XXIII, 13).
15. V. *supra* p. 390, n. 1.
16. I.e., a negative precept which does not explicitly forbid a particular action, but a class, as is the case of Turn ye not unto idols.
17. After it has been ritually slaughtered, but before it is actually dead.
18. Lev. XIX, 26, 'blood' being understood as a synonym of life.
19. I.e., before the sprinkling of the blood.
20. The first meal taken by mourners after the funeral is called the *se'udath habra'ah*, the meal of comfort, lit., 'the meal of refreshment or restoration' (from *habra'ah*, recovery to health). It is prepared by neighbors, and usually consists of bread with eggs or lentils, these being a symbol of death. B.B. 16a.
21. V. *infra* 70a; since a rebellious son is executed for gluttony, as stated there, the verse is translated, Do not eat (gluttonously), that ye may not be executed (as rebellious sons).
22. I.e., the commandment, Ye shall not eat with the blood involves many things; and if so, why is there a flogging attached to these other offences?
23. Ex. XII, 10.

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thereby teaching that one is not flagellated for it. This is R. Judah's view.<sup>1</sup> R. Jacob said: This is not the real reason,<sup>2</sup> but because it is a negative precept involving no action, for which one is not flagellated. From this we infer that in R. Judah's opinion one is flagellated for such transgressions.

**HE WHO VOWS OR SWEARS BY ITS NAME VIOLATES A NEGATIVE PRECEPT.** Whence do we know this? — It has been taught: and make no mention of the name of other gods.<sup>3</sup> This means, one must not say to his neighbor 'Wait for me at the side of that idol'; neither let it be heard out of thy mouth:<sup>4</sup> one should not vow or swear by its name nor cause others [sc. heathens] to swear by the name. Another interpretation: and neither let it be heard out of thy mouth, — this is a formal prohibition against a *mesith* and *maddiah*. But a *mesith* is explicitly forbidden: and all Israel shall hear and fear, and shall do no more any such wickedness as this is among you?<sup>5</sup> — But it is a formal prohibition against a *maddiah*.<sup>6</sup>

'Nor cause others [sc. heathens] to vow or swear by its name.' This supports the dictum of Samuel's father. For the father of Samuel said: One may not enter into a business partnership with a heathen, lest the latter be obliged to take an oath [in connection with a business dispute], and he swear by his idol,

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whilst the Torah hath said, Neither let it be heard out through thy mouth.<sup>7</sup>

When 'Ulla came [to Babylonia] he lodged in Kalnebo.<sup>8</sup> Subsequently Raba asked him, 'Where did you stay the night?' He replied, 'In Kalnebo'. 'But,' said he, 'is it not written, And make no mention of the name of other gods.?' — He answered: Thus did R. Johanan say: The name of every idol written in the Torah may be mentioned. Now, where is this name written? — Bel boweth down, Nebo stoopeth.<sup>9</sup> But if the name is not written, may it then not be mentioned? To this R. Mesharshia objected: [We have learnt:] If one had a protracted issue of matter from his body, lasting as long as three normal issues, which is equivalent to the time of walking from Gadyawan to Shiloh, namely, as long as it takes to perform two ritual immersions, and dry oneself twice, he is a *zab* in all respects.<sup>10</sup> — Rabina answered: Also Gad is written in the Bible viz., That prepare a table for Gad.<sup>11</sup>

R. Nahman said: All scoffing is forbidden, excepting scoffing at idols, which is permitted, as it is written, Bel boweth down, Nebo stoopeth ... they stoop, they bow down together; they could not deliver the burden.<sup>12</sup> And it is also written, They have spoken: The inhabitants of Samaria shall fear because of the calves of Beth Aven: for the people thereof shall mourn over it, and the priests thereof that rejoiced on it for the glory thereof, which is departed from it.<sup>13</sup> Read not Kebedo [its glory], but Kebedo [his weight].<sup>14</sup>

R. Isaac said, What is meant by, And now they sin more and more, and have made them molten images of their silver, and idols in their image?<sup>15</sup> — This teaches that each made a [small] image of his idol, put it in his pocket, and whenever he thought of it withdrew it from his bosom, and embraced and kissed it. What is meant by, Let the men that sacrifice kiss the calves?<sup>16</sup> — R. Isaac, of the school of R. Ammi said: Whenever the idols' priests became envious of any wealthy men, they starved the calves [which were worshipped],

made images of these men, and placed them at the side of the cribs. Then they loosed the calves, who recognizing these men [from the images set before them] ran after them and pawed them. Thereupon the priests said, 'The idol desires thee; come and sacrifice thyself to them.'<sup>17</sup> Raba said, If so, the verse should not be, They sacrifice men and kiss the calves, but, 'The calves kiss them [i.e., paw, and fawn upon them] that they should sacrifice themselves'. But Raba explained it thus: If one sacrificed his son to the idol, the priest said to him: You have offered a most precious gift to it; come and kiss it.

Rab Judah said in rab's name: *And the men of Babylon made Succoth-benoth.*<sup>18</sup> What is this? A fowl.<sup>19</sup> *And the men of Cuth made Nergal.*<sup>20</sup> What is it? — A cock. *And the men of Hamath made Ashima.*<sup>21</sup> What is that? — A bald buck. *And the Avites made Nibhaz and Tartak.*<sup>22</sup> What are these? — A dog and an ass. *And the Sepharvites burnt their children in fire to Adrammelech and Anammelech, the gods of Sepharvaim.*<sup>23</sup> What are these? — The mule and the horse: *Adrammelech* meaning that it [the mule] honors its master<sup>24</sup> [lit., 'king'] with its load;<sup>25</sup> *Anammellech* meaning that the horse responds to its master in battle.<sup>26</sup> The father of Hezekiah King of Judah wished to do likewise to him [i.e., burn him in fire], but that his mother anointed him [with the blood of the] salamander.<sup>27</sup>

Rab Judah said in Rab's name: The Israelites knew that the idols were nonentities, but they engaged in idolatry only that they might openly satisfy their incestuous lusts. R. Mesharshia objected: *As those who remember their children, so they longed for their altars, and their graves by the green trees etc.*<sup>28</sup> which R. Eleazar interpreted. As one who yearns for his son [so they yearned]?<sup>29</sup> — That was after they became addicted thereto.<sup>30</sup> Come and hear: *And I will cast your carcasses upon the carcasses of your idols.*<sup>31</sup> It was related of Elijah the Righteous, that whilst searching for those who were languishing with hunger in Jerusalem, he once found a child faint with hunger lying upon a dung-heap. On questioning him as to the family to which he

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belonged, he replied, 'I belong to such and such a family.' He asked: 'Are any of that family left,' and he answered, 'None, excepting myself.' Thereupon he asked: 'If I teach thee something by which thou wilt live, wilt thou learn?' He replied, 'Yes.' 'Then,' said he, 'recite every day, Hear O Israel, the Lord is our God, the Lord is one.' But the child retorted,

1. This is a general principle, for when a positive precept follows a negative one, it is implied that if the latter is violated, the remedy lies in the former.
2. Lit., 'this is not of the same denomination'.
3. Ex. XXIII, 13.
4. Ibid.
5. Deut. XIII, 12. This refers to the punishment of a mesith.
6. On mesith and maddiah v. *infra* 67a.
7. [I.e., at thy word, instance, instrumentality, [H] translated out of thy mouth is taken in an instrumental sense. Cf. Gen. XLI, 40, [H]
8. [Kar-nebo, 'the city of Nebo,' prob. Borsippa, Funk, Monumenta, I, p. 299.]
9. Isa. XLVI, 1. The conjunction of the first letter of boweth down ([H]), the second of Bel, and the word Neho, gives the name Kalnebo, the letters r and l interchanging.
10. One is not considered a *zab*, with all the laws pertaining thereto, unless he has three separate issues of matter. The minimum overall period for the three combined is the time taken for the issues themselves, (if very short) plus the time necessary to perform two ritual immersions and dry oneself twice, i.e., between the first and second issue, and between the second and third. This is equivalent to the walking time from Gadyasvan to Shiloh. This Mishnah is quoted from Zabin i. 5. where, however, the reading is Gad Yawan (two separate words, lit., 'Greek Fortune') to Siloah. Gad Yawan is probably the name of a pool connected with the Siloah, perhaps Fount of the Virgin. Gad was the name of the god of fortune, but as such it is only mentioned in Isa. LXV, 2, though occurring in the compounds Ba'al Gad and Migdal Gad Dillman (on Isaiah a.l.) suggests that Gad and Meni may have been mere Hebrew appellatives of Babylonian idols otherwise named there. We see from the present passage that Gad was the name of a Deity in Talmudic times. During the Second Temple, Palestine became thickly populated with Greeks (Halevy, Dorah iii, P. 9), and many places bore Greek names; Gad Yawan is

an example of such, R. Mesharshia's objection is based on the use of the word Gad, though the name of a deity, by the Tanna of this Mishnah. The Pool of Siloam (the same as Siloah and Shiloah of the Bible, Isa. VIII, 6, Neh. III, 15) is located at the south eastern extremity of the European valley, at the southern part of Ophel. Its source is the Fountain of the Virgin, with which it is connected by a subterranean channel or conduit. Probably to this conduit Isaiah alluded when he spoke of the waters of Shiloah that go softly. Though the direct distance is only 1,100 feet, the passage from one to the other, owing to its winding and zigzagging nature, measures 1750 feet.

11. Isa. LXV, 2.
12. Isa. XLVI, 1.
13. Hos. X, 5. The same passage in Meg. 25b omits 'They have spoken', which belongs to the previous verse.
14. [H] instead of [H] i.e., its weight is reduced (Jast.). Rashi explains that the reference is to its excrements.
15. E.V., according to their own understanding: Hos. XII, 2.
16. Ibid.
17. Thus the verse is translated: They sacrifice (so. themselves) in their homage to the calves.
18. II Kings XVII, 30. This and the following verses refer to the idols set up by the heathens with whom Sannecherib repopulated Samaria after its inhabitants were deported.
19. They worshipped the image of a fowl, called in their language Succoth-benoth.
20. Ibid.
21. Ibid.
22. Ibid. 3. (Our printed Talmud texts read Nibhan. [H] = 'to bark' (instead of Nibhaz), hence taken to be a dog.)
23. Ibid.
24. Adar, Heb. hadar [H] = 'to honor', and melech (melek) = king, master.
25. (I.e., the mule honors its master by carrying his load.)
26. 'Ana, Heb. [H] = 'to respond.'
27. A reptile believed to be engendered in fire. **One who smeared himself with its blood was thought to be fire-proof.** Hag. 27a.
28. Jer. XVII, 2.
29. This shows that they really believed in idols.
30. I.e., at first, it was only a pretext to satisfy their lust. But having engaged in idolatry, they were ensnared by its allurements and really believed in it.
31. Lev. XXVI, 30.



# SANHEDRIN - 46a-66b

## Sanhedrin 64a

'Be silent, for one must not make mention of the name of the Lord.'<sup>1</sup> [He said this] because his father and mother had not taught him [to serve the Lord], and straightway he brought forth an idol from his bosom, embracing and kissing it, until his stomach burst, his idol fell to the earth, and he upon it, thus fulfilling the verse, And I shall cast your carcasses upon the carcasses of your idols.<sup>2</sup> — That too was after they became addicted thereto.

Come and hear: And they cried with a loud voice unto the Lord their God.<sup>3</sup> Now what did they say? — Rab Judah, or as others maintain R. Jonathan said: [They cried this:] 'Woe, woe, it is that [sc. idolatry] which destroyed the Sanctuary, burnt the Temple, slew the righteous, and exiled Israel from their land; and still it sports amongst us! Hast Thou not set it before us that we might be rewarded [for withstanding its allurements]? But we desire neither temptation nor reward!'<sup>4</sup> — That too was after they were seduced by it. [Continuing Rab Judah's statement:] They fasted for three days, entreating for mercy; thereafter their sentence fell from Heaven, the word emeth [truth] written upon it. (R. Hanina said: This proves that the seal of the Holy One, blessed be He, is emeth.) The shape of a fiery lion's whelp issued from the Holy of Holies, and the Prophet said to Israel, That is the Tempter of Idolatry. Whilst they held it fast, a hair [of its body] fell out, and his roar of pain was heard for 400 parasangs.<sup>5</sup> [In perplexity] they cried: 'What shall we do? Maybe Heaven will pity him !' The prophet answered: Cast him into a lead cauldron, and cover it with lead to absorb his voice, as it is written, And he said, This is wickedness; and he cast it into the midst of the ephah: and he cast the weight of lead upon the mouth thereof.<sup>6</sup> Then they said, 'Since the time is propitious, let us pray that the Tempter of Sin [may likewise be delivered into our hands].' So they prayed and it was delivered into their hands. They imprisoned it for three days; after that they sought a new laid egg for an invalid in the whole of

Palestine and could not find one.<sup>7</sup> Then they said, 'What shall we do? Shall we pray that his power be but partially destroyed?'<sup>8</sup> Heaven will not grant it.' So they blinded it with rouge. This was so far effective that one does not lust for his forbidden relations.

Rab Judah said in Rab's name: A gentile woman once fell sick. She vowed, 'If I recover, I will go and serve every idol in the world.' She recovered, and proceeded to serve all idols. On reaching Peor, she asked its priests, 'How is this worshipped?' They replied, 'People eat beets, drink strong drink, and then uncover themselves before it.' She replied, 'I would rather fall sick again than serve an idol in such a manner.' But ye, O House of Israel,<sup>9</sup> were not so [as it is written, *Slay ye everyone his men*] that were joined unto Baal Peor:<sup>10</sup> ye were attached to it like an air-tight lid.<sup>11</sup> Whereas, *Whilst ye that did cleave unto the Lord your God,*<sup>12</sup> implies merely like two dates sticking to each other.<sup>13</sup> In a Baraitha it has been taught: that were joined unto Baal Peor: [loosely] like a bracelet on the hands of a woman;<sup>14</sup> whereas *Whilst ye that did cleave unto the Lord your God* indicates that they were firmly attached.<sup>15</sup>

Our Rabbis taught: Sabta, a townsman of Avlas,<sup>16</sup> once hired an ass to a gentile woman. When she came to Peor, she said to him, 'Wait till I enter and come out again.' On her issuing, he said to her, 'Now do you wait for me too until I go in and come out again.' 'But,' said she, 'are you not a Jew?' He replied, 'What does it concern thee?' He then entered, uncovered himself before it, and wiped himself on the idol's nose, whilst the acolytes praised him, saying, 'No man has ever served this idol thus.'

He that uncovers himself before Baal Peor thereby serves it, even if his intention was to degrade it. He who casts a stone at Mercuris thereby serves it, even if his intention was to bruise it.

R. Manasseh was going to Be Toratha.<sup>17</sup> On the way he was told, 'An idol stands here.' He

# SANHEDRIN - 46a-66b

took up a stone and threw it at the idol's statue. Thereupon they said to him: 'It is Mercuris'. He said to them, 'But we have learned, HE WHO CASTS A STONE FOR MERCULIS<sup>18</sup> THEREBY SERVES IT.' So he went and inquired at the *Beth Hamidrash* [whether he had done wrong, since his action was a gesture of contempt]. They informed him, We have learned, HE WHO CASTS A STONE AT MERCULIS<sup>19</sup> [thereby serves it] — that is to say even if it is merely to bruise it. He said to them, 'Then I will go and remove it.' But they replied, 'Whether one casts a stone or removes it, he incurs guilt, because every stone thus removed leaves room for another.'

**MISHNAH.** HE WHO GIVES OF HIS SEED TO MOLECH INCURS NO PUNISHMENT UNLESS HE DELIVERS IT TO MOLECH AND CAUSES IT TO PASS THROUGH THE FIRE. IF HE GAVE IT TO MOLECH BUT DID NOT CAUSE IT TO PASS THROUGH THE FIRE, OR THE REVERSE, HE INCURS NO PENALTY, UNLESS HE DOES BOTH.

**GEMARA.** The Mishnah<sup>20</sup> teaches idolatry and giving to Molech.<sup>21</sup> R. Abin said: Our Mishnah is in accordance with the view that Molech worship is not idolatry. For it has been taught, [if one causes his seed to pass through the fire,] whether to Molech or to any other idol he is liable [to death]. R. Eleazar son of R. Simeon said: If to Molech, he is liable; if to another idol, he is not.

Abaye said: R. Eleazar son of R. Simeon and R. Hanina b. Antigonus said the one and same thing. R. Eleazar son of R. Simeon, that which has just been stated. R. Hanina b. Antigonus — as it has been taught: R. Hanina b. Antigonus said: Why did the Torah employ the word Molech? To teach that the same law applies to whatever they proclaimed as their king, even a pebble or a splinter.<sup>22</sup> Rabina<sup>23</sup> said: The difference between them is in respect of a temporary Molech.<sup>24</sup>

1. Amos VI, 10.
2. Now this too shows that the child had really been taught to believe in it.

3. Nehem. IX, 4. This was on the fast-day held by the newly established community in Palestine.
4. This also proves that it had a strong hold upon them.
5. A *parasang* is 8000 cubits.
6. Zech. V. 8.
7. Through the imprisonment of the Tempter sexual lust was dormant throughout creation.
8. Lit.. 'half and half'. That it may arouse only legitimate sexual desire.
9. This is Rab's comment.
10. Num. XXV, 5.
11. This connects the Heb. [H] *hanizmadim*, who cleaved, with *zamid* [H], an exactly fitting lid.
12. Deut. IV, 4.
13. [H], *dabak*, used in this verse, does not imply so strong an attachment as *zamad*; thus they clung more fervently to Peor than to the Lord.
14. Deriving *hanizmadim* from *zamid*, a bracelet.
15. This reverses Rab's interpretation.
16. In Cilicia, mentioned as one of the northern border places of the Land of Israel; *Targum* Jerus. Num. XXIV, 8; *Targum* Jonathan b. Uzziel a. I. (Jast.).
17. A town in Babylonia, on the road to Pumbaditha, 'A.Z. 26a. It may perhaps be identified with Bithra, on the south of the royal canal, on the Seleucian road (A. Neubauer, *Geographie du Talmud*, p. 363).
18. [H] i.e., as act of worship.
19. [He was told that the reading in the Mishnah is [H] AT MERCULIS, implying even as a gesture of contempt.]
20. On 53a.
21. As two separate offences, proving that giving one's seed to Molech is not idolatry. The difference is, that if one sacrificed to Molech, or caused his son to pass through the fire to some other deity, he is not punished.
22. Molech is connected with the idea of kingship. This shows that he too regards any fetish as a Molech.
23. In his view they did not say the one and the same thing.
24. I.e., anything which was only temporarily worshipped as Molech, such as a pebble which would obviously not be a permanent idol.] According to R. Hanina b. Antigonus, he is executed even then. But R. Eleazar son of R. Simeon holds that the law applies only to a permanent idol worshipped as Molech.

# SANHEDRIN - 46a-66b

## Sanhedrin 64b

Jannai said: Punishment is not incurred unless one delivers his seed to the acolytes of Molech,<sup>1</sup> for it is said, *And thou shalt not give of thy seed to pass through the fire to Molech.*<sup>2</sup> It has been taught likewise: I might think, that if one caused his seed to pass through the fire to Molech, without first delivering it to the priests, he is liable: therefore the Writ teaches, *Thou shalt not give.* If he gave it to the priests, but did not cause it to pass through the fire, I might think that he is liable: therefore the Writ states, *to pass through.* If one delivered it [to the priests of Molech], but caused it to pass through to some other deity, I might think that he is punished: therefore the Writ teaches, *to Molech.* Now, if he delivered it to the priests and caused it to pass to Molech, but not through the fire, I might think that he is liable: but, as here is written, *to pass through;* and elsewhere it is stated, *There shall not be found among you any one that maketh his son or his daughter to pass through the fire:*<sup>3</sup> just as there, the reference is to fire, so here too; and just as here the reference is to Molech, so there too.

R. Aha the son of Raba said: If one caused all his seed to pass through [the fire] to Molech, he is exempt from punishment, because it is written, *of thy seed* implying, but not all thy seed.<sup>4</sup>

R. Ashi propounded: What if one caused his blind or sleeping son to pass through,<sup>5</sup> or if he caused his grandson by his son or daughter to pass through? — One at least of these you may solve. For it has been taught: *[Any men ... that giveth any of his seed unto Molech; he shall be put to death ... And I will set my face against that man, and will cut him off from among his people;] because he hath given of his seed unto Molech.*<sup>6</sup> Why is this stated?<sup>7</sup> — Because it is said, *there shall not be found among you any one that maketh his son or his daughter to pass through the fire.*<sup>8</sup> From this I know it only of his son or daughter. Whence do I know that it applies to

his son's son or daughter's son too? From the verse, *[And if the people of the land do any ways hide their eyes from the man] when he giveth of his seed unto Molech [and kill him not: Then I will ... cut him off.]*<sup>9</sup>

Now the Tanna commences with the verse, *'because he hath given of his seed'*, but concludes with *'when he giveth of his seed'*? — This is to intimate another deduction.<sup>10</sup> Thus: *[because he hath given] of his seed:* From this I know only that the law applies to legitimate seed [that being the normal meaning of the word]; whence do I know that it also applies to illegitimate seed?<sup>11</sup> — From the verse, *when he giveth of his seed.*<sup>12</sup>

Rab Judah said: He is only liable to punishment if he causes his seed to pass through in the normal way. How is that? — Abaye said: There was a loose pile of bricks in the middle, and fire on either side of it.<sup>13</sup> Raba said: It was like the children's leaping about on Purim.<sup>14</sup> It has been taught in support of Raba. Punishment is incurred only for causing one's seed to pass in the normal fashion; if he caused him to pass through on foot, he is exempt.<sup>15</sup> He is liable only for his own issue; e.g., for his son and daughter, he is punished; but for his father or mother, brother or sister, he is not. If he passed through himself, he is free from punishment.<sup>16</sup> R. Eleazar son of R. Simeon ruled that he is liable. Further, whether to Molech or to any other idol, he is liable. R. Eleazar son of R. Simeon said: If to Molech, he is liable; if to another idol, he is not.

Ulla said: What is R. Eleazar son of R. Simeon's reason? — Scripture saith, *There shall not be found among thee ...*<sup>17</sup> *'among thee'* means in thyself.<sup>18</sup> And the Rabbis? Do they not interpret *'among thee'* thus? Surely we have learnt: If one must search for a lost article of his own and of his father's, priority is given to his own. And we observed thereon: Why so? — To which Rab Judah replied: Scripture saith, *Save that there shall be no poor among thee,*<sup>19</sup> teaching that one's own loss has priority over that of any other

# SANHEDRIN - 46a-66b

man?<sup>20</sup> There the deduction follows from 'save that'.<sup>21</sup>

R. Jose, son of R. Hanina said: Why is extinction thrice threatened for idolatry?<sup>22</sup> — One teaches extinction for the normal worship of idols; one for abnormal; and one for the service of Molech.<sup>23</sup> But on the view that Molech worship is included in general idolatry, why is extinction mentioned in its case? — To apply to one who causes his son to pass through to an idol [not Molech], where such is not the normal mode of worship. Now, on the view that a *megaddef*<sup>24</sup> is a worshipper of idols,<sup>25</sup> why is extinction stated for it?<sup>26</sup> — Even as it has been taught:<sup>26</sup> *That soul shall surely be cut off from among his people;*<sup>27</sup> he shall be cut off in this world and in the next: this is R. Akiba's view.<sup>28</sup> R. Ishmael said: But the verse has previously stated 'that soul shall be cut off':<sup>29</sup> are there then three worlds?<sup>30</sup> But [interpret this:] 'and [that soul] shall be cut off' — in this world: 'he is to be cut off' — [of the following verse, and denoted by the infinitive]<sup>31</sup> in the next; whilst as for the repetition [the finite form of the verb],<sup>32</sup> that is because the Torah employs human phraseology.<sup>33</sup>

1. He explains this to be the meaning of the Mishnah UNLESS HE GIVES IT TO MOLECH.
2. Lev. XVIII, 21. This proves that the offence consists of two parts; (i) formal delivery to the priests, and (ii) causing the seed to pass through the fire.
3. Deut. XVIII, 10.
4. Probably because this would not be accounted a normal mode of Molech worship: cp. pp. 438, 440.
5. Is 'thou shalt not cause to pass' applicable only to a son who can naturally pass through himself, but not to a blind or sleeping son, who must be led or carried, or does it apply to all?
6. Lev. XX, 2f.
7. Since the passage commences by explicitly referring to this offence, why is it repeated?
8. Deut. XVIII, 10.
9. Lev. XX, 4. Hence the law applies also to grandsons.
10. I.e., from the first verse, because, etc. we learn that the law applies to one's grandsons too;

*when he giveth* is stated in order that another law may be deduced.

11. Not in the modern sense, but seed from a woman forbidden to him.
12. This is superfluous, since it has already been stated twice in that passage that the reference is to this effect. Hence it indicates the application of the law to illegitimate seed.
13. The victim walked along that pile to Molech, but was not burnt. The statement that Hezekiah was smeared with the blood of the salamander to render him fireproof (63b), showing that the victim was actually burnt, does not refer to Molech, but to the divinities of Sepharvaim (Rashi).
14. Probably referring to a game played on Purim when children jump over a fire lit in a pit. According to this, a pit was dug and a fire lit therein, and the victim leaped over it (So Rashi). Jast. translates: 'like the stirrup (a ring suspended from a frame) thrust over a bonfire on Purim;' cp. Aruch.
15. This proves that the victim did not walk, but leaped to it.
16. This too proves that the victim was not burnt in passing through the fire to Molech.
17. Deut. XVIII, 10.
18. Hence his view that one is liable if he passes through himself.
19. Deut. XV, 4.
20. The questioner understood this to be deduced from 'among thee' — in thyself. Since this is not taught in the name of any particular Tanna, it should agree with the Rabbis too.
21. Heb. [H], implying an admonition to avoid any action which may lead to poverty. Naturally, this is not to be interpreted as permitting dishonesty, but merely insists that poverty must not be courted.
22. Twice in Lev. XX, 2-5: *Whosoever be he ... that giveth of his seeds to Molech ... I will cut him off from among his people ... And if the people of the land ... kill him not: Then I will set my face against that man ... and will cut him off. Once in Num. XV, 30f. But the soul that doeth aught presumptuously ... the same reproacheth the Lord; and that soul shall be cut from among his people. Because he hath despised the word of the Lord. This refers to idolatry.*
23. Which is not included in general idolatry, as stated above.
24. In Num. XV, 30, the Heb. for 'he reproacheth' is *megaddef*.
25. The meaning of *megaddef* is disputed in Ker. 7b. By a 'worshipper of idols' is meant, e.g., one who sings hymns in a heathen Temple.
26. Since, being a normal part of idolatry, it is understood.



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27. Num. XV, 31. Continuing the verses quoted in note 3. In the Heb, as usual, this emphasis is denoted by the repetition of the verb, [H]
28. He interprets the doubling of the verb as referring to two worlds.
29. Ibid. 30.
30. Rashi explains that this question is not put to R. Akiba, because he interprets *megaddef* in that previous verse as referring to blasphemy, not idolatry. But this question is rhetorically stated by R. Ishmael on his own assumption that *megaddef* means an idol worshipper.
31. [H]
32. [H]
33. In ordinary human speech, such repetition is quite common.

## Sanhedrin 65a

**MISHNAH.** A BA'AL OB<sup>1</sup> IS THE PITHOM<sup>2</sup> WHO SPEAKS FROM HIS ARMPIT. THE YIDDE'ONI ['A WIZARD'] IS ONE WHO SPEAKS FROM HIS MOUTH.<sup>3</sup> THESE TWO ARE STONED; WHILST HE WHO ENQUIRES OF THEM TRANSGRESSES A FORMAL PROHIBITION.<sup>4</sup>

**GEMARA.** Why are both a Ba'al ob and Yidde'oni mentioned here [as being executed], whilst in the list of those who are punished by extinction only Ba'al ob is included, but Yidde'oni is omitted?<sup>5</sup> — R. Johanan said: Because both are stated in one negative precept.<sup>6</sup> Resh Lakish said: Yidde'oni is omitted [in Kerithoth], because it involves no action.<sup>7</sup> Now, according to R. Johanan, why is a Ba'al ob mentioned [rather than a Yidde'oni]? — Because it is written first in the Scripture. Now why does Resh Lakish reject R. Johanan's answer? — R. Papa said: They are stated separately in the verse decreeing death.<sup>8</sup> But R. Johanan maintains: Offences which are distinct in their injunctions [there being a different one for each], are held to be separate [in their atonement]; but if only in the decree of death, they are not regarded as separate.

Now, why does R. Johanan reject Resh Lakish's answer? — He can tell you: The Mishnah of Kerithoth is taught in accordance

with R. Akiba's views, that action is unnecessary [for a sin offering to be incurred]. But Resh Lakish maintains: Granted that R. Akiba does not require a great action, but he requires at least a small one. But what action is there in blasphemy [which is included in the enumeration]? — The movement of the lips. But what action is done by a Ba'al ob? — The knocking of his arms.<sup>9</sup> Now, is this so even in the view of the Rabbis? But it has been taught: [The idolater] is liable [to a sacrifice] only for that which entails an action, e.g., sacrificing, burning incense, making libations and prostration. Whereon Resh Lakish observed: Which Tanna maintains that a sacrifice is due for prostration? R. Akiba, who rules that a deed entailing [much] action is unnecessary. But R. Johanan said: It even agrees with the Rabbis, for in bending his body, he performs an action. Now, since Resh Lakish maintains that in the view of the Rabbis bending one's body is not regarded as an action, surely the knocking of the arms is not one? — Well then Resh Lakish's statement [that the Ba'al ob performs an action] is made on the view only of R. Akiba, but not of the Rabbis. If so, should not the Mishnah there state, [But the Rabbis maintain that] the blasphemer and Ba'al ob are excluded?<sup>10</sup> — But 'Ulla answered: The Mishnah there refers to a Ba'al ob who burnt incense to a demon.<sup>11</sup> Raba asked him: But is not burning incense to a demon idolatry?<sup>12</sup> — But Raba said: It [i.e., the Ba'al ob in Kerithoth] refers to one who burns incense as a charm.<sup>13</sup> Abaye said to him: But burning incense as a charm is to act as a charmer, which is merely prohibited by a negative precept? — That is so, but the Torah decreed that such a charmer is stoned.<sup>14</sup>

Our Rabbis taught: [There shall not be found among you any one that maketh his son or daughter pass through to the fire ...] Or a charmer.<sup>15</sup> This applies to one who charms large objects, and to one who charms small ones,<sup>16</sup> even snakes and scorpions. Abaye said: Therefore even to imprison wasps or scorpions [by charms], though the intention is

# SANHEDRIN - 46a-66b

to prevent them from doing harm, is forbidden.

Now, as for R. Johanan, why does he maintain that in the view of the Rabbis the bending of one's body [in prostration] is an action, whilst the movement of the lips is not? — Raba said: Blasphemy is different, since the offence lies in the intention.<sup>17</sup>

1. Lev. XIX, 31. 'He that hath a familiar spirit'.
2. [H] ventriloquist, necromancer.
3. Both refer to making the dead speak thus.
4. Lev. XIX, 31, lit., 'a warning', carrying with it no penalty.
5. Ker. 2a.
6. Lev. XIX, 31. Regard not them that have familiar spirits, and wizards. Now in Ker. 2a, where the Mishnah teaches that thirty six offences are punished by extinction, the Gemara explains that the number — 36 — intimates that if one committed them all in one state of unawareness, he is bound to offer 36 separate sacrifices. Since however, those two are forbidden by one injunction, only one atonement must be made for both. Consequently, the two cannot be taught there.
7. The Mishnah there refers to transgressions, the deliberate committal of which is punished by extinction, whilst if unwitting, a sin offering is due; but this is brought only for an offence involving action.
8. Ibid. XX, 27. A man also that hath a familiar spirit, or (not and) that is a wizard, shall surely be put to death. 'Or', ut is a disjunctive particle. Since they are thus sharply distinguished, one would have to make two separate atonements for the unwitting transgression, if the offence of wizardry incurred a sin offering at all.
9. By flapping his arms about the Ba'al ob made it appear that the dead was speaking from his armpits
10. In Ker. 2a the Rabbis state that a blasphemer is exempted from a sin offering, since his offence involves no action. But according to Resh Lakish, that they regard a Ba'al ob as doing no action too, they should have stated that he also is exempted.
11. I.e., to the spirit of necromancy. That of course is an action even in the view of the Rabbis. This answer is given on the basis of Resh Lakish's statement.
12. And does not come under the heading of Ba'al ob at all. Idolatry is taught there separately.
13. To exorcise the demons (Jast.). Rashi reverses the interpretation: to call up the

demons, that they may assist him in his sorcery. This is not idolatry, for the demons are not thereby worshipped as divinities, but it comes under the heading of *Ba'al 'ob*.

14. Consequently, for unwitting transgression a sin offering is due. But the charmer who is punished by lashes is one who charms animals by bringing them together.
15. Deut. XVIII, 10f.
16. Large objects, viz., cattle, and beasts; small objects, creeping things, insects, etc.
17. For blasphemy is an indictable offence only if it is mentally directed against God. If however, one reviles the Divine Name, whilst mentally employing it to denote some other object, he is not punished. Consequently, since the essence of the offence is mental, the slight action is disregarded.

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R. Zera objected: False witnesses<sup>1</sup> are excluded [from the necessity of a sin offering if they unwittingly offended], since their offence entails no action.<sup>2</sup> But why so; their offence does not depend on intention? — Raba answered: False witnesses are different, because their offence is caused by sound.<sup>3</sup> But does not R. Johanan regard sound as a [concrete] action? Has it not been stated: If one frightened [lit. 'muzzled'] off an animal by his voice, or drove animals by his voice,<sup>4</sup> R. Johanan ruled that he is liable to punishment, because the movement of his lips is an action; Resh Lakish ruled that he is not, because this is not an action?<sup>5</sup> — But Raba answered thus: False witnesses are different, because their offence is caused through vision.<sup>6</sup>

Our Rabbis taught: A *Ba'al ob* is one who speaks from between the joints of his body and his elbow joints. A *yidde'oni* is one who places the bone of a *yidoo*<sup>7</sup> in his mouth and it speaks of itself. An objection is raised: *And thy voice shall be, as of one that hath a familiar spirit, out of the ground*:<sup>8</sup> surely that means that it speaks naturally?<sup>2</sup> — No. It ascends and seats itself between his joints and speaks. Come and hear: *And the woman said*

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unto Saul, I saw a god-like form ascending out of the earth: [And Samuel said to Saul ...]<sup>10</sup> surely that means that it spoke naturally? — No. It settled itself between her joints and spoke.

Our Rabbis taught: *Ba'al ob* denotes both him who conjures up the dead by means of soothsaying<sup>11</sup> and one who consults a skull. What is the difference between them? — The dead conjured up by soothsaying does not ascend naturally [but feet first], nor on the Sabbath; whilst if consulted by its skull it ascends naturally and on the Sabbath too. [You say,] it ascends: but whither — does not the skull lie before him? — But say thus: It answers naturally,<sup>12</sup> and on the Sabbath too. And this question was asked by Turnusrufus<sup>13</sup> of R. Akiba: 'Wherein does this day [the Sabbath] differ from any other?' — He replied: 'Wherein does one man differ from another?'<sup>14</sup> — 'Because my Lord [the Emperor] wishes it.' 'The Sabbath too,' R. Akiba rejoined, 'then, is distinguished because the Lord wishes so.' He replied: 'I ask this: Who tells you that this day is the Sabbath?' — He answered: 'Let the river Sabbath<sup>15</sup> prove it; let the *Ba'al ob* prove it;<sup>16</sup> let thy father's grave, whence no smoke ascends on the Sabbath,<sup>17</sup> prove it.' He said to him: 'You have shamed, disgraced, and reviled him [by this proof].

'He who enquireth of an *ob* — is that not the same as *one that consulteth the dead*?<sup>18</sup> — As has been taught: *Or that consulteth the dead*: this means one who starves himself and spends the night in a cemetery, so that an unclean spirit [of a demon] may rest upon him [to enable him to foretell the future]. And when R. Akiba reached this verse, he wept: If one who starves himself that an unclean spirit may rest upon him has his wish granted, he who fasts that the pure spirit [the Divine Presence] may rest upon him — how much more should his desire be fulfilled! But alas!<sup>19</sup> our sins have driven it away<sup>20</sup> from us, as it is written, *But your iniquities have separated between you and your God.*<sup>21</sup>

Raba said: If the righteous desired it, they could [by living a life of absolute purity] be creators, for it is written, *But your iniquities have distinguished between, etc.*<sup>22</sup> Rabbah created a man,<sup>23</sup> and sent him to R. Zera. R. Zera spoke to him, but received no answer. Thereupon he said unto him: 'Thou art a creature of the magicians. Return to thy dust.'

R. Hanina and R. Oshaia spent every Sabbath eve in studying the 'Book of Creation',<sup>24</sup> by means of which they created a third-grown calf<sup>25</sup> and ate it.

Our Rabbis taught: *Me'onen*<sup>26</sup> — R. Simeon said: That is one who applies the semen of seven male species to his eyes [in order to perform witchcraft]. The Sages say: It is one who holds people's eyes.<sup>27</sup> R. Akiba said: It is one who calculates the times and hours, saying, To-day is propitious for setting forth; tomorrow for making purchases; the wheat ripening on the eve of the seventh year<sup>28</sup> is generally sound; let the beans be pulled up [instead of being harvested in the usual manner] to save them from becoming wormy.

Our Rabbis taught: A *Menahesh*<sup>29</sup> is one who says: So and so's bread has fallen out of his hand; his staff has fallen out of his hand; his son called after him; a raven screamed after him, a deer has crossed his path; a serpent came at his right hand or a fox at his left;<sup>30</sup>

1. Lit., 'witnesses proved zomemim', v. [Glos.](#)
2. Ker. 4a.
3. Causing certain sounds, i.e., words, to be heard at Beth din. Since sound too is not concrete, false testimony is comparable to blasphemy, and the essence of the transgression lies in intention.
4. The first refers to Deut. XXV, 4: Thou shalt not muzzle the ox when he treadeth out the corn; the second to Deut. XXII, 10, Thou shalt not plow with an ox and an ass together.
5. Hence we see that R. Johanan considers voice an action?
6. I.e., they offend by saying that they saw something: and sight does not entail work or action.
7. Rashi, the name of a beast; Maim., the name of a bird.
8. Isa. XXIX, 4.

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9. I.e., the dead actually speaking out of the ground.
10. I Sam. XXVIII, 13.
11. [H] from Syriac [H] 'to divine'. Rashi connects it with [H], 'membrum'.
12. I.e., not from between the necromancer's joints.
13. Tineius Rufus, a Roman Governor of Judea.
14. 'Why is one a noble and one a commoner?' — referring to the high office which Rufus held.
15. A legendary river, said to flow with such a strong current on week days, carrying (for note 10 see p. 447) along stones and rubble with tremendous force, as to be quite un-navigable, but resting on the Sabbath. (Cf. Plinius, Hist. Nat. XXI, 2, and Josephus, Wars, VII, 5, ¶ 1).
16. Who cannot conjure up the dead on that day.
17. The whole week smoke ascended from his grave, as he was being burnt in the fires of purgatory: but even the wicked in Gehenna have rest from their torments on the Sabbath.
18. Deut. XVIII, 11.
19. Lit., 'What am I to do'.
20. Lit., 'have brought (this) upon us'.
21. Isa. LIX, 2.
22. Ibid. Raba understands *mabadilim* in the sense of 'draw a distinction'. But for their iniquities, their power would equal God's, and they could create a world.
23. By means of the *Sefer Yezirah*, Book of Creation. V. next note.
24. The Book of Creation, Heb. *Sefer Yezirah*, is the title of two esoteric books. The older, referred to here, was a thaumaturgical work popular in the Talmudic period. It was also known as *Hilkoth Yezirah* (Laws of Creation), and is so called in the same story quoted on 67b. Rashi there states that the creation was performed by means of mystic combinations of the Divine Name, which does not come under the ban of witchcraft. Its basic idea is that the Creation was accomplished by means of the power inherent in those letters (Cf. Rab's saying: 'Bezalel knew how to combine the letters by which heaven and earth were created'. Ber. 55a. Cf. also Enoch LXI, 3 *et seq.*; Prayer of Manasseh: Ecc. R. III, 11 on the magic power of the letters of the Divine Name), and that this same power could be utilized in further creation. The work was ascribed to Abraham, which fact indicates an old tradition, and the possible

antiquity of the book itself. It has affinities with Babylonian, Egyptian, and Hellenic mysticism and its origin has been placed in the second century B.C.E., when such a combination of influences might be expected. It is noteworthy that Raba's statement above, though not mentioning the *Sefer Yezirah*, insists on freedom from sin as a prerequisite of creation by man, v. J.E., XII, 602.

25. (I.e., a calf that has reached one third of its full growth; others interpret: (i) in its third year; (ii) third born, fat).
26. *Observer of times*, Deut. XVIII, 10.
27. Producing hallucinations in people by opening and shutting their eyes (Rashi).
28. Time was calculated by seven-year cycles. The seventh year was called the year of release, and the land was not to be plowed or sown therein. Lev. XXV, 1-7.
29. *An enchanter*, Deut. XVIII, 10.
30. All these omens were regarded by the superstitious as generally bad.

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do not commence with me;<sup>1</sup> it is morning; it is new moon; it is the conclusion of the Sabbath.<sup>2</sup> Our Rabbis taught: *Ye shall not use enchantments nor observe times.*<sup>3</sup> This refers to those who practice enchantment by means of weasels, birds, and fish.<sup>4</sup>

**MISHNAH.** HE WHO DESECRATES THE SABBATH [IS STONED], PROVIDING THAT IT IS AN OFFENCE PUNISHED BY EXTINCTION IF DELIBERATE, AND BY A SIN-OFFERING IF UNWITTING.

**GEMARA.** This proves that there is a manner of desecrating the Sabbath for the deliberate committal of which there is no extinction, nor is a sin offering to be brought for its unwitting transgression. What is it? — The law of boundaries, according to R. Akiba,<sup>5</sup> and kindling a fire, according to R. Jose.<sup>6</sup>

**MISHNAH.** ONE WHO CURSES HIS FATHER OR HIS MOTHER IS NOT PUNISHED UNLESS HE CURSES THEM BY THE DIVINE NAME. IF HE CURSED THEM BY AN ATTRIBUTE,<sup>7</sup> R. MEIR HELD HIM LIABLE, BUT THE SAGES RULED THAT HE IS EXEMPT.



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**GEMARA.** Who is meant here by the Sages?<sup>8</sup> — R. Menahem, son of R. Jose. For it has been taught: R. Menahem, son of R. Jose said, *When he blasphemeth the name of the Lord, he shall be put to death.*<sup>2</sup> Why is 'the name' mentioned?<sup>10</sup> To teach that he who curses his father or his mother does not incur a penalty unless he employs the Divine Name.<sup>11</sup>

Our Rabbis taught: [For any man<sup>12</sup> that curseth his father or his mother shall surely be put to death: his father and his mother he hath cursed; his blood shall be upon him.<sup>13</sup> Now, the Scripture could have said,] A man [ish]; what is taught by any man [ish ish]? — The inclusion of a daughter, a *tumtum*,<sup>14</sup> and a hermaphrodite [as being subject to this law]. 'That curseth his father and his mother:' From this I know only [that he is punished for cursing] his father and his mother; whence do I know [the same] if he cursed his father without his mother or his mother without his father? — From the passage *his father and his mother he hath cursed: his blood shall be upon him*,<sup>15</sup> implying, a man that cursed his father; a man that cursed his mother. This is R. Josiah's opinion. R. Jonathan said: The [beginning of the] verse alone implies either the two together or each separately unless the verse had explicitly stated 'together'.<sup>16</sup> *He shall surely be put to death* — by stoning. You say: By stoning. But perhaps it means by one of the other deaths decreed in the Torah? — Here it is written, *his blood shall be upon him*; and elsewhere it is written, [A man also or a woman that hath a familiar spirit, or that is a wizard, shall surely be put to death; they shall stone them with stones:] *their blood shall be upon them*.<sup>17</sup> just as there stoning is meant, so here too. From this we learn punishment: whence do we derive the prohibition? — From the verse, *Thou shalt not revile the judges, nor curse the ruler of thy people*.<sup>18</sup> Now, if his father is a judge, he is included in the *Thou shalt not revile the judges*; if a *nasi*,<sup>19</sup> in *nor curse the ruler of thy people*. If neither a judge nor a ruler, whence do we know it? — You may construct a syllogism with these two as premises; the case of a *nasi* is not

analogous to that of a judge, nor of a judge to that of a *nasi*. Now, the case of a judge is not analogous to that of a *nasi*, for you art commanded to obey the ruling of a judge, but not of a *nasi*; whilst the case of a *nasi* is not analogous to that of judge, for you are enjoined not to rebel against the decree of a *nasi*, but not of a judge.<sup>20</sup> Now, what is common to both, is that they are of 'thy people'<sup>21</sup> and you are forbidden to curse them: so I extend the law to thy father, who is of 'thy people', that thou art forbidden to curse him. No; their common characteristic is their greatness, which is the decisive factor. Hence Scripture writes, *Thou shalt not curse the deaf*;<sup>22</sup> thus applying the injunction even to the humblest of thy people. No; in the case of the deaf, his very deafness may be the cause [of the prohibition].<sup>23</sup> Then let the *nasi* and the judge prove otherwise. But in their case their greatness may be the cause: then let the deaf prove the reverse. And thus the argument proceeds in a circle: the particular characteristic of one is lacking in the other, and *vice versa*.<sup>24</sup> What is common to all is that they are of 'thy people', and you are forbidden to curse them: so I include thy father who is of thy people, and you are forbidden to curse him. No! What they have in common is that they are distinguished [from the average person].<sup>25</sup> But if so, Scripture should have written either the judge and the deaf or the *nasi* and the deaf.<sup>26</sup> Why then is the judge mentioned? — Since this is superfluous for itself, apply it to one's father. Now, this agrees with the view that *elohim* is profane; but on the view that it is holy, what canst thou say?<sup>27</sup> For it has been taught: *Elohim* is profane:<sup>28</sup> that is R. Ishmael's opinion. R. Akiba said: It is sacred.<sup>29</sup> And it has been taught thereon: R. Eliezer b. Jacob said: Whence do we derive a formal prohibition against cursing God's name? From the verse, *Thou shalt not revile god*?<sup>30</sup> — On the view that *elohim* is profane, the sacred is derived from the profane,<sup>31</sup> hence, contrariwise, on the view that *elohim* is sacred, thou mayest derive the profane from the sacred.<sup>32</sup> Now, it is quite correct to say that on the view that

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*elohim* is profane, the sacred is derived from it. But on the view that *elohim* is holy, how canst thou derive the profane from it: perhaps the prohibition is only in respect of the sacred [i.e., God], but not of the profane at all? — If so, Scripture should have written, *elohim lo takel* [Thou shalt not revile God],

1. I.e., if a tax-collector comes to him, he asks him to collect first from someone else, as it is a bad omen to be the first to pay taxes.
2. He declines to pay his debts on these occasions, regarding it as a bad omen to start the week or day or month by paying debts. — All these superstitions are forbidden under the term *menahesh*.
3. Lev. XIX, 26.
4. *Var. lec.*: 'and stars'.
5. According to Biblical law, as deduced by the Rabbis, one was not to go more than 12 *mil* (a *mil* = 1,000 cubits) beyond the town boundaries on the Sabbath (the Rabbis reduced this to 2,000 cubits). R. Akiba maintained that if this law was violated the offender was liable neither to extinction nor to a sin offering.
6. V. *supra* 62a.
7. E.g., The Merciful, the Gracious, the Almighty.
8. This anonymous term did not necessarily represent the view of many Sages; it frequently connoted a single scholar.
9. Lev. XXIV, 16.
10. Since the beginning of the same verse explicitly states that the reference is to the Name: *And he that blasphemeth the Name of the Lord shall surely be put to death*.
11. For 'the name' being unnecessary here, is applied to a different law. V. *supra* p. 365, n. 7.
12. Lit. 'a man, a man', [H]
13. Lev. XX, 9.
14. A person whose genitals are hidden or undeveloped, and hence of unknown sex.
15. At the beginning of the sentence that curseth is in immediate proximity to his father; at the end, cursing is mentioned nearest to his mother, showing that each is separate.
16. I.e., the conjunctive *waw* implies both conjunction and separation. Hence, the first half of the sentence is sufficient to show that the law applies to each separately. The second half is employed for a different purpose. V. *infra* 85b.
17. Lev. XX, 27.
18. Ex. XXII, 27.
19. The Patriarch or chief of the great Sanhedrin in Jerusalem and of its successors in Palestinian places. In earlier times, the princes of the tribes; v. Num. VII, 12-89.
20. I.e., each has a measure of authority which the other lacks: the judge to give his verdict in disputes, the *nasi* make decrees. Now, considered separately, it might be argued that one is forbidden to curse either the *nasi* or the judge on account of the particular authority he enjoys. But when they are examined in conjunction, it is seen that the particular authority of each is not the decisive factor, since the other lacks it. Hence they must base something in common as the final factor, and the same law will apply to whomever shares it with them.
21. This is taken to mean that they conform to the laws of Judaism (Yeb. 22b; B.B. 4a).
22. Lev. XIX, 14.
23. I.e., one may not take advantage of his infirmity.
24. At this stage, the judge and the *nasi* are one proposition, the deaf another.
25. The judge and the *nasi* by their greatness; the deaf by his infirmity.
26. Had the Torah forbidden the cursing of the deaf and either a judge or a *nasi*, the other could have been deduced. For their common feature is that they are distinguished from other people; consequently, by analogy, the same law applies to either a judge or a *nasi*.
27. Ex. XXII, 27: *Thou shalt not revile elohim* (translated above 'the judges'); but that itself is the subject of a dispute.
28. I.e., its meaning is 'judge', the root idea of *elohim* being power, authority.
29. I.e., it means literally 'God'.
30. Soferim IV, 5. On this latter view, *elohim* is not superfluous, to be applied to one's father, and the question remains, whence is derived the prohibition of cursing a father?
31. Though *elohim* means judge, nevertheless the same law applies to God, by deriving the latter from the former. Such derivation is warranted, since Scripture expresses 'judge' by a word normally meaning God (Tosaf.).
32. Thus, even if *elohim* means 'God', yet the same applies to a judge, by analogy. Now, since a *nasi* could have been deduced from a judge and the deaf, it is superfluous, and consequently must be applied to one's father. Hence, the general argument is as before, but the *nasi*, and not the judge, is now, regarded as unnecessary.

# SANHEDRIN - 46a-66b

## Sanhedrin 66b

why [write] *lo tekallel*?<sup>1</sup> — That both [God and judge] may be understood therefrom.

**MISHNAH.** HE WHO HAS INTIMATE CONNECTION WITH A BETROTHED MAIDEN IS NOT PUNISHED UNTIL SHE IS A NA' ARAH,<sup>2</sup> A VIRGIN, BETROTHED, AND IN HER FATHER'S HOUSE.<sup>3</sup> IF TWO MEN VIOLATED HER,<sup>4</sup> THE FIRST IS STONED, BUT THE SECOND IS STRANGLER.

**GEMARA.** Our Rabbis taught: *If a na'arah* [damsel] that is a virgin be betrothed unto an husband;<sup>5</sup> *na'arah* excludes a *bogereth*;<sup>6</sup> 'virgin' excludes one who is no longer a virgin; 'betrothed' excludes a *nasu'ah*; [because she hath wrought folly in Israel, to play the whore] in her father's house<sup>7</sup> — this excludes one whom her father has given over to her husband's messengers [to take to her new home].

Rab Judah said in Rab's name: This [our Mishnah] is R. Meir's view, but the Sages maintain that by a *betrothed damsel* even a minor<sup>8</sup> is understood.<sup>9</sup> R. Aha of Difti said to Rabina: Whence do we know that the Mishnah is as R. Meir only, the term *na'arah* excluding a minor too; perhaps it agrees even with the Rabbis, whilst *na'arah* is intended to exclude a *bogereth*, but none else? — He replied: If so, instead of saying: HE IS NOT PUNISHED UNTIL SHE IS A NA' ARAH, A VIRGIN, AND BETROTHED, the Mishnah should have said: He is punished *only* for a *na'arah*, a virgin, and a betrothed.<sup>10</sup> No further argument is possible!

R. Jacob b. Ada asked of Rab: What if one has intimate connection with a betrothed minor, according to R. Meir's view? Does he exclude a minor entirely,<sup>11</sup> or only from stoning?<sup>12</sup> — He replied: It is reasonable to assume that he excludes him only from stoning. But is it not written. [*If a man be found lying with a woman married to a husband,*] *then they shall both of them die*,<sup>13</sup> implying that they must both be equal?<sup>14</sup> Rab

remained silent.<sup>15</sup> Samuel said: Why was Rab silent? He should have answered him: [It is written, *But if a man find a betrothed damsel in the field ...*] *then the man only that lay with her shall die*.<sup>16</sup>

This question is disputed by Tannaim: *Then they shall both of them die*: this teaches that they must both be equal. That is R. Josiah's view. R. Jonathan said: Then the man only that lay with her shall die.<sup>17</sup> And the other [R. Jonathan] — what does he deduce from '*then they shall both die*'? — Raba answered: It excludes the mere whetting of one's lust.<sup>18</sup> But the other?<sup>19</sup> — He regards such excitation as of no consequence.<sup>20</sup> And the other [R. Josiah] — how does he interpret '*alone*'? — Even as it has been taught: If ten men cohabited with her, yet leaving her a virgin,<sup>21</sup> they are all stoned. Rabbi said: The first is stoned, but the others are strangled.<sup>22</sup>

Our Rabbis taught: *And the daughter of any priest, if she profane herself* [tehel]<sup>23</sup> *by playing the whore*.<sup>24</sup> — Rabbi said: It implies the first,<sup>25</sup> and thus it is also written, *Then the man only that lieth with her shall die*. What does this mean? — R. Huna the son of R. Joshua said: Rabbi agrees with R. Ishmael,<sup>26</sup> viz., that only in *arusah*, the daughter of a priest, is singled out for burning; but not a *nesu'ah* [who is strangled, just as an Israelite's daughter]. And this is what he says: If her first coition is adulterous [i.e., if she is an *arusah* at the time] she is burnt; otherwise she is stoned.<sup>27</sup> What is meant by '*and thus, etc.*'? — It is as there; just as there, Scripture refers to her first coition, so here too.<sup>28</sup>

R. Bibi b. Abaye said to him: The Master has not said thus (Who is it?<sup>29</sup> — R. Joseph), but that Rabbi agreed with R. Meir who held that if a priest's daughter married one who was unfit for her [and then committed adultery], she is strangled [instead of burnt],<sup>30</sup> and this is what Rabbi says: If her first profanation is through adultery, she is burnt; otherwise she is stoned.<sup>31</sup> Then what is meant by '*and thus, etc.*'?<sup>32</sup> —

# SANHEDRIN - 46a-66b

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1. [H], *tekallel*, though having the same meaning as [H], *takel*, is a heavier form, being more emphatic, and hence of wider application.
2. V. [Glos.](#)
3. This excludes a maiden who had been given over to the messengers of her husband to be taken to her new home (Rashi).
4. The first unnaturally, so that she was still as virgin.
5. Deut. XXII, 23.
6. V. [Glos.](#)
7. Ibid. 21. This is quoted from a previous section dealing with slander. The subject being the same — a betrothed maiden — it is linked up with the present passage
8. [H] before the age of twelve.
9. V. Keth. 29a.
10. He is not punished until she is (Heb. [H] the imperfect of the verb 'to be') definitely implies that she must reach the state of a *na'arah*.
11. I.e., that the whole law of Deut XXII, 23f. decreeing death for intimate connection with a betrothed maiden, does not apply if she is a minor.
12. I.e., the seducer is not stoned, as he would be for a *na'arah*, but executed in another way.
13. Ibid. 22.
14. Both must be of a responsible age: but if one is not, as in this case, both are exempt.
15. I.e., he could not answer this objection.
16. Ibid. 25. Now, *only* is superfluous, for the next verse distinctly states, *But unto the damsel thou shalt do nothing*. Hence it teaches that sometimes the man alone is punished, even when the betrothed consented, viz., if she was a minor.
17. V. n. 3.
18. On a woman's body, without coming into contact with her sexual organ. This is deduced from 'both': both must enjoy sexual gratification. (Aruch reads [H], i.e., 'the doing of Herod' with reference to B.B. 3b. V. Derenbourg, J. Essai 152, n. 1.)
19. R. Joshiah — why does he reject that interpretation?
20. It is not an offence at all in the sense that it should be necessary to teach that no punishment follows.
21. The connections having been unnatural.
22. That is deduced from '*alone*': though all of them committed adultery with a virgin, '*alone*' shows that only the first is stoned, stoning being ordained in that passage.
23. [H],
24. Lev. XXI, 9.
25. He derives *tehel* from *tehilah*, 'the beginning', and thus renders the verse, *If she begin by playing the whore*.
26. *Supra* 51b.
27. And in each case, her paramour's punishment is the same.
28. I.e., just as a betrothed maiden is excepted from the punishment of a *nesu'ah*, viz., strangulation, being stoned instead, which exception applies to her seducer too, and that only for the first coition (the word 'only' showing that her second paramour is strangled, even if she was still a virgin), so also, in the case of the priest's daughter, the exception is made only for her first coition, viz., if she is an *arusah*, but not if a *nesu'ah*.
29. The Master referred to.
30. V. *supra* 51b.
31. I.e., if she was married to one who was fit for her, so that only though her adultery does she profane herself, the law of Lev. XXI 9, applies viz., that she is burnt. But if she first profaned herself not through adultery, but through marrying a person forbidden to her and then committed adultery, she is strangled.
32. For the explanation given above will not fit in with this interpretation.