

## Talmud - Mas. Sanhedrin 2a

### CHAPTER I

MISHNAH. MONETARY CASES [MUST BE ADJUDICATED] BY THREE JUDGES; CASES OF LARCENY AND MAYHEM,<sup>1</sup> BY THREE; CLAIMS FOR FULL OR HALF DAMAGES,<sup>2</sup> THE REPAYMENT OF THE DOUBLE<sup>3</sup> OR FOUR- OR FIVE-FOLD RESTITUTION [OF STOLEN GOODS],<sup>4</sup> BY THREE, AS MUST CASES OF RAPE<sup>5</sup> SEDUCTION<sup>6</sup> AND LIBEL<sup>7</sup> ; SO SAYS R. MEIR. BUT THE SAGES<sup>8</sup> HOLD THAT A CASE OF LIBEL REQUIRES A COURT OF TWENTY-THREE SINCE IT MAY INVOLVE A CAPITAL CHARGE.<sup>9</sup>

CASES INVOLVING FLOGGING,<sup>10</sup> BY THREE; IN THE NAME OF R. ISHMAEL IT IS SAID, BY TWENTY-THREE.

THE INTERCALATION OF THE MONTH IS EFFECTED BY A COURT OF THREE;<sup>11</sup> THE INTERCALATION OF THE YEAR,<sup>12</sup> BY THREE: SO R. MEIR. BUT R. SIMEON B. GAMALIEL SAYS THE MATTER IS INITIATED BY THREE, DISCUSSED BY FIVE AND DETERMINED BY SEVEN. IF HOWEVER, IT BE DETERMINED ONLY BY THREE, THE INTERCALATION HOLDS GOOD. THE LAYING OF THE ELDERS' HANDS [ON THE HEAD OF A COMMUNAL SACRIFICE]<sup>13</sup> AND THE BREAKING OF THE HEIFER'S NECK<sup>14</sup> REQUIRE THE PRESENCE OF THREE: SO SAYS R. SIMEON. ACCORDING TO R. JUDAH, FIVE. THE PERFORMANCE OF HALIZAH,<sup>15</sup> AND THE DECISION AS TO MI'UN<sup>16</sup> IS MADE BY THREE. THE FOURTH YEAR FRUIT<sup>17</sup> AND THE SECOND TITHE<sup>18</sup> OF UNKNOWN VALUE ARE ASSESSED BY THREE. THE ASSESSMENT OF CONSECRATED OBJECTS FOR REDEMPTION PURPOSES IS MADE BY THREE; VALUATIONS OF MOVABLE PROPERTY<sup>19</sup> BY THREE. ACCORDING TO R. JUDAH ONE OF THEM MUST BE A KOHEN;<sup>20</sup> IN THE CASE OF REAL ESTATE, BY TEN INCLUDING A KOHEN, IN THE CASE OF A PERSON, BY THE SAME NUMBER. CAPITAL CASES ARE ADJUDICATED BY TWENTY-THREE. THE PERSON OR BEAST CHARGED WITH UNNATURAL INTERCOURSE, BY TWENTY-THREE, AS IT IS WRITTEN, THOU SHALT KILL THE WOMAN AND THE BEAST,<sup>21</sup> AND ALSO, AND YE SHALL SLAY THE BEAST.<sup>22</sup>

THE OX TO BE STONED<sup>23</sup> IS TRIED BY TWENTY-THREE, AS IT IS WRITTEN, THE OX SHALL BE STONED AND ITS OWNER SHALL BE PUT TO DEATH<sup>24</sup> — AS THE DEATH OF THE OWNER, SO THAT OF THE OX, CAN BE DECIDED ONLY BY TWENTY-THREE.

THE DEATH SENTENCE ON THE WOLF OR THE LION OR THE BEAR OR THE LEOPARD OR THE HYENA OR THE SERPENT<sup>25</sup> IS TO BE PASSED BY TWENTY-THREE. R. ELIEZER SAYS: WHOEVER IS FIRST TO KILL THEM [WITHOUT TRIAL], ACQUIRES MERIT, R. AKIBA, HOWEVER, HOLDS THAT THEIR DEATH IS TO BE DECIDED BY TWENTY-THREE.

A TRIBE,<sup>26</sup> A FALSE PROPHET<sup>27</sup> AND A HIGH PRIEST CAN ONLY BE TRIED BY A COURT OF SEVENTY-ONE. WAR OF FREE CHOICE<sup>27</sup> CAN BE WAGED ONLY BY THE AUTHORITY OF A COURT OF SEVENTY-ONE. NO ADDITION TO THE CITY OF JERUSALEM OR THE TEMPLE COURT-YARDS CAN BE SANCTIONED SAVE BY A COURT OF SEVENTY-ONE.

SMALL SANHEDRINS FOR THE TRIBES CAN BE INSTITUTED ONLY BY A COURT OF SEVENTY-ONE.

NO CITY CAN BE DECLARED CONDEMNED<sup>28</sup> SAVE BY A DECREE OF A COURT OF

SEVENTY-ONE. A FRONTIER TOWN CANNOT BE CONDEMNED NOR THREE CITIES AT A TIME,<sup>29</sup> BUT ONLY ONE OR TWO.

THE GREAT SANHEDRIN CONSISTED OF SEVENTY-ONE MEMBERS; THE SMALL SANHEDRIN OF TWENTY-THREE. WHENCE DO WE DEDUCE THAT THE GREAT SANHEDRIN IS OF SEVENTY-ONE? — IT IS SAID, GATHER UNTO ME SEVENTY MEN;<sup>30</sup> WITH MOSES AT THEIR HEAD WE HAVE SEVENTY-ONE. R. JUDAH SAID IT CONSISTED ONLY OF SEVENTY. WHENCE DO WE KNOW THAT THE SMALL SANHEDRIN IS OF ONLY TWENTY-THREE? — IT IS SAID, AND THE ‘EDAHAH<sup>31</sup> SHALL JUDGE... AND THE ‘EDAHAH SHALL DELIVER.<sup>32</sup> ONE ‘EDAHAH JUDGES, [I.E. CONDEMN] AND THE OTHER MAY DELIVER [I.E. ACQUIT], HENCE WE HAVE TWENTY. BUT HOW DO WE KNOW THAT A CONGREGATION CONSISTS OF NOT LESS THAN TEN? — IT IS WRITTEN, HOW LONG SHALL I BEAR WITH THIS EVIL ‘EDAHAH?<sup>33</sup> EXCLUDING JOSHUA AND CALEB, WE HAVE TEN. AND WHENCE DO WE DERIVE THE ADDITIONAL THREE? — BY THE IMPLICATIONS OF THE TEXT, THOU SHALT NOT FOLLOW A MAJORITY FOR EVIL,<sup>34</sup> I INFER THAT I MAY FOLLOW THEM FOR GOOD;<sup>35</sup> IF SO, WHY IS IT SAID, TO INCLINE AFTER THE MAJORITY<sup>36</sup> ? TO TEACH THAT THE MAJORITY TO ‘INCLINE AFTER’ FOR GOOD [I.E. FOR A FAVOURABLE DECISION] IS NOT THE ONE TO ‘INCLINE AFTER’ FOR EVIL [I.E. FOR AN ADVERSE DECISION] SINCE FOR GOOD, A MAJORITY OF ONE SUFFICES; WHEREAS FOR EVIL, A MAJORITY OF TWO IS REQUIRED. [

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(1) An assault on a person involving bodily injury, Lev. XXIV, 19.

(2) Done by a goring ox, Ex. XXI, 35.

(3) Ex. XXII, 3.

(4) Ex. XXI, 37.

(5) Deut. XXII, 28-29.

(6) Ex. XXII, 15-16.

(7) Deut. XXII, 14ff.

(8) Representing the opinion of teachers in general.

(9) For if the woman is proved guilty she is stoned.

(10) Deut. XXV, 2-3.

(11) V. p. 42.

(12) Making it 13 instead of 12 months.

(13) Lev. IV, 15. According to Maimonides, ‘The Ordination of Elders’.

(14) Deut. XXI, 1-9.

(15) Deut. XXV, 5-10. V. p. 91, lit., the ‘drawing off’ of the shoe.

(16) The annulment of a woman's marriage following her refusal to agree to the union contracted by her as a fatherless girl during her minority.

(17) V. Lev. XIX, 23-25. It could be exchanged into money and its equivalent consumed in Jerusalem.

(18) The tithe taken by the landowner to Jerusalem there to be consumed, as distinct from the ‘first tithe’ assigned to the Levites, according to Rabbinic interpretation of Deut. XIV, 22-26.

(19) The value of which had been vowed to the Sanctuary.

(20) Priest, v. Glos.

(21) Lev. XX, 16.

(22) Lev. XX, 15. The procedure at the trial of the beast and the person is thus made alike.

(23) If he gored a person. Ex. XXI, 28.

(24) Ex. XXI, 29.

(25) Which has killed a human being.

(26) That has gone astray after idolworship, v. p. 76.

(27) Deut. XVIII, 20. (12) I.e., all wars apart from the conquest of the seven nations inhabiting Canaan.

(28) Deut. XIII, 13.

(29) V. p. 82.

(30) Num. XI, 16.

(31) כִּתְּוֹ Congregation.

(32) Ibid. XXXV, 24.

(33) Ibid. XIV, 27. Referring to the twelve spies. Ibid. XXXV, 24.

(34) I.e., for condemnation. Ex. XXIII, 2.

(35) For acquittal.

(36) Ibid.

## Talmud - Mas. Sanhedrin 2b

AND AS A COURT CANNOT CONSIST OF AN EVEN NUMBER<sup>1</sup> ANOTHER ONE IS ADDED, MAKING A TOTAL OF TWENTY THREE.

WHAT MUST BE THE POPULATION OF A TOWN TO MAKE IT ELIGIBLE FOR A [SMALL] SANHEDRIN? — ONE HUNDRED AND TWENTY. R. NEHEMIA SAYS: TWO HUNDRED AND THIRTY, SO THAT EACH MEMBER SHOULD BE A RULER OF [AT LEAST] TEN.<sup>2</sup>

GEMARA. Do not LARCENY AND MAYHEM come under the category of MONETARY CASES? [Why then this specification?] R. Abbahu says: The Tanna adds here an explanatory clause, teaching that the MONETARY CASES of the Mishnah refer only to LARCENY AND MAYHEM, but not to admission and transaction of loans<sup>3</sup> [i. e. cases of indebtedness]. And both clauses are necessary. For had the Tanna mentioned only MONETARY CASES I might have said that they included also cases of indebtedness. Hence the necessity of the explanatory LARCENY AND MAYHEM; or again had the Tanna mentioned only LARCENY AND MAYHEM, I might have said that these included cases of indebtedness, and that the reason for specifying particularly LARCENY AND MAYHEM is that the regulation requiring three judges is laid down in Scripture in connection with larceny and mayhem (the verse, the master of the house shall come near unto the judges,<sup>4</sup> though primarily dealing with cases of larceny,<sup>5</sup> includes also those of mayhem, there being actually no difference in regard to an injury whether it is inflicted on one's person or on one's property). The Tanna had accordingly to supplement the MONETARY clause by that of LARCENY AND MAYHEM, to exclude thereby cases of indebtedness.

And what is the point in excluding cases of indebtedness? Shall I say it is to show that three judges are not required for them? But did not R. Abbahu [himself] say that all agree that no judgment given by two in monetary cases is valid? — It is to teach that cases of indebtedness require no Mumhin<sup>6</sup> of their adjudication. [This being the case, let us consider] what is the determining principle of the Tanna. Does he hold that we have here an instance of transposition of sections, [in which case all the provisions in this section<sup>7</sup> apply to cases of indebtedness]?<sup>8</sup> He should then demand Mumhin here also [since the term Elohim denoting Mumhin is mentioned in this place]. If on the other hand, he does not hold this view [and in this case the provisions in this section are limited to the cases of larceny as set forth], where is the authority for the necessity of three judges? — Indeed the Tanna accepts the principle of 'transposition of sections' — and consequently, in accordance with the strict application of the Law, in cases of indebtedness he would require [three] Mumhin — nevertheless they have become exempted from this regulation for the reason advanced by R. Hanina. For R. Hanina said:<sup>9</sup> In accordance with the Biblical law, the juridical procedure in regard to the investigation<sup>10</sup> and examination<sup>11</sup> of witnesses applies to monetary as well as to capital cases, for it is written,

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(1) For if their opinion were halved no verdict could be established.

(2) V. Ex. XVIII, 25.

(3) Claims supported by witnesses attesting the defendant's former admission of his liability, or who were actually

present at the time of the transaction.

(4) The term 'Elohim' denoting 'Judges' occurs three times in this section, Ex. XXII, 7.

(5) Arising from the denial of the bailment.

(6) Plural of Mumheh, specially ordained judges; v. Glos.

(7) Ex. XXII, 6-8

(8) Ex. XXII, 24. [On the principle 'transposition of sections' עירוב פרשיות V. Responsa Solomon Duran, 541, and B.K. (Sonc. ed.) 107a, n. a.l.]

(9) Infra 32a; Yeb. 122b.

(10) As to the day and hour.

(11) As to attendant circumstances.

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One manner of judgment shall you have.<sup>1</sup> Why then did they [the Sages] declare that monetary cases are not subject to this exacting procedure? In order not to 'bolt the door' against borrowers.<sup>2</sup> But if non-Mumhin are competent to adjudicate in monetary cases, ought they not to be protected against any claim of compensation in case of their having given an erroneous decision? — All the more then would you be 'bolting the door' against borrowers.

If it be so, [that cases of indebtedness require three, why does R. Abbahu say that the Tanna adds an explanatory clause, and not simply that] the Mishnah teaches two separate laws; viz. MONETARY cases are tried by three laymen<sup>3</sup> whilst cases of LARCENY AND MAYHEM are tried by three Mumhin<sup>3</sup>. Moreover, if the two clauses merely explain each other, why mention 'three' in each? — indeed, said Raba,<sup>4</sup> the Tanna teaches two separate laws; and cases of indebtedness need no Mumhin for the reason given above by R. Hanina.

R. Aha the son of R. Ika says: According to Scriptural law, even a single person is competent to try cases of indebtedness as it is said: In righteousness shalt thou judge thy neighbor.<sup>5</sup> Three, however, are needed in case traffickers<sup>6</sup> presume to act as judges. But even with the provision of three might they not all be traffickers? — It is, however unlikely that none of them should have any knowledge of the law. If this be so, they should be exempt from liability in case they erred? — But how much more would traffickers presume in such circumstances to act as judges!<sup>7</sup> Wherein then lies the difference between Raba and R. Aha the son of R. Ika [since both agree that mere laymen are competent]? Their difference centres round the opinion of Samuel who said: 'if two [laymen] have tried a monetary case, their decision holds good. but they are called a presumptuous Beth din.' Whereas Raba<sup>8</sup> does not agree with Samuel, R. Aha does agree with him.

#### CLAIMS FOR FULL OR HALF DAMAGES etc.

Do not FULL DAMAGES come under the category of MAYHEM<sup>9</sup> [why then this specification]? — Since the Tanna had to state HALF DAMAGES he mentions, also FULL DAMAGES. But is not HALF DAMAGES also included in the same category? — The Tanna speaks of two classes of payment — kenas<sup>10</sup> [fine] and indemnity. This opinion would be in accord with the Amora who considers HALF DAMAGES kenas, but how meet the difficulty according to the one who regards it as indemnity?<sup>11</sup> — Since the Tanna had to state DOUBLE AND FOUR- OR FIVE-FOLD RESTITUTION, which is an indemnity

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(1) Lev. XXIV, 22.

(2) Creditors would refuse to advance loans should difficulties confront them in collecting their debts; and the same consideration has led to the suspension of the law regarding the need of Mumhin.

(3) \*\*\*\*\*, an ordinary person.

(4) Differing from R. Abbahu.

(5) Lev. XIX, 15.

(6) Unversed in the law. [Heb. **יושבי קרנות**, lit., rendered sit (a) at street corners, (b) in waggons, (c) in markets, (d) a company (of musicians), connecting the word with the Latin corona, (e) a corruption of the abbreviations **קרנות ותרטיות** 'circuses and theatres', a reading supported by the J.T.]

(7) Since they would be protected against all claims of compensation.

(8) Since according to him three are biblically required.

(9) The term Nezek (damage), being the terminus technicus for all kinds of damages including those rising out of mayhem.

(10) I.e. a fine imposed upon the owner for not guarding his animal from causing damage, as distinct from damages in cases of mayhem, which are considered indemnity.

(11) V. B.K. 15a.

### **Talmud - Mas. Sanhedrin 3b**

not corresponding with the exact amount of damage done, he mentions HALF DAMAGES which is likewise an indemnity that does not correspond with the exact amount of damage done. And as he has to state HALF DAMAGES, WHOLE DAMAGES is incidentally also stated.

Whence do we deduce that three are needed [for the composition of a court]? — From what our Rabbis taught: 'It is written: The master of the house shall come near unto the judge. here you have one; and again: the cause of both parties shall come before the judge, here you have two; and again: whom the judge shall condemn,<sup>1</sup> so you have three.' So says R. Josiah. R. Jonathan holds the initial reference to judges occurs In the first passage above, and cannot as such, be employed for exegetical purposes.<sup>2</sup> But [the deduction is as follows:] The cause of both . . . judge, here you have one; again whom the judge shall condemn, here you have two; and since a court must not be of an even number, another is added, making the total of three. Shall we say that R. Josiah and R. Jonathan have as point of dispute the question whether or not first citations can be used for exegetical purposes. R. Josiah being of the opinion that they can be used, and R. Jonathan that they cannot? — No! Both agree that first citations cannot be used. R. Josiah nevertheless employs one such in this case because were its purpose merely to indicate the need of a judge, the text should have stated The master. . . unto the Shofet [judge]. Why does it say 'Elohim'? — To enable us to infer that the first citation is to be used to derive from it the number of three judges. R. Jonathan, however, argues that the verse employed the popular term ['Elohim' for a recognised judge]. even as the current saying goes; 'Whoever has a trial let him go to the Dayyan.'<sup>3</sup> And is not R. Josiah of the opinion that a court must consist of an uneven number of judges?<sup>4</sup> Has it not been taught; R. Eliezer the son of R. Jose the Galilean says: 'What is the signification of the phrase to incline after many to arrest judgement?'<sup>5</sup> The Torah implies: Set up for thyself a court of an uneven number, the members of which may be able to incline to one side or the other? — R. Josiah is of the opinion of R. Judah that the Great Sanhedrin consisted of seventy. For we learnt: THE GREAT SANHEDRIN CONSISTED OF SEVENTY-ONE . . . R. JUDAH SAYS OF SEVENTY. It might, however, be objected that R. Judah has been known to express this view only regarding the Great Sanhedrin [and that on Biblical authority]; but have you heard him express it with regard to other courts? Should you presume to say that [R. Judah] makes no such distinction, how then explain what we learnt: THE LAYING OF HANDS BY THE ELDERS AND THE CEREMONY OF BREAKING THE HEIFER'S NECK [REQUIRE THE PRESENCE OF] THREE. SO HOLDS R. SIMEON. R. JUDAH SAYS FIVE. And it has been stated. 'What is R. Judah's reason? He finds it in the text, the elders shall lay.<sup>6</sup> the plural in each word indicating at least two, and so four in all, and since there cannot be a court of an even number, a fifth is added.'<sup>7</sup> R. Josiah's opinion goes further than that of R. Judah. Whilst the latter is of the opinion that only the Great Sanhedrin needs an uneven number, but not other courts, R. Josiah extends that requirement to all courts. But [on R. Josiah's opinion] how is 'to incline' explained?<sup>8</sup> — He applies it to capital but not to monetary cases. If so, what of the ruling which we learnt that in [monetary] cases: if two of the judges acquit the defendant and the third condemns him, he is

acquitted; if two condemn him and one acquits, he is condemned.<sup>9</sup> Can it be said it does not accord with R. Josiah's view?<sup>10</sup> — No! you can correlate that Mishnah's ruling even with that of R. Josiah [for he will agree that the decision of the majority is valid even in civil cases] by virtue of a kal wahomer<sup>11</sup> from capital cases. If in capital cases that are so grave, the Divine Law<sup>12</sup> vested the authority in the majority, all the more so in monetary cases.

Our Rabbis taught: Monetary cases are tried by three. Rabbi says, by five, so that in case of a division there will be a majority verdict, i.e., of three. But surely even in the case of three there is possible a majority verdict [namely, of two]? — What Rabbi means is that an unanimous decision of three is required for the verdict. Hence he holds that the stage at which three judges are prescribed is the final decision. This opinion was ridiculed by R. Abbahu, for the Great Sanhedrin would accordingly have to consist of one hundred and forty one, in order that the final verdict might be given [in case of a division] by a majority of at least seventy-one; and the small Sanhedrin would have to consist of forty-five, in order that the final verdict might be given by twenty-three? This however cannot be maintained, since the text, Gather unto me seventy men of the elders of Israel<sup>13</sup> prescribes seventy at the time of gathering; and likewise, the verse, The congregation shall judge, and the congregation shall deliver<sup>14</sup> refers to the time when the congregation proceeds to judge. Similarly it may be concluded that the verse, The master of the house shall come near unto the judges<sup>15</sup> [from which the need of three judges in monetary cases is derived], is to be explained as referring to the time when the plaintiff appears before the Court, at which point three judges are required. [Whence then does Rabbi deduce that three are needed?] — Rabbi derives this from the plural form of the predicate 'yarshi'un' [they shall condemn], arguing that the subject 'Elohim' [judges] is here a plural, indicating at least two; and similarly the earlier 'Elohim'<sup>16</sup> in the same context denotes two. So we have four. Adding another, since a court cannot consist of an even number, there are five;

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(1) Ex. XXII, 7-8. [The plural Elohim is treated as plural of 'majesty', cf. G. K. 124, g-i.]

(2) As it is required simply to indicate the need of a judge.

(3) An authoritative judge.

(4) Otherwise he would not have resorted to the first citation for deducing the number three.

(5) Ex. XXIII, 2.

(6) Lev. IV, 5. It might have sufficed to state, 'The elders, having their hands on the head of the Sacrifice etc.' v. infra 13b.

(7) All of which proves that R. Josiah cannot find in R. Judah any support for an even court.

(8) Which shows that the court must be uneven.

(9) V. infra 29a.

(10) Who requires the unanimous verdict of three since that number is specially prescribed for deciding a case.

(11) A conclusion a minori ad majus.

(12) Lit. 'The All Merciful One', i.e. God, whose word the Law (Scripture) reveals.

(13) Num. XI. 16.

(14) Num. XXXV, 24 from which the membership of a small Sanhedrin is derived, v. p. 3.

(15) Ex. XXII, 7.

(16) The cause of both parties shall come before the Judges, *ibid*, 8.

## **Talmud - Mas. Sanhedrin 4a**

but the Rabbis [who hold that only three are needed] adopt the written form yarshi'un.<sup>1</sup>

R. Isaac b. Joseph<sup>2</sup> said in the name of R. Johanan: Rabbi and R. Judah b. Ro'ez, the Shammaites. R. Simeon and R. Akiba, all hold that Mikra<sup>3</sup> is determinant in Biblical exposition.

Rabbi's opinion is reflected in what has been said; that he reads yarshi'un.

The opinion of R. Judah b. Ro'ez is given in the following: For it has been taught: The disciples of R. Judah b. Ro'ez asked him: Why not read shibe'im [seventy] instead of shebu'ayim [two weeks]<sup>4</sup> [extending the period of uncleanness to seventy days]? He answered: The law has fixed the period of purity and impurity in the case of a male child and it has fixed the period of purity and impurity in case of a female child. Just as the period of purification after the birth of a female child is double that after the birth of a male child, so must the period of uncleanness after the birth of a female child be no more than double that after the birth of a male child [which is only seven days]. After they left him he sought them out again and said 'You have no need of that explanation since Mikra is determinant, and we read shebu'ayim [two weeks].

The opinion of the Shammaites is advanced in the following [Mishnah]: For we learned.<sup>5</sup> Beth Shammai said: If the blood of sacrifices that is to be sprinkled on the outer altar was applied only once,<sup>6</sup> the offering is valid, as it is said, the blood of thy sacrifice shall be poured out<sup>7</sup> [denoting one application]. In the case of a sin offering, however, they hold that two applications are required; but the Hillelites hold that in the case of a sin offering also a single sprinkling effects atonement. And R. Huna said: What is the Shammaites' reason for their opinion? — It is that the plural 'karnoth' [horns of the altar] occurs three times in this context<sup>8</sup> denoting six, and so implying that four sprinklings are prescribed in the first instance, but that two are indispensable. But the Hillelites argue that since 'karnoth'<sup>9</sup> is twice written defectively, and can be read 'karnath'<sup>10</sup> [singular], only four sprinklings are implied, three being prescribed in the first instance, and that only one is indispensable. But why not argue that all the four are merely prescribed without a single one being indispensable? — We do not find an act of expiation effected without an accompanying rite.

R. Simeon's opinion is expressed in the following [Baraita]: It has been taught:<sup>11</sup> A Sukkah<sup>12</sup> needs at least two walls of the prescribed dimensions and a third of the width of at least a hand-breadth. R. Simeon says; Three complete walls and the fourth the width of a hand-breadth. What is really their point of dispute? — The Rabbis<sup>13</sup> hold that Masorah<sup>14</sup> is determinant in Biblical exegesis, while R. Simeon holds that Mikra is determinant. The Rabbis, taking the former view, argue that as the word 'bassukoth' which occurs three times<sup>15</sup> is written once plene [in the plural] and twice defectively<sup>16</sup> making in all four references. So, subtracting one as required for the command itself, there are three left. Next comes the Sinaitic Halachah<sup>17</sup> and diminishes the third and fixes it at a hand-breadth. But R. Simeon is of the opinion that Mikra is determinant and thus all the three bassukoth are to be read in the plural, making a total of six. One of these is required for the command itself, leaving four, and the fourth is diminished in virtue of the Sinaitic Halachah, to a handbreadth.

As to R. Akiba's opinion — it has been taught:<sup>18</sup> R. Akiba said: Whence is it deduced that a fourth of a log<sup>19</sup> of blood which issues from two corpses carries uncleanness according to the law relating to the pollution of tents.<sup>20</sup> It is said: He shall not go in unto any dead body.<sup>21</sup> [The plural nafshoth translated 'body' indicates that] even from two bodies a single [vital] quantity suffices to carry uncleanness; but the Rabbis argue that it is written nafshath [singular], [denoting that a vital quantity can defile only if it issues from one corpse].

R. Aha b. Jacob questioned this statement of R. Isaac b. Joseph — Is there no one [apart from those above mentioned] who does not accept the Mikra as determinant? Has it not been taught: Thou shalt not seethe a kid in the milk of [bahaleb]<sup>22</sup> its mother<sup>23</sup> in which verse you might read beheleb<sup>24</sup> [in the fat of]?

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(1) [The singular form, cf. the Arabic ending in an, and the subject Elohim is taken throughout as singular.]

(2) Var. lec.: R. Jose.

(3) [Lit. 'Mikra has a mother,' or 'these is preference to Mikra (Halper. B., ZAW. XXX, p. 100), i.e. the reading of the

sacred text according to the Kere קרי the established vocalization has an authentic origin, hence well-founded, as distinct from the 'Masorah the Kethib, כתיב the traditional text of consonants without vowels.]

(4) In the verse: If she bear a female child, she shall be unclean etc. Lev. XII, 5.

(5) Zeb. 36b.

(6) Instead of two sprinklings constituting four at the two opposite angles of the altar.

(7) Deut. XII, 27.

(8) Lev. IV, 25, 30, 34.

(9) Following the Mikra.

(10) קרנת instead of קרנות, cf. the feminine ending at.

(11) Suk. 6b.

(12) A booth, erected for the Festival of Booths. v. Glos.

(13) The representatives of the anonymous opinion quoted first.

(14) V. p. 10, n. 4.

(15) In connection with the command of Festival of Booths.

(16) בסכות, and בסכת, Lev. XXIII, 42-43.

(17) The traditional interpretation of the Law traceable to Sinai, see Hoffmann, Die Erste Mischna, p. 3.

(18) Hul. 72a.

(19) A liquid measure, about two-thirds of a pint.

(20) Num. XIX, 14.

(21) Lev. XXI, 11; Lit., 'souls of the dead', the soul denoting blood, as the life-force, cf. Deut. XII, 23., and the loss of a quarter of a log is regarded as the loss of vital blood.

(22) בחלב

(23) Ex. XXIII, 19.

(24) בחלב

## Talmud - Mas. Sanhedrin 4b

Say: this is unacceptable, as Mikra is determinant?<sup>1</sup> — Hence all agree that Mikra is determinant, but Rabbi and the Rabbis<sup>2</sup> differ in the following: Rabbi holds that the plural yarshi'un<sup>3</sup> refers to two judges [elohim] other than those prescribed in the previous verse;<sup>4</sup> while the Rabbis maintain that it refers to elohim here [its own subject] and to that in the previous clause.<sup>5</sup>

As to R. Judah b. Ro'ez, the Rabbis do not oppose him.<sup>6</sup>

As for the Hillelites, they derive their ruling<sup>7</sup> from the following: For it has been taught: wekipper<sup>8</sup> has to be repeated three times [in connection with the sin offering]<sup>9</sup> to indicate that even one application is adequate, contrary to an analogy which might otherwise be advanced in favour of the need of four applications. But could we not have deduced this by [the following] analogy? The use of blood is mentioned [for application] above the line;<sup>10</sup> and the use of blood is mentioned [for application] below the line.<sup>11</sup> Just as in the case of the blood to be applied below the line, one application effects atonement,<sup>12</sup> so should it be with the blood to be applied above the line.

But you may argue this way: Sprinkling is prescribed for sacrifices offered on the outer altar<sup>13</sup> and also for those offered on the inner altar.<sup>14</sup> As in the case of those offered on the inner altar, expiation is not effected if one application has been omitted, so should it be with sacrifices offered on the outer altar!

Let us, however, see to which it is to be compared. Comparisons may be made between sacrifices offered on [the same] the outer altar, but not between sacrifices offered on the outer and inner altars.<sup>15</sup>

But may you not, on the other hand, argue in this way? We can compare sin offerings, the blood of



which is applied on the four horns of the altar,<sup>16</sup> to other sin offerings, the blood of which is applied on the four horns,<sup>17</sup> but no proof can be deduced from such a sacrifice as is neither a sin offering nor has the blood sprinkled on the four horns of the altar!<sup>18</sup> Hence on account of this latter analogy, Wekipper has to be repeated three times, to indicate that atonement is effected by means of three sprinklings, or even by means of two, or indeed even by means of one alone.

Now as to R. Simeon and the Rabbis, their real point of difference is the following: R. Simeon holds that a cover for a Sukkah needs no textual basis,<sup>19</sup> while the Rabbis maintain that a special textual basis is necessary for a cover.<sup>20</sup>

R. Akiba and the Rabbis again disagree on the following point: According to the former, nafshoth denotes two bodies,<sup>21</sup> while the Rabbis say that nafshoth is a general term for bodies.<sup>22</sup>

But do all, indeed, regard the Mikra as determinant? Has it not been taught: 'letotafoth [frontlets] occurs thrice in the Torah, twice defective and once plene,<sup>23</sup> four in all, to indicate [that four sections are to be inserted in the phylacteries]. Such is the opinion of R. Ishmael. But R. Akiba maintains that there is no need of that interpretation, for the word totafoth itself implies four, [it being composed of] tot which means two in Katpi<sup>24</sup> and foth which means two in Afriki?<sup>25</sup> — Hence, in reality, it is disputable whether Mikra is always determinant in Biblical exegesis, but this is true only of cases where Mikra and Masorah differ in the spelling of a word.<sup>26</sup> But where-as for example, in the case of the milk — the reading behaleb involves no change in the spelling,<sup>27</sup> Mikra is determinant. But does not the text, Three times in the year all thy males shall appear [shall be seen] before the Lord<sup>28</sup>, occasion a dispute whether we shall follow the Mikra [yera'eh]<sup>29</sup> or read yir'eh<sup>30</sup> according to Masorah?<sup>31</sup> For it has been taught: R. Johanan b. Dahabai said on behalf of R. Judah b. Tema: One who is blind in one eye is exempted from visiting the Temple, for we read YR'H<sup>32</sup> which according to Mikra means he shall be seen and according to Masorah, he shall see. That is to say, as He comes to see the worshipper, so should man come to be seen by Him; as He [the Lord] comes to see [so to speak] with both eyes.<sup>33</sup> so should he, who comes to be seen by Him, come with both eyes!<sup>34</sup> Hence, says R. Aha, the son of R. Ika: The scriptural text says. Thou shalt not seethe a kid in its mother's milk. It is seething, as a method of cooking, that the law forbids.<sup>35</sup>

Our Rabbis taught: Monetary cases are decided by three;

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(1) And this is disputed by no one, as otherwise there would be no foundation for the prohibition.

(2) V. p. 9.

(3) Whom the judges shall condemn. Ex XXII, 8.

(4) Ex. XXII, 7, and that accounts for his view that five judges are required.

(5) Elohim in each case being taken as plural of majesty and so no additional judges are implied.

(6) V. p. 10.

(7) That one application of blood suffices in a sin offering.

(8) **וְכַפֵּר** he shall make an atonement.

(9) Lev. IV, 26, 31, 35.

(10) I.e., the red line which marked the middle of the altar's height. The blood of sin offerings was applied above the line.

(11) I.e., the blood of burnt, trespass, and peace offerings, v. Zeb. 53a, Mid. III, 1.

(12) Deduced from Deut. XII, 27. The blood of thy sacrifices shall be poured out, v. Zeb. 37a.

(13) All sacrifices, except those of the Day of Atonement, the offering prescribed for the anointed Priest and the community's sacrifice on having erred (Lev. IV, 13) were offered on this, the brazen altar.

(14) V. n. 4.

(15) As for example between the sin offering of the anointed Priest and these sin offerings in connection with which wekipper is mentioned.

(16) The offerings in regard to which wekipper occurs.

- (17) Such as that of the anointed Priest.
- (18) Such as the burnt (v. Lev. III, 1-11), the trespass and peace offerings. V. p. II.
- (19) The term sukkah (סֹכֵת 'to cover') itself denotes a cover, and all the references are thus employed for the walls of the sukkah to indicate that three complete walls and one diminished are needed.
- (20) V. p. 11.
- (21) So that one quantity of blood pollutes even if it issues from two corpses.
- (22) And does not indicate any definite number.
- (23) לִטְטַפֵּת (defective) (a) Deut. VI, 8. (b) ib. XI, 18; לִטְטַפֵּת (plene) Ex. XIII, 16. (Rashi) v. Tosaf. Zeb. 25a; Men. 34b. In our versions, the defective form occurs only once: Deut. VI, 8.
- (24) Coptic language? [V. Neubauer, p. 418]
- (25) The language of N. Africa or Phrygia in Asia Minor.
- (26) As, for example, in the following words: 'totafoth', 'bassukkoth', 'karnoth', in each case of which the Mikra implies an extra letter.
- (27) חֵלֶב might be read חֵלֶב (fat) or חֵלֶב from חֵלֶב (milk).
- (28) Ex. XXIII, 17.
- (29) יִרְאֶה 'shall be seen.'
- (30) יִרְאֶה 'he shall see.'
- (31) Although the spelling in both readings is the same.
- (32) יִרְאֶה .
- (33) Cf. Deut. XI, 12.
- (34) Hence we see that the authority of Mikra is a moot point in every case, and if so, what is the definite basis for the prohibition relating to meat and milk?
- (35) Seething is a term applicable only to a liquid, such as milk, and not to fat which would require such a word as roasting. Therefore we must read behaleb, (in the milk of) according to Mikra.

## Talmud - Mas. Sanhedrin 5a

but one who is a recognised Mumheh<sup>1</sup> may judge alone.

R. Nahman said: One like myself may adjudicate monetary cases alone. And so said R. Hiyya.

The following problem was [consequently] propounded: Does the statement 'one like myself' mean that as I have learned traditions and am able to reason them out, and have also obtained authorisation<sup>2</sup> [so must he who wishes to render a legal decision alone]; but that if he has not obtained authorisation, his judgment is invalid; or is his judgment valid without such authorisation? Come and hear! Mar Zutra, the son of R. Nahman, judged a case alone and gave an erroneous decision. On appearing before R. Joseph, he was told: If both parties accepted you as their judge, you are not liable to make restitution. Otherwise, go and indemnify the injured party. Hence it can be inferred that the judgment of one, though not authorised, is valid.

Said Rab: Whosoever wishes to decide monetary cases by himself and be free from liability in case of an erroneous decision, should obtain sanction from the Resh Galutha,<sup>3</sup> And so said Samuel.

It is clear that an authorisation held from the Resh Galutha 'here' [in Babylonia] holds good 'here' — And one from the Palestinian authority 'there' [in Palestine] is valid 'there' — Likewise, the authorisation received 'here' is valid 'there', because the authority in Babylon is designated 'sceptre' — but that of Palestine, 'lawgiver' [denoting a lower rank] — as it has been taught: The sceptre shall not depart from Judah,<sup>4</sup> this refers to the Exilarchs of Babylon who rule over Israel with sceptres;<sup>5</sup> and a lawgiver . . . , this refers to the descendants of Hillel [in Palestine] who teach the Torah in public. Is, however, a permission given 'there' valid 'here'? Come and hear! Rabbah b. Hana gave an erroneous judgment [in Babylonia]. He then came before R. Hiyya, who said to him: If both parties accepted you as their judge, you are not liable to make restitution; otherwise you must

indemnify them. Now — Rabbah b. Hana did hold permission [but from the Palestinian authority]. Hence we infer that the Palestinian authorisation does not hold good for Babylon.<sup>6</sup>

But is it really not valid in Babylon? Did not Rabbah, son of R. Huna, when quarrelling with the members of the household of the Resh Galutha, maintain: I do not hold my authorisation from you. I hold it from my father who had it from Rab, and he from R. Hiyya, who received it from Rabbi [in Palestine]? — He was only trying to put them in their place with mere words.

Well, then, if such authorisation is invalid in Babylon, what good was it to Rabbah, son of R. Huna? — It held good for cities that were situated on the Babylonian border [which were under the jurisdiction of Palestine].<sup>7</sup>

Now, what is the content of an authorisation? — When Rabbah b. Hana was about to go to Babylon, R. Hiyya said to Rabbi: ‘My brother's son is going<sup>8</sup> to Babylon. May he, decide in matters of ritual law?’ Rabbi answered: ‘He may. May he decide monetary cases?’ — He may.’ ‘May he declare firstborn animals permissible [for slaughter]?’<sup>9</sup> — ‘He may.’ When Rab went there, R. Hiyya said to Rabbi: ‘My sister's son is going to Babylon. May he decide on matters of ritual law?’ — He may. ‘May he decide [monetary] cases?’ — ‘He may.’ ‘May’ he declare firstborn animals permissible for slaughter?’ — ‘He may not.’ Why did R. Hiyya call the former ‘brother's son’ and the latter ‘sister's son’? You cannot say that it was actually so, since a Master said that Aibu [Rab's father] and Hana [Rabbah's father], Shila and Martha and R. Hiyya were the sons of Abba b. Aha Karsela of Kafri?<sup>10</sup> — Rab was also R. Hiyya's sister's son [on his mother's side], while Rabbah was only his brother's son. Or, if you prefer, I might say he chose to call him sister's son’

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(1) V. Glos.

(2) V. n. 6.

(3) Lit. — ‘head of the Golah’, Exilarch. Title given to the chief of the Babylonian Jews who from the time of the exile were designated by the term Golah, v. Jer. XXVIII, 6.

(4) Gen. XLIX. 10.

(5) Sceptre, symbol of the authority of a ruler appointed by the Government, as was the Resh Galutha, ‘Lawgiver’ designates the heads of Palestinian schools who have no political authority.

(6) Otherwise he should not have been liable to indemnification.

(7) [V. Zuri, Toledoth Hamishpat Haziburi I, pp. 384 ff.]

(8) Lit., ‘descending’.

(9) On finding, after careful examination, that they had permanent blemishes. After the destruction of the Temple, firstborn animals could be slaughtered only on having permanent defects.

(10) In Babylonia. Hence Rab was also the son of R. Hiyya's brother's.

## Talmud - Mas. Sanhedrin 5b

on account of his eminent wisdom, as it is written: Say unto wisdom, thou art my sister.<sup>1</sup>

What was the reason that Rab was not authorised to permit the slaughter of firstborn animals? Was it that he was not learned<sup>2</sup> enough? But have we not just said that he was very learned? Was it because he was not an expert in judging defects? But did not Rab himself say: I spent eighteen months with a shepherd in order to learn which was a permanent and which a passing blemish? — Rabbi withheld that authorisation from Rab, as a special mark of respect to Rabbah b. Hana.<sup>3</sup> Or, if you prefer, I might say that for the very reason that Rab was a special expert in judging blemishes, he might in consequence declare permissible, with a view to slaughter, [permanent] defects which to others might not be known as such. These latter might thus be led to maintain that Rab had passed cases of such a kind and so to declare permissible transitory blemishes.

We were told above that Rabbi authorised him, Rabbah, and Rab respectively, to] decide in matters of ritual law. Since he was learned in the law, what need had he to obtain permission? — Because of the following incident, for it has been taught: Once Rabbi went to a certain place and saw its inhabitants kneading the dough without the necessary precaution against levitical uncleanness.<sup>4</sup> Upon inquiry, they told him that a certain scholar on a visit taught them: Water of bize'im [ponds] does not render food liable to become unclean. In reality, he referred to bezim [eggs], but they thought he said bize'im [ponds].<sup>5</sup> They further erred in the application of the following Mishnah:<sup>6</sup> The waters of Keramyon and Pigah,<sup>7</sup> because they are ponds, are unfit for purification purposes.<sup>8</sup> They thought that since this water was unfit for purification, it likewise could not render food liable to become unclean. But this conclusion is unwarranted, for whereas there, that is in connection with the purification offering, running water is required, waters, from any source, can render food liable to uncleanness. There and then<sup>9</sup> it was decreed that a disciple must not give decisions unless he was granted permission by his teacher.

Tanhum son of R. Ammi happened to be at Hatar, and in expounding the law to its inhabitants, taught them that they might soak the grain before grinding for Passover.<sup>10</sup> But they said to him: Does not R. Mani of Tyre live here, and has it not been taught that a disciple should not give an halachic decision in the place where his teacher resides, unless there is a distance of three parasangs — the space occupied by the camp of Israel — between them? He answered: The point did not occur to me.

R. Hiyya saw a man standing in a cemetery and asked him: 'Are you not the son of so and so who was a Priest?'<sup>11</sup> 'Yes,' he answered, 'but my father being wilful, set his eyes upon a divorced woman, and by marrying her, profaned his priesthood.'<sup>12</sup>

It is obvious that a partial authorisation is valid,<sup>13</sup> as has already been said. But how is it with a conditional authorisation?<sup>14</sup> Come and hear! R. Johanan said to R. Shaman:<sup>15</sup> You have our authorisation until you return to us.

The text [above states]: 'Samuel said, If two [commoners] try a case [instead of three] their decision holds good, but they are called a presumptuous Beth din.'

R. Nahman sat and reported this teaching, but Rabbah objected to it on the ground of the following [Mishnah]:<sup>16</sup> Even if two acquit or condemn, but the third is undecided<sup>17</sup> the number of the judges must be increased. Now if it were so, as Samuel maintains, why add; why not let the decision of these two be as valid as that of two who have tried a case? — There [in the Mishnah] the case is different, since from the outset they sat with the intention of constituting a court of three; whereas here they did not sit with that intention.

He raised a further objection.<sup>18</sup> 'R. Simeon b. Gamaliel says: Legal judgment is by three; arbitration is valid if made by two. And the force of arbitration is greater than that of legal judgment, for if two judges decide a case, the litigants can repudiate their decision, whilst if two judges arbitrate, the parties cannot repudiate their decision.'<sup>19</sup>

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(1) Prov. VII, 4.

(2) Lit, 'wise'.

(3) So as to establish him firmly in the respect of Babylonians, whilst Rab's standing was in any case high.

(4) V. Lev. XI, 38.

(5) That disciple must have been defective of speech, and the listener could easily fall into error owing to the similarity of pronunciation of **בצעים** 'ponds' — (cf. Job VIII, 11) — and **ביצים** 'eggs'.

(6) Parah VIII. 10.

(7) In Palestine. V. B. B. (Sonc. ed.), p. 298, n. 10

(8) Num. XIX, 17.

(9) Lit., 'in that hour'.

(10) Leavenness, the result of dampness, does not occur in this, as the grain is ground immediately after washing.

(11) According to Levitical law, the Priest is forbidden to have direct contact with a dead body or come within a roofed enclosure where such lies buried.

(12) The offspring of the marriage between a priest and a woman disqualified for him (v. Lev. XXI, 14) are profane and the laws pertaining to priestly status do not apply to them. [In J. Sheb. the incident is ascribed to Rabbi, which explains the mention of it in this connection, v. Hazofeh XIII, 346.]

(13) As in the case of Rab.

(14) For a definite time.

(15) [R. Shaman b. Abbe, on the occasion of his visit to Babylon. v. D. S. a. 1.]

(16) *Infra* 29a.

(17) Lit., 'he says. 'I do not know' (how to decide).'

(18) *Tosef. Sanh.* 1.

(19) Because the arbitrators were of their own choice. Hence we see clearly that the decision of two in a legal judgment is not valid.

## Talmud - Mas. Sanhedrin 6a

And should you maintain that the Rabbis differ from R. Simeon b. Gamaliel,<sup>1</sup> it may be asked: Did not R. Abbahu say that all agree that a judgment given by two in monetary cases is not valid? — But why should you seek to show a disagreement between two persons?<sup>2</sup>

The text [above states]: 'R. Abbahu says all agree that a judgment given by two in monetary cases is not valid.' R. Abba objected and asked R. Abbahu [from the following]: If one has judged a case by himself and pronounced the guilty 'guiltless' and the guiltless 'guilty', or the clean 'unclean' and the unclean 'clean', his act cannot be undone, but he has to pay indemnity from his own pocket?<sup>3</sup> — Here we are dealing with a case where the parties accepted the judge. If so, why make him pay indemnity? — Because they had said to him: We agree to abide by your award on condition that you give a decision in accordance with the Torah.

R. Safra asked R. Abba: What did the judge overlook in giving this erroneous decision? Was it a law cited in the Mishnah? But did not R. Shesheth say in the name of R. Ashi: 'If one overlooks a law cited in the Mishnah, he may revoke his decision'? — Hence it must be he erred in deciding against common practice. How can we conceive that? R. Papa said: If, for example, two Tannaim or Amoraim opposed each other's views in a certain matter and it was not clear with whom the true decision lay, but the general trend of practice followed the opinion of one of them, and yet he decided according to the opinion of the other, that is termed 'an error of judgment against common practice'.

Is it true to say that the point of difference [between Samuel and R. Abbahu] had been anticipated by Tannaim in the following controversy? Arbitration is by three, so says R. Meir. The Sages say that one is sufficient. Now the Schoolmen presumed that all agree that the force of arbitration is equal to that of legal decision; their point of difference would accordingly resolve itself into one holding that three are required for legal decision and the other holding that two are enough.<sup>4</sup> — No, all [both R. Meir and the Sages] agree that legal decision is by three, and the point in which they differ is this: One [R. Meir] holds that the force of arbitration should be regarded as equal to that of legal decision, while the other disputes it.

May it be assumed then that there are three views held by the Tannaim with regard to arbitration, viz., one [R. Meir] holds that three are needed; another [R. Simeon b. Gamaliel] holds that two are sufficient<sup>5</sup>, while the Sages hold that one is enough? — R. Aha the son of R. Ika, or according to others R. Yemar b. Salomi, said: The Tanna who says two are necessary is really of the opinion that

a single one is sufficient. And the reason he requires two is that they might act as witnesses in the case, if required.

R. Ashi said: We may infer from this that no Kinyan<sup>6</sup> is needed for arbitration, for if it be thought necessary, why does the Tanna in question require three? Surely two should suffice, the two parties being bound by Kinyan!<sup>7</sup> The adopted law however, is that arbitration requires Kinyan [even when made by three].<sup>8</sup>

Our Rabbis taught: Just as for legal judgment three are required, so are three required for settlement by arbitration. After a case has been decided by legal judgment, thou must not attempt a settlement.

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(1) I.e. the majority opinion is that the decision of two is valid.

(2) Why should Samuel, unlike R. Abbahu, hold that the Rabbis differ from R. Simeon b. Gamaliel?

(3) B. K. 100a. It is thus seen that the decision of even one is valid.

(4) I.e. their point of difference is thus the same as that between R. Abbahu and Samuel.

(5) Supra 5b.

(6) A formal act of acquisition effected when two enter into mutual obligation.

(7) Pledging themselves to adhere to the award.

(8) Because, strictly speaking, the decision is not one of law, and unless the parties have bound themselves by Kinyan, they can retract.

## **Talmud - Mas. Sanhedrin 6b**

(Mnemonic: Sarmash Bankash.)<sup>1</sup>

R. Eliezer the son of R. Jose the Galilean says: It is forbidden to arbitrate in a settlement, and he who arbitrates thus offends, and whoever praises such an arbitrator [bozea'] contemneth the Lord, for it is written, He that blesseth an arbiter [bozea'], contemneth the Lord.<sup>2</sup> But let the law cut through the mountain,<sup>3</sup> for it is written, For the judgment is God's.<sup>4</sup> And so Moses's motto was: Let the law cut through the mountain. Aaron, however, loved peace and pursued peace and made peace between man and man, as it is written, The law of truth was in his mouth, unrighteousness was not found in his lips, he walked with Me in peace and uprightness and did turn many away from iniquity.<sup>5</sup>

R. Eliezer says: If one stole a se'ah [a measure] of wheat, ground and baked it and set apart the Hallah,<sup>6</sup> what benediction can he pronounce? This man would not be blessing, but contemning, and of him it is written, The robber [bozea'] who blesseth, contemneth the Lord.<sup>7</sup>

R. Meir says: This text refers to none but Judah, for it is written, And Judah said to his brethren, What profit [beza'] is it if we slay our brother?<sup>8</sup> And whosoever praises Judah, blasphemes, as it is written, He who praiseth the man who is greedy of gain [bozea'] contemneth the Lord.<sup>9</sup> R. Judah b. Korha says: Settlement by arbitration is a meritorious act, for it is written, Execute the judgment of truth and peace in your gates.<sup>10</sup> Surely where there is strict justice there is no peace, and where there is peace, there is no strict justice! But what is that kind of justice with which peace abides? — We must say: Arbitration.<sup>11</sup> So it was in the case of David, as we read, And David executed justice and righteousness [charity] towards all his people.<sup>12</sup> Surely where there is strict justice there is no charity, and where there is charity, there is no justice! But what is the kind of justice with which abides charity? — We must say: Arbitration.

But the following interpretation of this verse will accord with the First Tanna [who holds arbitration to be prohibited]: In rendering legal judgment, David used to acquit the guiltless and

condemn the guilty; but when he saw that the condemned man was poor, he helped him out of his own purse [to pay the required sum], thus executing judgment and charity, justice to the one by awarding him his dues, and charity to the other by assisting him out of his own pocket. And therefore Scripture says, David practised justice and charity towards all his people.<sup>13</sup>

Rabbi, however, objected to this interpretation, for in that case [he said], the text ought to have read 'towards the poor' instead towards all his people? Indeed, [he maintained,] even if he had not given assistance out of his own pocket, he would nevertheless have executed justice and charity; justice to the one by awarding him his dues, and charity to the other by freeing him from an ill-gotten thing in his possession.

R. Simeon b. Manasya says: When two come before you for judgment, before you have heard their case, or even afterwards, if you have not made up your mind whither<sup>14</sup> judgment is inclining,<sup>15</sup> you may suggest to them that they should go and settle the dispute amongst themselves. But if you have already heard their case and have made up your mind in whose favour the verdict inclines, you are not at liberty to suggest a settlement, for it is written: The beginning of strife is as one that letteth out water. Therefore, leave off contention before the quarrel break out.<sup>16</sup> Before the case has been laid bare, you may leave off [give up] the contention;<sup>17</sup> after the case has been laid bare, you cannot leave it off.

The view of Resh Lakish<sup>18</sup> is as follows: When two men bring a case before you, one weak [i.e. of small influence], the other strong [of great influence], before you have heard their case, or even after, so long as you are in doubt in whose favour judgment is inclining, you may tell them: 'I am not bound to decide in your case', lest the man of great influence should be found guilty, and use his influence to harass the judge. But, if you have heard their case and know in whose favour the judgment inclines, you cannot withdraw and say, I am not bound to decide in your case', because it is written: Ye shall not be afraid of the face of any man.<sup>19</sup>

R. Joshua b. Korha says: Whence do we know that a disciple, who is present when his master judges a case and sees a point which would tell in favour of a poor man or against a rich man, should not keep silence?. From the words of the text: Ye shall not be afraid [lo taguru] of the face of any man.<sup>20</sup> R. Hanin explains this word to mean, 'Ye shall not hold back your words because of anyone.'<sup>21</sup> Further, witnesses should know against whom they are giving evidence, before whom they are giving evidence and who will call them to account [in the event of false evidence]. For it is written: Then both the men, between whom the controversy is, shall stand before the Lord.<sup>22</sup> Judges should also know whom it is they are judging, before whom they are judging, and who will call them to account [if they pervert justice], as it is written: God standeth in the Congregation of God [in the midst of judges doth He judge].<sup>23</sup> And thus it is said, concerning Jehoshaphat, He said to the judges, Consider what ye do, for ye judge not for man, but for the Lord.<sup>24</sup> And lest the judge should say: Why have all this trouble and responsibility? It is further said: He is with you in giving judgment.<sup>24</sup> The judge is to be concerned only with what he actually sees with his own eyes.

When is judgment to be regarded as rendered [i.e. at which point is arbitration forbidden]? — Rab Judah, in the name of Rab. says: On the pronouncement of the words: So and so, thou art guilty; or, so and so, thou art not guilty.

Rab says: the halachah is in agreement with R. Joshua b. Korha [who holds arbitration to be a meritorious act]. How can this be? Was not R. Huna a disciple of Rab, and yet, when a case was brought to him, he would ask the litigants whether they desired to resort to law or to a settlement?<sup>25</sup> As to the expression, 'meritorious act which R. Joshua b. Korha uses, he means

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(1) Mnemonic device to recollect names of authorities that follow: Jose, Eliezer, Meir, Joshua, Rabbi, Simeon b.

Manasya, Judah b. Lakish. Joshua b. Karha. These letters have been chosen because they afford in addition aids to their respective statements, v. Hyman. Toledoth, I, p. 23]

(2) Ps. X. 3. The root-meaning of **בוצע** is 'to cut'; hence the word translated, 'covetous', is taken in the sense of an arbiter in a compromise, when the difference between two claims is split.

(3) Take its course.

(4) Deut I, 17. And no court has the right to tamper with it.

(5) Mal. II, 6.

(6) Priest's share of the dough. Num XV, 20-21.

(7) Ps. X, 3. Lit. 'he who is greedy of gain etc.' Cf. Prov. I, 19.

(8) **בצע**, Gen. XXXVII, 26.

(9) Taking **בוצע** as object of the verb 'who praiseth'.

(10) Zech. VIII, 16.

(11) Because the strict application of the law does not always set both parties at peace.

(12) II Sam. VIII, 15. It is noteworthy that 'charity to the poor', in the usage of Rabbinic speech, is described by Zedakah — a word denoting 'righteousness', 'just doing'.

(13) Ibid.

(14) I.e., In whose favour.

(15) I.e., before the court becomes cognisant of the respective merits of the litigants.

(16) Prov. XVII, 14.

(17) I.e.. suggest a settlement.

(18) Other readings: (a) R. Judah b. Lakish. (b) R. Joshua b. Lakish. V. **מסורת הש"ם** a.l.

(19) Deut. I, 17.

(20) Ibid.

(21) **תגורו** from **אגר** 'gather in'. According to the Tosef., and other versions, R. Joshua b. Korha is the author of this interpretation.

(22) Deut. XIX, 17. This refers to the witnesses (cf. Shebu. 30a).

(23) Ps. LXXXII, 1.

(24) II Chron. XIX, 6.

(25) Hence we see that Rab does not favour R. Joshua b. Korha's opinion, as it is unlikely that R. Huna the disciple would deviate from the ruling of his master.

## Talmud - Mas. Sanhedrin 7a

that it is a meritorious act to ask the litigants whether they wish to resort to law or to a settlement. If so, this agrees with the opinion of the first Tanna?<sup>1</sup> There is this difference, however: R. Joshua b. Korha regards this as a moral obligation; the first Tanna merely as a permissible act. But this would make the first Tanna express the same opinion as R. Simeon b. Manasya? — The difference centres round the latter part of R. Simeon's statement: 'If you have already heard the case and know in whose favour the verdict inclines, you are not at liberty to suggest a settlement', [a distinction which the first Tanna does not admit].

A difference of opinion is expressed by R. Tanhum b. Hanilai, who says that the verse quoted<sup>2</sup> refers only to the story of the golden calf, as it is written: And when Aaron saw it, he built an altar before it.<sup>3</sup> What did he actually see? — R. Benjamin b. Japhet says, reporting R. Eleazar: He saw Hur lying slain before him and said [to himself]: If I do not obey them, they will now do unto me as they did unto Hur, and so will be fulfilled [the fear of] the prophet, Shall the Priest and the Prophet be slain in the Sanctuary of God?<sup>4</sup> and they will never find forgiveness. Better let them worship the golden calf, for which offence they may yet find forgiveness through repentance.<sup>5</sup>

And how do those other Tannaim, who allow a settlement even when a case has been heard, interpret the verse: The beginning of strife is as one that letteth out water?<sup>6</sup> They interpret it as does R. Hamnuna. For R. Hamnuna says: The first matter for which a man is called to give account in the



Hereafter is regarding the study of the Torah, as it is said: The beginning of judgment<sup>7</sup> concerns the letting out of water.<sup>8</sup>

R. Huna says [with reference to this verse]: Strife is compared to an opening made by a rush of water that widens as the water presses through it.

Abaye the Elder<sup>9</sup> says: Strife is like the planks of a wooden bridge; the longer they lie, the firmer they grow.

(‘Mnemonic: Hear, And Two, Seven, Songs, Another.’)<sup>10</sup>

There was a man who used to say: Happy is he who hears abuse of himself and ignores it; for a hundred evils pass him by. Samuel said to Rab Judah: This is alluded to in the verse: He who letteth out water [of strife] causeth the beginning of madon<sup>11</sup> [the numerical value of which is a hundred].<sup>12</sup> that is, the beginning of a hundred strifes.

Again, there was a man who used to say: Do not be surprised if a thief goes unhangd for two or three thefts; he will be caught in the end. Samuel said to Rab Judah: This is alluded to in the verse: Thus saith the Lord: for three transgressions of Judah, but for four I will not reverse it<sup>13</sup> [i.e. My judgment].

Another used to say: Seven pits lie open for the good man [but he escapes]; for the evil-doer there is only one, into which he falls. This, said Samuel to Rab Judah, is alluded to in the verse: The righteous man falleth seven times and riseth up again.<sup>14</sup>

Yet another used to say: Let him who comes from a court that has taken from him his cloak sing his song and go his way.<sup>15</sup> Said Samuel to Rab Judah: This is alluded to in the verse, And all this people also [i.e. including the losers] shall come to their place in peace.<sup>16</sup>

There was yet another who used to say: When a woman slumbers the [working] basket drops off her head.<sup>17</sup> Said Samuel to Rab Judah: This is alluded to in the verse, By slothfulness the rafters sink in.<sup>18</sup>

Another man used to say: The man on whom I relied shook his fist at me.<sup>19</sup> Samuel said to Rab Judah: This is alluded to in the verse: Yea, mine own familiar friend, in whom I trusted and who did eat of my bread, hath lifted up his heel against me.<sup>20</sup>

Another used to say: When love<sup>21</sup> was strong, we could have made our bed on a sword-blade; now that our love has grown weak, a bed of sixty [cubits] is not large enough for us. Said R. Huna: This is alluded to in the verses: Of the former age [when Israel was loyal to God] it is said: And I will meet with thee and speak with thee from above the ark-cover;<sup>22</sup> and further it is taught: The Ark measured nine hand-breadths high and the cover one hand-breadth, i.e. ten in all. Again it is written: As for the House which King Solomon built for the Lord, the length thereof was three score cubits, the breadth thereof twenty cubits, and the height thereof thirty cubits.<sup>23</sup> But of the latter age [when they had forsaken God] it is written: Thus saith the Lord, The Heaven is my throne and the earth my footstool. Where is the house that ye may build unto me?<sup>24</sup>

What evidence is there that the verb taguru [translated ‘be afraid’] can also be rendered ‘gather in’?<sup>25</sup> R. Nahman answered by quoting the verse: Thou shalt neither drink of the wine nor gather [te’egor] the grapes.<sup>26</sup> R. Aha b. Jacob says that it can be proved from the following verse: Provideth her bread in the summer and gathereth [agerah] her food in the harvest.<sup>27</sup> R. Aha the son of R. Ika says it can be derived from the following verse: A wise son gathereth [oger] in summer.<sup>28</sup>

(Mnemonic: Truth, Money, Shall See.)

R. Nahman said, reporting R. Jonathan: A judge who delivers a judgment in perfect truth<sup>29</sup> causes the Shechinah to dwell in Israel, for it is written: God standeth in the Congregation of God; in the midst of the judges He judgeth.<sup>30</sup> And he who does not deliver judgments in perfect truth causes the Shechinah to depart from the midst of Israel, for it is written: Because of the oppression of the poor, because of the sighing of the needy, now will I arise, saith the Lord.

Again. R. Samuel b. Nahmani, reporting R. Jonathan. said: A judge who unjustly takes the possessions<sup>31</sup> of one and gives them to another, the Holy One, blessed be He, takes from him his life, for it is written: Rob not the poor because he is poor; neither oppress the afflicted in the gate', for the Lord will plead their cause, and will despoil of life those that despoil them.<sup>32</sup>

R. Samuel b. Nahmani further said, reporting R. Jonathan: A judge should always think of<sup>33</sup> himself as if he had a sword hanging over his head<sup>34</sup> and Gehenna<sup>35</sup> gaping under him,

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- (1) Who holds that arbitration may be suggested before the verdict is given.
  - (2) Ps. X, 3.
  - (3) Ex. XXXII, 5.
  - (4) Lam. II, 20.
  - (5) He thus made a compromise, and this compromise is denounced by the Psalmist.
  - (6) Prov. XVII, 14.
  - (7) מִדּוֹן 'Strife' or 'judgment'.
  - (8) I.e. the Torah, which is compared by the Rabbis to water. V. Ex. Rab. II, 9.
  - (9) Abaye Kashisha, as distinct from the more famous Abaye. In fact, the latter quotes him in Keth. 94a.
  - (10) Or, 'Hear, Vashti, Seven, Songs, Another'; Vashti and 'And Two' being spelled alike in Hebrew, וַשְׁתִּי V. p. 21, n. 5.
  - (11) Prov. XVII, 14.
  - (12) מִדּוֹן = 40,4,6,50 respectively — 100 in all.
  - (13) Amos II, 6. Taken as an elliptical verse, with the meaning: 'Though I may reverse or keep back My judgment for the first three offences, punishment shall not be withheld for the fourth.'
  - (14) Prov. XXIV, 16.
  - (15) He should be happy that he was relieved of an ill-gotten thing.
  - (16) Ex. XVIII, 23.
  - (17) Carelessness is the immediate cause of ruin.
  - (18) I.e. the house falleth to decay. Ecc. X, 18.
  - (19) Or, 'raised his club against me.'
  - (20) Ps. XLI, 10.
  - (21) Between my wife and myself.
  - (22) Ex. XXV, 22.
  - (23) I Kings VI, 2.
  - (24) Isa. LXVI, 1. Thus at first the Shechinah rested on an Ark of small dimensions, but when Israel sinned, even Solomon's Temple was too small.
  - (25) Referring back to p. 24.
  - (26) Deut. XXVIII, 39. תִּאֲגַר.
  - (27) Prov VI, 8. אֲגַרְהָ
  - (28) Ibid. X, 5. אֲוֹגַר
  - (29) Lit. 'true to its own truth', i.e. an absolutely true verdict which can be arrived at by the judge if he endeavours to find out the truth himself and does not rely on the evidence alone. V. Tosaf B.B. 8b; Meg. 15b.
  - (30) Ps.LXXXII, 1. (10) Ibid. XII, 6.
  - (31) Lit., 'money'.

(32) Prov. XXII, 22-23.

(33) Lit., 'see'.

(34) Lit. 'resting between his flanks'.

(35) V. Glos.

## Talmud - Mas. Sanhedrin 7b

for it is written, Behold, it is the litter of Solomon [symbolically the Shechinah], and round about it three score of the mighty men of Israel [symbolising the scholars]; they all handle the sword and are expert in war [in debates] and every man has his sword upon his flank because of the dread in the night.<sup>1</sup> [the dread of Gehenna, which is likened unto night].

R. Josiah, or, according to others, R. Nahman b. Isaac, gave the following exposition: What is the meaning of the verse, O house of David, thus saith the Lord: Execute justice in the morning and deliver the spoiled out of the hand of the oppressor!<sup>2</sup> Is it only in the morning that one acts as judge and not during the whole day? — No, it means: If the judgment you are about to give is clear to you as the morning [light], give it; but if not, do not give it.

R. Hiyya b. Abba says: R. Johanan derived this from the following verse: Say unto wisdom, Thou art my sister.<sup>3</sup> If the matter is as clear to you as is the prohibition of your sister [in marriage], give your decision, but not otherwise.

R. Joshua b. Levi says: If ten judge a case, the chain hangs on the neck of all,<sup>4</sup> Is not this self-evident? — This need not be stated except in reference to the case of a disciple who sits in the presence of his master, and allows to pass unchallenged an erroneous decision of his master.

When a case was submitted to R. Huna he used to summon and gather ten schoolmen, in order, as he put it, that each of them might carry a chip from the beam.<sup>5</sup>

R. Ashi, when a terefal<sup>6</sup> was submitted to him for inspection, sent and gathered all the slaughterers of Matha Mehasia, in order, as he put it, that each of them should carry a chip from the beam.

When R. Dimi came [from Palestine] he related that R. Nahman b. Kohen had given the following exposition of the verse, The King by justice establisheth the land, but he that loveth gifts overthroweth it.<sup>7</sup> If the judge is like a king, in that he needs no one's help, he establishes the land, but if he is like a priest who goes about threshing floors to collect his dues, he overthrows it.

The members of the Nasi's<sup>8</sup> household once appointed an incompetent teacher,<sup>9</sup> and the Rabbis said to Judah b. Nahmani, the interpreter<sup>10</sup> of Resh Lakish: Go and stand at his side as interpreter. Standing by him, he [Judah] bent down to hear what he wished to teach, but the teacher made no attempt to say anything. Thereupon R. Judah took as his opening text: Woe unto him who saith unto wood: Awake! — to the dumb stone: Arise! Can this teach? Behold, it is overlaid with gold and silver, and there is no breath at all in the midst of it;<sup>11</sup> but the Holy One, blessed be He, [he proceeded], will call to account those who set them up, as it is written: But the Lord is in His holy Temple; let all the earth, keep silence before Him.<sup>12</sup>

Resh Lakish said: He who appoints an incompetent judge over the Community is as though he had planted an Asherah<sup>13</sup> in Israel, for it is written: Judges and officers shalt thou appoint unto thee, and soon after it is said: Thou shalt not plant thee Asherah of any kind of tree.<sup>14</sup> R. Ashi said: And if such an appointment be made in a place where scholars are to be found, it is as though the Asherah were planted beside the Altar, for the verse concludes with the words: beside the altar of the Lord thy

God.<sup>15</sup>

Again, it is written: Ye shall not make with Me gods of silver or gods of gold.<sup>16</sup> Is it only gods of silver and gold that may not be made, while those of wood are permitted? — The verse, says R. Ashi, refers to judges appointed through the power of silver or gold.

Rab, whenever he was to sit in court used to say: Of his own free will he [the judge] goes to meet death. He makes no provision for the needs of his household, and empty does he return home. Would only that he returned [as clean of hand] as he came!<sup>17</sup> When [at the entrance] he saw a crowd escorting him, he said: Though his excellency mount up to the heavens, and his head reach unto the clouds, yet he shall perish for ever like his own dung.<sup>18</sup>

Mar Zutra the Pious, as he was carried shoulder-high<sup>19</sup> on the Sabbaths preceding the Pilgrimage Festivals [when he preached on the Festival Laws], used to quote the verse: For riches are not for ever, and doth the crown endure unto all generations?<sup>20</sup>

Bar Kappara said in a lecture: Whence can we derive the dictum of our Rabbis: Be deliberate in judgment? From the words: Neither shalt thou go up by steps upon My altar.<sup>21</sup> For this is followed by: And these are the judgments . . .<sup>22</sup>

R. Eleazar said: Whence is it to be derived that a judge should not trample over the heads of the people?<sup>23</sup> It is written: Neither shalt thou go up by steps [i.e. force thy way] upon My altar; and this is followed by: And these are the judgments.

The same verse continues: which thou shalt set before them. It should have stated: which thou shalt teach them. R. Jeremiah, or according to some, R. Hiyya b. Aha, said: This refers to the insignia of the judges [which they have to set before the public].<sup>24</sup>

R. Huna, before entering the Court, used to say: Bring forth the implements of my office: the rod,<sup>25</sup> the lash;<sup>26</sup> the horn;<sup>27</sup> and the sandal.<sup>28</sup>

Again, it is written: And I charged your judges at that time.<sup>29</sup> R. Johanan said: This is a warning to them to use the rod and lash with caution.

Again: Hear [the causes] between your brethren and judge righteously.<sup>30</sup> This, said R. Hanina, is a warning to the court not to listen to the claims of a litigant in the absence of his opponent; and to the litigant not to explain his case to the judge before his adversary appears. Shamo'a<sup>31</sup> [hear], in the verse, can also be read, shammea'.<sup>32</sup>

R. Kahana, however, says: We can derive this rule from the verse: Thou shalt not take up [tissa] a false report<sup>33</sup> [referring to the judge], which may be read, tashshi.<sup>34</sup>

As for the text quoted above, You shall judge righteously.<sup>35</sup> Resh Lakish says that it means: Consider rightly all the aspects of the case before giving the decision.

As for the words, Between a man and his brother . . . R. Judah says that this refers to disputes between brothers about trifles such as, for instance, who should occupy the lower and who the upper part of a house. And the stranger that is with him . . . This, says R. Judah, refers even to so insignificant a dispute as one concerning a stove and an oven.<sup>36</sup>

You shall not respect persons [lo takkiru] in judgment.<sup>37</sup> R. Judah says this means: You shall not favour [lit. recognise] any one [even if he is your friend]; and R. Eleazar takes it to mean; You shall

not estrange anyone [even if he is your enemy].<sup>38</sup>

A former host of Rab came before him with a law-suit, and said: 'Were you not once my guest?' 'Yes,' he answered, [and what is your wish?]<sup>39</sup> 'I have a case to be tried,' he replied. 'Then,' said Rab,

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- (1) Cant. III, 7-8.
  - (2) Jer. XXI, 12.
  - (3) Prov. VII, 4.
  - (4) I.e., all share the responsibility.
  - (5) I.e. share the responsibility with him.
  - (6) An animal afflicted with an organic disease.
  - (7) Prov. XXIX, 4.
  - (8) Judah II.
  - (9) Lit., 'judge'.
  - (10) Whose function it was to expound aloud to the audience what the teacher had spoken concisely and in a low voice.
  - (11) Hab. II, 19.
  - (12) Ibid.
  - (13) A sacred tree or pole associated with the ancient Semitic cults.
  - (14) Deut. XVI. 18-19.
  - (15) The scholars are compared to the Altar, because they impress upon sinners that they should mend their ways. Cf. Rashi a.l.
  - (16) Ex. XX, 23.
  - (17) He gave expression to the thankless nature of the judge's task, full of responsibility and fraught with danger.
  - (18) Job XX, 6-7.
  - (19) Being advanced in age and unable to walk quickly, he was carried, so that the audience should not have to wait long for his arrival.
  - (20) Prov. XXVII, 24.
  - (21) Ex. XX, 26.
  - (22) The juxtaposition shows that for judgments, one should proceed slowly and avoid large paces, as one does on ascending the altar.
  - (23) Listeners usually sat on the floor, and by forcing his way through the crowd, it would appear as if he were trampling over their heads.
  - (24) V. passage below and Notes 1-4.
  - (25) For beating, according to the court's discretion.
  - (26) For the thirty-nine stripes. Deut. XXV, 3.
  - (27) Blown for excommunication.
  - (28) For Halizah, v. Glos.
  - (29) Deut. I, 16.
  - (30) Ibid.
  - (31) שמע
  - (32) שמע In the Pi'el, which has a causative sense, (make hear).
  - (33) Ex. XXIII, 1. תשא
  - (34) תיא , in the hiph'il from נשא 'entice', 'induce', 'mislead', with reference to the litigant that he should not attempt to win over the judge to his side by stating his case in the absence of his adversary.
  - (35) Deut. I, 16.
  - (36) גרו interpreted here as sojourner', who sojourns in the same house. The nature of the disputes between them will be mostly over articles associated with the household — stoves and ovens.
  - (37) Deut. I, 16.
  - (38) R. Eleazar interprets takkiru as if it were tenakkru תנכרו .
  - (39) [So Rashi According to Rashal, Rab asked, on seeing the man: Are you not my former host?' The man replied. Yes! Thereupon Rab asked him, 'What is your wish', the words in brackets being embodied in the text.]

## Talmud - Mas. Sanhedrin 8a

'I am disqualified from being your judge,' and turning to R. Kahana, said: 'Go you and judge the case'. R. Kahana noticed that the man presumed too much on his acquaintance with Rab, so he remarked: 'If you will submit to my judgment, well and good; If not, I shall put Rab out of your mind [by showing you my authority].'<sup>1</sup>

Ye shall hear the small and the great alike.<sup>2</sup> Resh Lakish says: This verse indicates that a law-suit involving a mere perutah<sup>3</sup> must be regarded as of the same importance as one involving a hundred mina.<sup>4</sup> For what practical purpose is this laid down? If it is to urge the need of equal consideration and investigation, is it not self-evident! Rather, it is to give the case due priority, if it should be first in order.

For the judgment is God's.<sup>5</sup> R. Hamma, son of R. Hanina, comments: The Holy One, blessed be He, hath said: It is not enough for the wicked [judges] that they take away money from one and give it to another unjustly, but they put Me to the trouble of returning it to its owner.

And the cause that is too hard for you, bring unto me.<sup>6</sup> R. Hanina, [according to some, R. Josiah,] says: For this utterance Moses was punished,<sup>7</sup> as we can infer from this later passage: And Moses brought their cause before the Lord.<sup>8</sup>

R. Nahman objects to this comment, and asks: Did Moses say: 'Bring it unto me and I will let you hear it'? No, he said: 'I will hear it; if I am instructed, it is well! If not, I will get me instruction [how to deal with it]'. And the case of the daughters of Zelophehad is to be explained as was taught.<sup>9</sup> The section relating to the laws of inheritance was intended to have been written at the instance of Moses our Teacher. The daughters of Zelophehad, however, were found worthy to have the section recorded on their account. Similarly, the law concerning the gathering of sticks on the Sabbath<sup>10</sup> was to have been written at the instance of Moses our Teacher. The gatherer, however, was found culpable, and so it was recorded on his account. This is to teach us that evil is brought about through the agency of sinful men, and good through that of worthy men.

And I charged your judges at that time;<sup>11</sup> and again, I charged you at that time.<sup>12</sup> R. Eleazar, on the authority of R. Simlai, says: These passages are a warning to the Congregation to revere their judges, and to the judges to bear patiently with the Congregation. To what extent! — R. Hanan, [some say R. Shabatai,] says: As the nursing father carrieth the sucking child.<sup>13</sup>

One text reads: For thou [Joshua] must go with this people, etc.<sup>14</sup> And another text says: For thou shalt bring the Children of Israel.<sup>15</sup> R. Johanan said: Thou shalt be like the elders of the generation that are among them.<sup>16</sup> But the Holy One, blessed be He, said to Joshua: Take a stick and strike them upon their head;<sup>17</sup> there is only one leader to a generation not two.

A Tanna taught: A summons [Zimmun]<sup>18</sup> requires three. What is meant by a summons? Shall I say it means a summons to say Grace after a common meal?<sup>19</sup> But has it not been already taught that a summons and a summons to Grace need three?<sup>20</sup> Again, you cannot maintain that they both mean the same thing, the latter phrase merely explaining the earlier [and both referring to a summons to Grace], since it has been taught: A summons needs three, and a summons to Grace needs three [i. e., Zimmun is here particularly specified afresh as requiring three persons] — 'Summons' here, consequently, must mean a summons to appear before Court. As Raba said: When three judges sit in judgment, and the Court messenger, on summoning to Court, conveys the summons in the name of one only, the summons is of no account until he has brought it in the names of all three. This procedure, however, is necessary only on an ordinary day; on a Court-day<sup>21</sup> it is not necessary.

R. Nahman, son of R. Hisda, sent to ask R. Nahman b. Jacob: Would our teacher inform us how many judges are required for the adjudication of cases of Kenas? But what did his question imply? Surely we learnt, THE REPAYMENT OF THE DOUBLE<sup>22</sup> . . . . . BY THREE. What he meant to ask was whether or not cases of fine may be adjudicated by one Mumheh. R. Nahman b. Jacob said to him: We have learnt, THE REPAYMENT OF DOUBLE OR OF FOUR OR FIVE-FOLD RESTITUTION, BY THREE. Now what kind of persons are these three to be? Shall I say they are commoners? But did not your father's father say, in the name of Rab, that even ten commoners are incompetent to adjudicate cases of fine? Hence it must refer to Mumhin, and even of these, three are required.

BUT THE SAGES HOLD THAT A CASE OF LIBEL<sup>23</sup> REQUIRES A COURT OF TWENTY-THREE, etc. But, even though it may lead to capital punishment, what does it matter? [Since there are no witnesses yet known to be available, to corroborate the husband's suspicion, is it not merely a monetary case, involving only the Kethubah]?<sup>24</sup>

‘Ulla says that the point of dispute [in the Mishnah between R. Meir and the Sages] is whether we consider seriously the effect of the husband's allegation.<sup>25</sup> R. Meir does not consider seriously the effect of the allegation — while the Rabbis do.

Raba says that all agree that the effect of the allegation need not be seriously considered.<sup>26</sup> They differ, however, as to whether [in cases where the judges have been reduced in number]<sup>27</sup> the honour of those who retired has to be considered or not. The actual case treated here is where the husband — [having had expectations of supporting his allegation with evidence,] appeared before a court of twenty-three<sup>28</sup> assembled to judge a capital case. Afterwards, [when he could not produce the required witnesses,] the Court began to disperse, and he then appealed to it that three should remain to decide his monetary claim.<sup>29</sup> [The Sages, in order to protect the dignity of those judges who would have left, require them to reassemble, while R. Meir does not hold this view.]

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(1) Lit., ‘I shall get Rab out of your ears’; i.e., by applying the sanctions of excommunication

(2) Deut. I, 17

(3) The smallest of coins.

(4) A weight in gold or silver, equal to one hundred shekels.

(5) Deut. I, 17.

(6) Ibid.

(7) Because he attached too much authority to himself.

(8) Num. XXVII, 5 i.e., the case of the daughters of Zelophehad which he knows not how to decide.

(9) B.B. 119a.

(10) Num. XV, 32.

(11) Deut. I, 16.

(12) Ibid. I, 18.

(13) Num. XI, 12.

(14) Deut. XXXI, 7. Where Moses thus places Joshua on an equality with the people.

(15) Ibid. 23. Where Joshua is declared their leader.

(16) [So Yad Ramah a.l.

(17) I.e., show your authority.

(18) זִמּוּן Invitation or summons.

(19) By inviting the guests to join in saying Grace.

(20) Which shows that Zimmun is not identical with Grace said by invitation.

(21) Usually Mondays and Thursdays.

(22) Which is also Kenas.

(23) An accusation made by a husband against his wife, that she was not a virgin at marriage. If adultery is not proved,

the accused as a non-virgin, suffers the loss of half the amount payable to her under the Kethubah (see note 4). If the woman is found guilty of adultery during her betrothed state, she is stoned. Hence the dispute in the Mishnah between R. Meir and the Sages. In Talmudic days Betrothal bound the couple as husband and wife, save for cohabitation and minor details.

(24) The marriage contract containing, among other things, the settlement on the wife of a minimum of two hundred zuz if she was a virgin, and a hundred zuz if she was not a virgin at marriage. This amount, payable on her husband's death, or on her being divorced, the woman forfeits on a charge of infidelity committed during her betrothed state. (See Keth. 10b, and Rashi and Tosaf. a.l.).

(25) Lit., 'gossip'. As soon as the charge is made before the Court, the report might be bruited, and witnesses, of whom the husband may be at the moment unaware, may come to support it, the charge thus becoming capital.

(26) And in the absence of witnesses three judges alone are sufficient.

(27) V. infra.

(28) As is required for a capital case.

(29) The husband's allegation of non-virginity is accepted by the rabbis even without evidence, in respect of the Kethubah. v. Keth. 10a.

## Talmud - Mas. Sanhedrin 8b

The scholars, however, raised an objection from the following: The Sages say: If there is only a monetary claim, three are sufficient; if it involves capital punishment, twenty-three are needed.<sup>1</sup> This may be correct according to Raba,<sup>2</sup> [in which case the Baraita should be understood thus:] If [the husband did not offer support of his allegation] his claim, being then only monetary, is decided by three. If however he proposed to bring evidence [on which basis a court of twenty-three was set up], as for a capital charge, but in the end, [owing to the failure to produce witnesses,] only makes a monetary claim, nevertheless the twentythree remain. But how would 'Ulla<sup>3</sup> explain the Baraita? Raba said: [In answer] I and the lion<sup>4</sup> of the group, namely R. Hiyya b. Abin, have elucidated it. The case in question is one in which the husband attested his wife's guilt by witnesses. Her father, however, brought witnesses refuting their evidence.<sup>5</sup> In that case the father's monetary claim from the husband<sup>6</sup> is decided by three.<sup>7</sup> But in a case [where witnesses have not yet been produced and consequently not refuted, and] which may yet turn out a capital charge, twenty-three are required.

Abaye says that all [even R. Meir] agree that the eventual effect of the allegation is to be taken into consideration, as well as the honour of the judges who had retired. And the reason that three are sufficient, according to R. Meir, is that the case treated here is that of a woman who, before committing adultery, was cautioned in general terms [as to the penalty of death to which she would make herself liable, but without the kind of death being defined]. And his opinion concurs with that of the following Tanna: For it has been taught:<sup>8</sup> All those under sentence of death according to the Torah are to be executed only by the decree of a court of twenty-three, after proper evidence and warning, and provided the warners have let them know that they are liable to a death sentence at the hand of the Court. According to R. Judah, the warners must also inform them of the kind of death they would suffer [and failing that, they are not to be executed].<sup>9</sup>

R. Papa<sup>10</sup> said: The case discussed here is that of a scholarly woman who received no warning at all; and they differ according to the difference of opinion between R. Jose b. Judah and the [other] Rabbis. For it has been taught: R. Jose b. Judah, [with whom the Rabbis who oppose R. Meir agree.] holds that a scholar<sup>11</sup> is held responsible for his crimes even without being formally warned, as warning is only a means of deciding whether one has committed the crime wilfully or not.<sup>12</sup>

R. Ashi says,

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(1) Tos. cf. Sanh. I.

(2) According to whom even the Rabbis agree that the husband's allegation alone can involve only a monetary claim.



- (3) In whose opinion the rabbis consider the husband's suspicions alone as involving a capital charge.
- (4) The distinguished one.
- (5) By proving them to be Zomemim, 'plotters', 'schemers', as having been absent at the time of the alleged offence and so subject to the penalties under the law of retaliation. V. Deut. XIX, 18-19, and Mak. I, 2-4. V. Glos.
- (6) The hundred pieces of silver, compensation for libel. V. Deut. XXII, 19.
- (7) Even according to 'Ulla, the rabbis no longer apprehend the appearance of witnesses, because the husband's evidence was in the beginning false; neither is his allegation of non-virginity considered in this case, even in connection with the Kethubah, since he has become discredited.
- (8) Tosef. Sanh. X.
- (9) Consequently, in this case the woman is not liable to death, nor can any capital punishment follow.
- (10) Who is in agreement with Abaye.
- (11) Haber, v. Glos.
- (12) In this case, even without warning, capital punishment is involved, and hence twenty-three are required.

### **Talmud - Mas. Sanhedrin 9a**

R. Meir and the Rabbis treat of a case where the woman was cautioned in regard to her liability to lashes<sup>1</sup> only and not to capital punishment; and they differ in accordance with the difference of opinion between R. Ishmael and the [other] Rabbis. For we learnt: CASES INVOLVING LASHES BY THREE JUDGES; IN THE NAME OF R. ISHMAEL IT IS SAID BY TWENTY-THREE.

Rabina said that [R. Meir and the Rabbis are dealing with a case] where one of the witnesses, [who testified to the woman's guilt,] was found afterwards to be a relative or otherwise disqualified. Their point of difference is the same as that in which R. Jose and Rabbi differ in applying the opinion of R. Akiba. For we learnt: R. Akiba says that the third witness<sup>2</sup> is mentioned in the Torah, [not for the purpose of making him less responsible], but, on the contrary, to increase his responsibility, by making his status equal to that of the other two, indicating, incidentally, that if Scripture punishes as sinners those who associate with sinners, much more will it reward those who associate with men who fulfil the commandments, as though they themselves had actually fulfilled them.<sup>3</sup> And just as in the case of two witnesses, if one is found to be a near kinsman or otherwise disqualified<sup>4</sup> person, the whole testimony is rendered void, so in the case of three witnesses, the disqualification of one invalidates the whole evidence. And whence do we infer that this law would apply even if the number of witnesses reached a hundred? — We infer it from the repetition of the word witnesses.<sup>5</sup> R. Jose says: These aforementioned limitations apply only to witnesses in capital charges, whereas, in monetary cases, the evidence offered can be established by those remaining. Rabbi says it is one and the same rule; whether in monetary or capital cases the evidence becomes equally void, that is, provided the disqualified witnesses took part in the prerequisite warning. But if they were not among those who gave the warning, why should the evidence be affected by disqualified witnesses?

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(1) Deut. XXV, 3.

(2) Deut. XIX, 15. Since the testimony of two suffices, the mention of the third seems superfluous. V. Mak. 5b.

(3) Lit., 'as those who fulfil the commandments'.

(4) By reason of status, crime, evil repute and infamous bearing. V. infra, fol. 24b.

(5) Deut. XIX, 15. V. Mak. 5b.

### **Talmud - Mas. Sanhedrin 9b**

And what would be the situation of three acting as witnesses in a murder case, of whom two were brothers?<sup>1</sup> Or if you wish, you may say that the case [of the Mishnah] is one where the woman was warned by others and not by the witnesses. The point of difference, again, is the same as that between R. Jose and the Rabbis, as we learnt.<sup>2</sup> R. Jose says: A criminal cannot be executed unless he

was cautioned by two who witnessed the crime, for it says: At the mouth of two witnesses or three shall he be put to death.<sup>3</sup>

Or, if you prefer, you may say that [R. Meir and the Rabbis differ in a case] where the witnesses contradicted themselves during the Court cross-examination regarding accompanying circumstances<sup>4</sup> but corroborated each other during cross-examination [on such matters as date, time and place]. And their point of dispute is that of the principle on which the Rabbis and Ben Zakkai differ; for we learnt:<sup>5</sup> Ben Zakkai once examined the witnesses minutely, enquiring as to the size of the prickles on the fig-[tree under which a certain crime had been committed].<sup>6</sup>

R. Joseph said: If a husband has produced witnesses testifying to his wife's guilt, and her father has brought witnesses refuting their evidence,<sup>7</sup> the former are liable to death<sup>8</sup> but are exempted from paying [the value of the Kethubah].<sup>9</sup> If, however, the husband has again brought witnesses to refute the father's witnesses, the latter are then liable to death<sup>10</sup> and also to pay the fines<sup>11</sup> — the money fine for intended injury to one person, and the death penalty for intended death to another.

R. Joseph again said: If a man says that so and so committed sodomy with him against his will, he himself with another witness can combine to testify to the crime. If, however, he admits that he acceded to the act, he is a wicked man [and therefore disqualified from acting as witness] since the Torah says: Put not thy hand with the wicked to be an unrighteous witness.<sup>12</sup> Raba said: Every man is considered a relative to himself, and no one can incriminate himself.<sup>13</sup> Again Raba said:

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(1) In this case the disqualified brother must not have participated in the warning, or the whole evidence is void. If he did not participate in the warning, the evidence of the remaining two holds good. Hence, in such a case the Rabbis, holding with Rabbi that the evidence is not invalidated by the presence of one disqualified witness, consider this a capital charge requiring twenty-three.

(2) Mak. 6b.

(3) Deut. XVII, 6.

(4) V. p. 225.

(5) Infra 40a.

(6) Hence, according to R. Meir, who agrees with Ben Zakkai, the testimony is invalidated as a result of contradictions in the evidence regarding accompanying circumstances.

(7) I.e., they proved them Zomemim, v. Glos.

(8) For intending to bring about the death of the woman according to the law of retaliation. Deut. XIX, 16 ff. cf. Mak. I.

(9) Of which she would also have been deprived in the case of her condemnation, for he who has committed two offences simultaneously is held liable in law for the graver only. V. Keth. 36b.

(10) For intending to bring about the death of the husband's witnesses.

(11) A hundred pieces of silver, which the husband would have been fined in case his allegation was disproved.

(12) Ex. XXIII, 1.

(13) Consequently his evidence is valid only with regard to the criminal but not to himself, on the principle that we consider only half of his testimony as evidence.

## **Talmud - Mas. Sanhedrin 10a**

[If one gives evidence, saying,] So and so has committed adultery with my wife, he and another witness can convict him [the adulterer] but not her [the wife]. What does he intend to teach us thereby? Does he mean to say that only half of a man's evidence is to be considered? Was this not understood from his previous teaching? — No, for you might have thought that whereas the principle was admitted that one is considered a relative of himself, we did not admit the principle that a man is considered a relative of his wife. Hence this rule.

Again Raba said: [If witnesses testify] that so and so committed adultery with a betrothed woman<sup>1</sup>

and their evidence is refuted, they are liable to capital punishment, but not to the indemnification of the Kethubah.<sup>2</sup> If, however, they say, 'with the [betrothed] daughter of so and so,'<sup>3</sup> they are liable to both capital punishment and the indemnification of the Kethubah. The money fine for intended injury to one person, and the death penalty for intended death to another.

Raba said further: [If witnesses testify] that so and so committed an unnatural crime with an ox, and the evidence is afterwards refuted, they are liable to capital punishment, but not to be mulcted in respect of the ox.<sup>4</sup> If, however, they say, 'with the ox of so-and-so,' they must pay the fine and are put to death; the fine because of the loss they intended to inflict on one person, and death because they sought to bring about the death of another person. Why is it necessary to state this latter law? Is not the underlying principle the same as in the previous case? — It had to be stressed because Raba propounded in connection with it a question as follows: If witnesses declare that 'so-and-so has committed an unnatural crime with my ox,' what would in this case be the law?<sup>5</sup> While adopting the principle, 'one is considered a relative to himself', do we admit the principle, 'one is considered related to his property', or do we not? After propounding the problem, he later solved it. We accept the principle as affecting his own person, but not as affecting his property.<sup>6</sup>

CASES OF FLOGGING BY THREE, etc. Whence do we infer this? — R. Huna said: Scripture says: They [the judges] judge them,<sup>7</sup> indicating [at least] two, and since no Beth din can consist of an even number, another judge is added, giving a total of three.

But now, according to our exegesis, the verb 'vehizdiku' — [and they shall justify] — should also denote two, and so likewise the verb 'vehirshi'u' [and they shall condemn]<sup>8</sup> an additional two, [so making, together with, the above three], a total of seven in all? — These verbs are to be explained according to 'Ulla. For 'Ulla said: Where in the Torah do we find an allusion to the treatment of witnesses attested as Zomemim? Where is there found any allusion to Zomemim [witnesses]! Do we not read, Then shall ye do unto him as he had purposed to do to his brother?<sup>9</sup> What is required is some allusion supporting infliction of stripes upon Zomemim.<sup>10</sup> This we find where it is written: And they shall justify the righteous, and shall condemn the wicked.<sup>11</sup> Now [assuming that this refers to the judges], how, since the judges justify the righteous and condemn the wicked, does it follow that the wicked man deserves to be beaten?<sup>12</sup> — [The text cannot therefore refer to judges;] rather it must refer to witnesses who have incriminated a righteous man, after whom other witnesses came and justified the righteous, and rehabilitated his [the injured man's] character, and thus condemned the wicked, that is, established the wickedness of the witnesses, in which case, if the wicked man [the false witness] deserve to be beaten, the judge shall cause him to lie down and be beaten. But why, could not this be deduced from the commandment: Thou shalt not bear false witness against thy neighbour?<sup>13</sup> — No! Because that is a prohibition involving no material action, and the transgression of a prohibition involving no material action is not punishable by flogging.

IN THE NAME OF R. ISHMAEL IT IS SAID, BY TWENTY-THREE. Whence is this deduced? — Said Abaye: It is derived from the word rasha', which occurs alike in connection with flogging and with capital punishment. In the one case it is written: If the wicked [guilty] man [ha-rasha'] deserve to be beaten,<sup>14</sup> and in the other, it is written, that is guilty, [rasha] of death.<sup>15</sup> Just as in the case of the extreme penalty twenty-three are needed, so in the case of flogging. Raba says: Flogging is considered a substitute for death.<sup>16</sup> R. Aha son of Raba said to R. Ashi: If so, why then the need of medical opinion as to the amount of lashes the condemned can stand? Let him be beaten, and, should he die, well, let him die!<sup>17</sup> — R. Ashi answered: Scripture says: Then thy brother should be dishonoured before thine eyes,<sup>18</sup> to indicate that when the lashes are applied, they must be applied to the back of a living person. But in this case [how explain what] has been taught: If in their [the medical] opinion he can stand no more than, say, twenty lashes, he is to be given a number of lashes divisible by three; namely, eighteen?<sup>19</sup>

- (1) V. Deut. XXII, 25; v. p. 34, n. 3.
- (2) Of which they intended to deprive her, because the woman was not named.
- (3) To whom the amount of the Kethubah belongs before marriage.
- (4) If they have not named the owner.
- (5) Is the evidence of the owner valid with regard to the ox?
- (6) The evidence is thus valid with regard to the ox.
- (7) In the plural Deut. XXV, 1.
- (8) Ibid.
- (9) Deut. XIX, 19.
- (10) In cases where the law of retaliation cannot be applied, v. Mak. 2b.
- (11) Deut. XXV, 1.
- (12) I.e., if so, why this reference to the justification of the righteous? Surely the application of the punishment does not depend on it! V. Rashi on same passage in Mak. 2b.
- (13) Ex. XX, 16.
- (14) Deut. XXV, 2. רשע (ה)
- (15) Num. XXXV, 31. רשע
- (16) The sinner in reality deserves the death penalty for trespassing the command of his Creator (Rashi), and a death penalty must be administered by twenty-three.
- (17) Since death is his real desert, v. Mak. 22a.
- (18) Deut. XXV, 3.
- (19) Tosef. Mak. IV, 12.

## Talmud - Mas. Sanhedrin 10b

Rather let him receive twenty-one. For even if he should die by reason of the twenty-first lash, he would still be alive when it [the twenty-first] begins to be applied? — R. Ashi replied: Scripture says, Then thy brother should be dishonoured before thine eyes.<sup>1</sup> that is to say, after the last lash has been administered, he must still be ‘thy [living] brother.’

THE INTERCALATION<sup>2</sup> OF THE MONTH BY THREE. [The Tanna of the Mishnah] mentions neither the ‘calculation’<sup>3</sup> nor the ‘sanctification’<sup>4</sup>, but the INTERCALATION of the month. [Why then the need of three for this?] Suppose it is not sanctified [on the thirtieth day] it will then be automatically intercalated! — Abaye therefore said: Read then, THE SANCTIFICATION OF THE MONTH. It is also taught to the same effect: The sanctification of the month and the intercalation of the year is to be determined by three. So R. Meir holds. But, asked Raba, does not the Mishnah say, the INTERCALATION? — Hence, said Raba, the Mishnah means that the sanctification made on INTERCALATION, that is on the intercalary day,<sup>5</sup> is determined by three; but on the day after it there is to be no sanctification. And this represents the opinion of R. Eliezer b. Zadok, as it has been taught: R. Eliezer b. Zadok says: If the new moon has not been visible in time, there is no need for the Sanctification next day, as it has already been sanctified in Heaven.<sup>6</sup>

R. Nahman said: [The Mishnah means] that Sanctification is held on the day after INTERCALATION [that is after the intercalary day] by three; but on the day itself, there is to be no Sanctification. And whose view is this? — Polemo's, as it was taught: Polemo says, [If the new moon has appeared] at its due time,<sup>7</sup> there is not to be Sanctification; but if it has not appeared at its due time, Sanctification is to be proclaimed.

R, Ashi said: In reality, the Mishnah refers to the ‘calculation’, and as for THE INTERCALATION, it means the calculation relating to THE INTERCALATION. But having to state [explicitly] THE INTERCALATION OF THE YEAR,<sup>8</sup> the Tanna also employs the phrase THE INTERCALATION OF THE MONTH.

The Mishnah thus holds that only 'calculation' is required in fixing the length of the month, but no formal 'sanctification'. Whose view is this? — R. Eliezer's; as it has been taught: R. Eliezer says: Whether the moon appears at its due time or not, no sanctification is needed, for it is written, Ye shall sanctify the fiftieth year<sup>9</sup> [from which it is to be inferred that] thou art to sanctify years<sup>10</sup> but not months.

R. SIMEON B. GAMALIEL SAYS, BY THREE etc. It has been taught: How [are we to understand] R. Simeon b. Gamaliel when he says, THE MATTER IS INITIATED BY THREE, DISCUSSED BY FIVE AND DETERMINED BY SEVEN? — If, for example, one holds a meeting [for the purpose of considering the question of intercalation] to be necessary, but two hold that it is unwarranted, the opinion of the single one, being in the minority, is overruled. If, however, two are in favour of the meeting and one is not, two more are co-opted, and the matter is then discussed. Should then two [of the five] find intercalation necessary, and three not, the opinion of the two, being in the minority, is overruled. If, however, three favour intercalation and two not, an additional two are co-opted, as not less than seven form a quorum to determine an intercalation [where there is a division of opinion].

To what do these numbers, three, five and seven, correspond? — R. Isaac b. Nahmani, and an associate of his, namely, R. Simeon b. Pazi; or according to others [who invert the order], it was R. Simeon b. Pazi and an associate of his, namely, R. Isaac b. Nahmani, differ in the matter. One said [that the numbers, three, five and seven] correspond to [the respective number of Hebrew words] in [the three verses of] the Priestly Benediction;<sup>11</sup> the other said, they correspond to the three keepers of the threshold,<sup>12</sup> the five of them that saw the king's face,<sup>13</sup> and the seven . . . who saw the king's face.<sup>14</sup>

R. Joseph learned: [The numbers] three, five and seven, correspond [as follows]: Three, to the keepers of the threshold, five, to those of them that saw the king's face, and seven, to those who saw the king's face. Whereupon Abaye asked him: 'Why has the Master not explained it to us hitherto?' He answered: 'I knew not that you needed it. Did you ever ask me to interpret anything and I refused to do it?'

(Mnemonic: Appointment, Nasi, Necessary, Kid.)

Our Rabbis taught: The year can be intercalated only by a Court

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(1) Ibid.

(2) The commencement of the month was dated from the time when the earliest visible appearance of the new moon was reported to the Sanhedrin. If this happened on the 30th day of the current month, that month was considered to have ended on the preceding 29th day, and was called deficient. But if no announcement was made on the 30th day, that day was reckoned to the current month, which was then called full, and the ensuing day was considered the first of the next month.

(3) The 'calculation' as to which and how many months were to be intercalated. It was an established rule that no year should consist of less than four nor more than eight full months.

(4) The proclamation by formal 'sanctification' of the new moon on the thirtieth day.

(5) The thirtieth day.

(6) I.e., it is patent to all that the next day is the new moon, as no month exceeds 30 days.

(7) I.e., on the thirtieth day.

(8) Where a special proclamation is necessary, failing which the year is not intercalated.

(9) Lev. XXV, 10.

(10) The court is to sanctify the Jubilee Year by a formal proclamation: 'The year is hallowed'.

(11) Num. VI, 24-26.

(12) II Kings XXV, 18.

(13) II Kings XXV, 19.

(14) Est. I, 14.

## Talmud - Mas. Sanhedrin 11a

whose members have been appointed for that purpose.<sup>1</sup>

It once happened that Rabban Gamaliel<sup>2</sup> said: 'Send me up seven [scholars] early in the morning to the upper chamber<sup>3</sup> [for this purpose].' When he came in the morning and found eight, he asked: 'Who is he who has come up without permission? Let him go down.' Thereupon, Samuel the Little arose and said: 'It was I who came up without permission; my object was not to join in the intercalation, but because I felt the necessity of learning the practical application of the law.' Rabban Gamaliel then answered: 'Sit down, my son, sit down; you are worthy of intercalating all years [in need of such], but it is a decision of the Rabbis that it should be done only by those who have been specially appointed for the purpose.' — But in reality it was not Samuel the Little [who was the uninvited member] but another;<sup>4</sup> he only wished to save the intruder from humiliation.

Similarly it once happened that while Rabbi was delivering a lecture, he noticed a smell of garlic. Thereupon he said: 'Let him who has eaten garlic go out.' R. Hiyya arose and left; then all the other disciples rose in turn and went out. In the morning R. Simeon, Rabbi's son, met and asked him: 'Was it you who caused annoyance to my father yesterday?' 'Heaven forfend<sup>5</sup> that such a thing should happen in Israel,' he answered.<sup>6</sup>

And from whom did R. Hiyya learn such conduct? — From R. Meir, for it is taught: A story is related of a woman who appeared at the Beth Hammidrash<sup>7</sup> of R. Meir and said to him, 'Rabbi, one of you has taken me to wife by cohabitation.' Thereupon he rose up and gave her a bill of divorce,<sup>8</sup> after which every one of his disciples stood up in turn and did likewise. And from whom did R. Meir learn this? — From Samuel the Little. And Samuel the Little? — From Shecaniah son of Jehiel, for it is written, And Shecaniah son of Jehiel, one of the sons of Elam answered and said unto Ezra: We<sup>9</sup> have broken faith with our God and have married foreign women of the peoples of the land: yet now there is hope in Israel concerning this thing.<sup>10</sup> And Shecaniah learnt it from [the story told of] Joshua. As it is written, The Lord said unto Joshua, Get thee up, wherefore, now, art thou fallen upon thy face? Israel hath sinned . . .<sup>4</sup> 'Master of the Universe,' asked Joshua, 'who are the sinners?' 'Am I an informer?' replied God. 'Go and cast lots [to find out].'<sup>11</sup> Or, if you like, I might say that he learnt it from [the incident with] Moses, as we read, And the Lord said unto Moses, How long refuse ye to keep My commandments and My laws?<sup>12</sup>

Our Rabbis taught: Since the death of the last prophets, Haggai, Zechariah and Malachai, the Holy Spirit [of prophetic inspiration] departed from Israel; yet they were still able to avail themselves of the Bath-kol.<sup>13</sup> Once when the Rabbis were met in the upper chamber of Gurya's<sup>14</sup> house at Jericho, a Bath-kol was heard from Heaven, saying: 'There is one amongst you who is worthy that the Shechinah<sup>15</sup> should rest on him as it did on Moses, but his generation does not merit it.' The Sages present set their eyes on Hillel the Elder. And when he died, they lamented and said: 'Alas, the pious man, the humble man, the disciple of Ezra [is no more].'

Once again they were met in the upper chamber at Jabneh, and a Bath-kol was heard to say: 'There is one amongst you who is worthy that the Shechinah should rest on him, but his generation does not merit it.' The Sages present directed their gaze on Samuel the Little. And when he died, they lamented and said: 'Alas! the pious man, alas! the humble man, the disciple of Hillel [is no more].' Samuel the Little also said shortly before he passed away: 'Simeon<sup>16</sup> and Ishmael<sup>17</sup> will meet their death by the sword, and his friends<sup>18</sup> will be executed; the rest of the people will be plundered, and many troubles will come upon the world.' The Rabbis wished to use the same words

of lamentation for R. Judah b. Baba;<sup>19</sup> the troublous conditions of the time, however, did not permit it, for no funeral orations were delivered over those who were martyred by the [Roman] Government.<sup>20</sup>

Our Rabbis taught: A year cannot be intercalated unless the Nasi sanctions it. It once happened that Rabban Gamaliel was away obtaining permission from the Governor in Syria<sup>21</sup>, and, as his return was delayed, the year was intercalated subject to Rabban Gamaliel's later approval. When Rabban Gamaliel returned he gave his approval with the result that the intercalation held good.

Our Rabbis taught: A year may not be intercalated except where it is necessary either for [the improvement of] roads<sup>22</sup> or for [the repair of] bridges, or for the [drying of the] ovens<sup>23</sup> [required for the roasting] of the paschal lambs, or for the sake of pilgrims<sup>24</sup> from distant lands who have left their homes and could not otherwise reach [Jerusalem] in time.<sup>25</sup> But no intercalation may take place because of [heavy] snows or cold weather<sup>26</sup> or for the sake of Jewish exiles [from a distance] who have not yet set out.

Our Rabbis taught: The year may not be intercalated on the ground that the kids<sup>27</sup> or the lambs or the doves are too young.<sup>28</sup> But we consider each of these circumstances as an auxiliary reason for intercalation.<sup>29</sup> How so? — R. Jannai [gave the following example of the law in operation], quoting from R. Simeon b. Gamaliel's [letter to the Communities]: 'We beg to inform you that the doves are still tender and the lambs still young, and the grain has not yet ripened. I have considered the matter and thought it advisable to add thirty days to the year.'

An objection was raised: How long a period was intercalated in the year? Thirty days. R. Simeon b. Gamaliel said: A month?<sup>30</sup> — R. Papa Said: [The matter is left to the judgment of the intercalary court:] if they wish, they may add a month; or if they wish thirty days.

Come now and see the difference between

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- (1) By the Nasi on the previous evening (Rashi).
  - (2) The Second.
  - (3) The meeting place of the Rabbis. v. Keth. 50b; Shab. Ch. I, M. 4. [V. Krauss, *Lewy-Festschrift*, pp. 27, ff.].
  - (4) [Probably R. Eliezer b. Hyrcanus, v. Bacher; *Agada der Tanaiten*, vol. I, p. 84.]
  - (5) This is the reading in Rashi.
  - (6) I.e., he acted with the intention of saving the real offender from humiliation.
  - (7) 'House of Learning,' the school, or college. V. Glos.
  - (8) Attaching the blame to himself.
  - (9) Including himself, though no guilt was attached to him.
  - (10) Ezra X, 2. (1) Josh. VII, 10-11.
  - (11) So saving the real sinners from humiliation.
  - (12) Ex. XVI, 28. Though no blame was attached to Moses, he is included to spare the offenders from humiliation.
  - (13) Divine voice, of secondary rank to prophecy. v. Glos.
  - (14) [J. Sotah IX, reads 'Gadia'.]
  - (15) Divine presence. v. Glos.
  - (16) R. Simeon b. Gamaliel the First, the father of Gamaliel of Jabneh. So Rashi. Cp. also Semahoth 8. But this statement lacks historical support, as Samuel the Little died nearly half a century after the destruction of the Temple, whereas Simeon died before that event. Halevy (*Doroth, Ie*, pp. 201 seq.) rightly assumes that Simeon here is the son of R. Hanina (the Segan of the Priests) known as Simeon b. ha-Segan (cf. Men. 100b) who witnessed the Destruction.
  - (17) R. Ishmael b. Elisha, the High Priest.
  - (18) R. Akiba and R. Hinina b. Teradyon.
  - (19) Who was martyred at the age of seventy under the Hadrianic persecution, v. *infra* 14a.
  - (20) Any words of praise spoken in public over the martyred would have been regarded by the Romans as an act of

provocation.

(21) [I.e., in order to secure confirmation of his appointment as Nasi (Derenbourg, Essai p. 311); or to obtain permission for intercalating the year (Yad Ramah).]

(22) Which are impassable by those coming from afar to celebrate the Passover at Jerusalem.

(23) These were erected in the open and, being exposed to the winter weather, became slimy and unfit for use, except after being allowed some time to dry.

(24) Lit. 'Exiles of Israel', Jews from distant parts of the Diaspora.

(25) For the Passover Feast.

(26) As this need not prevent pilgrims from proceeding to Jerusalem.

(27) Kids set aside for the Paschal Sacrifice.

(28) Doves were prescribed as offerings for women after confinement and for persons cured from gonorrhoea. These, as a rule, postponed their offerings until the Passover Pilgrimage. But the reason that doves were too young was inadequate for intercalation, since the law provided the alternative of young pigeons for such offerings. Cf. Lev. XII, 8.

(29) Two reasons were required to justify intercalation, v. infra.

(30) Twenty nine days; whereas R. Simeon b. Gamaliel fixed it at thirty days.

### **Talmud - Mas. Sanhedrin 11b**

the proud leaders of former days and their modest successors of later times. For it has been taught: It once happened that Rabban Gamaliel<sup>1</sup> was sitting on a step on the Temple-hill and the well known<sup>2</sup> Scribe Johanan was standing before him while three cut sheets were lying before him. 'Take one sheet', he said, 'and write an epistle to our brethren in Upper Galilee and to those in Lower Galilee, saying: "May your peace be great! We beg to inform you that the time of 'removal' has arrived for setting aside [the tithe]<sup>3</sup> from the olive heaps." Take another sheet, and write to our brethren of the South, "May your peace be great! We beg to inform you that the time of 'removal' has arrived for setting aside the tithe from the corn sheaves."<sup>4</sup> And take the third and write to our brethren the Exiles in Babylon and to those in Media, and to all the other exiled [sons] of Israel, saying: "May your peace be great for ever! We beg to inform you that the doves are still tender and the lambs still too young and that the crops are not yet ripe. It seems advisable to me and to my colleagues<sup>5</sup> to add thirty days to this year.'" [Yet] it is possible [that the modesty shown by Rabban Gamaliel in this case belongs to the period] after he had been deposed [from the office of Nasi].<sup>6</sup>

Our Rabbis taught: A year may be intercalated on three grounds: on account of the premature state of the corn-crops;<sup>7</sup> or that of the fruit-trees;<sup>8</sup> or on account of the lateness of the Tekufah<sup>9</sup> Any two of these reasons can justify intercalation, but not one alone. All, however, are glad when the state of the spring-crop is one of them.<sup>10</sup> Rabban Simeon b. Gamaliel says: On account of [the lateness of] the Tekufah. The Schoolmen inquired: Did he mean to say that 'on account of the [lateness of the] Tekufah' [being one of the two reasons], they rejoiced,<sup>11</sup> or that the lateness of the Tekufah alone was adequate reason for intercalating the year? — The question remains undecided.

Our Rabbis taught: [The grain and fruit of the following] three regions [are taken as the standard] for deciding upon the declaration of a leap-year: Judea,<sup>12</sup> Trans-Jordania,<sup>13</sup> and Galilee.<sup>14</sup> The requirements of two of these regions might determine the intercalation, but not those of a single one. All, however, were glad when one of the two was Judea, because the barley for the Omer<sup>15</sup> was obtained [by preference] in Judea.<sup>16</sup>

Our Rabbis taught: The intercalation of a year can be effected [by the Beth din] only in Judea; but if for some reason [it had been decided upon by the Beth din] in Galilee, the decision holds good. Hanania of Oni, however, testified: 'If the intercalation was decided upon in Galilee, it is not valid.' R. Judah the son of R. Simeon b. Pazi asked: What is the reason for the view of Hanania of Oni? — Scripture states, Unto His habitation shall ye seek and thither thou shalt come:<sup>17</sup> whatever search<sup>18</sup> you have to make shall be only in the habitation of the Lord.<sup>19</sup>



Our Rabbis taught: A leap-year is to be declared only by day, and if it has been declared by night, the declaration is invalid. The sanctification of a month is to be performed by day, and if it has been performed by night it is not valid. R. Abba says: What passage [proves this]? — Blow the horn at the new moon, at the covering<sup>20</sup> of the moon our feast-day.<sup>21</sup> Now on which feast is the moon covered? — We must say on the New Year.<sup>22</sup> And it is thereupon written, For this is a statute for Israel, a judgment<sup>23</sup> of the God of Jacob: Just as judgment is executed by day,<sup>24</sup> so also must the sanctification of the month take place by day.

Our Rabbis taught: A year is not to be intercalated

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(1) The Second, called also 'Gamaliel of Jabneh', who was noted for his firmness, and the enforcement of his authority. Cf. R.H. 25a; Ber. 27b; Bek. 36a.

(2) Lit., 'that.'

(3) Tithes were of four classes: (a) the Levitical or First tithe; (b) the Priestly tithe given by the Levites from their own tithe; (c) the Second tithe, and (d) the triennial or Poor tithe. The Second tithe was to be eaten in Jerusalem every year of the septennial cycle, except the third and sixth, when it was replaced by the Poor tithe. The whole series of tithes reached its completion close upon Passover in the fourth and seventh year, and all the tithes which ought to have been paid in the course of the three years, but which, whether through negligence or other circumstances, were not given, had to be removed (ביעור) on the eve of Passover, and a prayer of confession (וידוי) offered, in accordance with Deut. XXVI, 13. Cf. M. Sh. V, 6.

(4) The chief product of Galilee was olives, and that of the south, wheat.

(5) He thus associated his colleagues with the epistle, whereas his son did not refer to his colleagues, though he was noted for his modesty. Cf. B.M. 85a. 'Rabbi says: There were three humble men, my father (R.S.b.G.) the children of Bathyra and Jonathan the son of Saul.'

(6) He was deprived of his position owing to the great displeasure he aroused in the Assembly by his harsh attack on R. Joshua b. Hanina, a famous pupil of R. Johanan b. Zakkai, but subsequently reinstated as joint-president with R. Eliezer b. Azaria. Cf. Ber. 27.

(7) This species must be ripe in the month of Nisan which is known in the Bible as the Abib (Ex. XIII,44) the month of ears (of corn), in reference to the ripeness of the corn in that month.

(8) Which should, as a rule, ripen close before 'Azereth (Pentecost), the time when the Pilgrims bring the first fruits to Jerusalem (Num. XXVIII, 26). If it happens that the fruit is unripe, the year may be intercalated so as to prevent a special journey.

(9) Lit. 'cycle', 'season'. The Jewish Calendar, while being lunar, takes cognisance of the solar system to which it is adjusted at the end of every cycle of nineteen years. For ritual purposes the four Tekufoth seasons, are calculated according to the solar system, each being equal to one fourth of 365 days, viz. 91 days, 7 1/2 hours. Tekufah of Nisan (Vernal equinox) begins March 21; Tekufah of Tammuz (Summer Solstice), June 21; Tekufah of Tishri (Autumnal equinox), September 23; Tekufah of Tebeth (Winter Solstice), December 22. Should the Tekufah of Tammuz extend till after the Succoth Festival, or the Tekufah of Tebeth till the sixteenth of Nisan, the year would be intercalated, so that the festivals might fall in their due seasons, viz., Passover in Spring, Succoth in Autumn.

(10) Because if the corn-crop is already ripe and the intercalation prompted by other reasons, the prohibition of new produce till after the Omer Offering (v. p. 50, n. 4) according to Lev. XXIII, 14, would be unduly prolonged for another month.

(11) Because if the Tekufah was in order, and the intercalation had been effected for other reasons, the pilgrims would be subject to wintry weather when returning from Jerusalem after the Succoth Festival.

(12) South of Palestine.

(13) East of Palestine.

(14) Northern Palestine.

(15) A measure of barley (1/10th of an ephah) taken from tender ears, was brought on the 16th day of Nisan to the Temple as a heave-offering. v. Lev. XXIII, 10-11.

(16) For two reasons, firstly, because the grain taken for the Omer offering had to be tender, and this could only be so if it was cut from a field in the proximity of Jerusalem, for if it were brought from a far-off distance, the stalks would

become hardened in transit, by the wind. Secondly, according to the Talmudic rule, that one must not forego the occasion of performing a commandment (cf. Yoma 33a), the ripe corn in the vicinity of Jerusalem offered the earliest opportunity of fulfilling the precept (v. Men. 64b). If the grain in Judea, however, gave no cause for intercalation, it would be overripe at the time of the Omer, and so unfit for the purpose.

(17) Deut. XII, 5.

(18) I.e., religious enquiry, or investigation.

(19) I.e., Jerusalem the Capital of Judea, which the Lord (Heb. Makom, lit., 'the Place', v. Glos.) has selected as habitation unto Himself.

(20) כָּסָה (E.V. 'full moon') is taken from כָּסָה 'to cover'.

(21) Ps. LXXXI, 4.

(22) Which alone of all festivals is fixed for the 1st of the month.

(23) E.V. 'ordinance'.

(24) V. infra 32a: 'Money cases are to be tried by day'.

## Talmud - Mas. Sanhedrin 12a

in years of famine.<sup>1</sup> It has been taught: Rabbi says: A man came from Baal Shalisha and brought to the man of God bread of the first fruits; twenty loaves of barley, [bread of the newly ripened crop].<sup>2</sup> Now, there was no other place in Palestine where the fruit ripened earlier than in Baal Shalisha; yet, according to this account, only one species had ripened there [by that date]. If you suggest that it was wheat,<sup>3</sup> the text reads 'barley'. If again you suggest that it was ripened before the bringing of the Omer, the text reads further: Give unto the people that they may eat, which must have been after the bringing of the Omer.<sup>4</sup> We may conclude therefore that the year should have been intercalated.<sup>5</sup> But why did Elisha not do so? — For the reason that it was a year of famine<sup>6</sup> and all hastened to the threshing floor [to procure food].

Our Rabbis taught: The year may not be intercalated before the New Year,<sup>7</sup> and if it be intercalated, the intercalation is invalid. In case of necessity,<sup>8</sup> however, a year may be intercalated immediately after the New Year; yet even so, only a [second] Adar is added.<sup>9</sup> But is this really so? Was not a message once sent to Raba:<sup>10</sup> 'A couple [of scholars] have arrived from Rakkath<sup>11</sup> who had been captured by an eagle<sup>12</sup> whilst in possession of articles manufactured at Luz, such as purple,<sup>13</sup> yet through Divine mercy and their own merits they escaped safely. Further, the offspring of Nahshon<sup>14</sup> wished to establish a Nezib,<sup>15</sup> but yon Edomite<sup>16</sup> would not permit it.<sup>17</sup> The Members of the Assembly,<sup>18</sup> however, met and established a Nezib in the month in which Aaron the Priest died?'<sup>19</sup> Yes, the calculations were indeed made, but not published [until after the New Year].

How was it implied that the term Nezib [mentioned in the message] connoted 'month'? — Because it is written, Now Solomon had twelve Officers [Nezibim] over all Israel who provided victuals for the king and his household; each man his month in the year.<sup>20</sup> (But is it not written, And one officer [Nezib] that was in the land?<sup>21</sup> — Rab Judah and R. Nahman — one holds that one single officer was appointed over all [the other officers]: the other is of the opinion that this refers to the [special officer in charge of the provisions during] the intercalated month.)

Our Rabbis taught: We may not, in the current year, intercalate the following year,<sup>22</sup> nor intercalate three years in succession. R. Simeon said: It once happened that R. Akiba, when kept in prison,<sup>23</sup> intercalated three years in succession. The Rabbis, however, retorted: 'Is that your proof? The court sat and intercalated each year at its proper time.'<sup>24</sup>

Our Rabbis taught: We may not intercalate a Sabbatical year<sup>25</sup> nor the year following a Sabbatical year.<sup>26</sup>

But which year was it usual to intercalate? — That preceding the Sabbatical year.<sup>27</sup> Those of the

House of Rabban Gamaliel, however, used to intercalate the year following the Sabbatical year.<sup>28</sup> And this enters into the dispute of the following Tannaim. For it has been taught: Herbs may not be imported from outside the land [of Israel]. But our Rabbis permitted it.<sup>29</sup>

Wherein do they differ? — R. Jeremiah said: They differ as to whether we apprehend lest the earth attached to them [should also be imported].<sup>30</sup>

Our Rabbis taught: We may not intercalate a year because of uncleanness.<sup>31</sup> R. Judah said: We may intercalate. R. Judah observed: It once happened that Hezekiah king of Judah declared a leap year because of uncleanness, and then prayed for mercy, for it is written, For the multitude of the people, even many of Ephraim and Manasseh, Issachar and Zebulun had not cleansed themselves,

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- (1) So as not to prolong the prohibition of using the new produce for another month, v. supra p. 49, n. 6.
  - (2) II Kings IV, 42.
  - (3) Which is late in ripening.
  - (4) When alone the new produce is permitted.
  - (5) Owing to the delay of most of the crops in ripening.
  - (6) Cf. II Kings IV, 38: And there was a dearth in the land.
  - (7) I.e., Beth din may not declare before Tishri that a second Adar shall be added six months later, because in the meantime it may be forgotten and so the prohibition of leaven on the Passover be infringed through misdating.
  - (8) When possibly no intercalatory Board will be available later on, or it is feared that the Roman authorities may forbid intercalation, v. p. 52 n. 9.
  - (9) But not, e. g., a second Tishri.
  - (10) From Palestine.
  - (11) Tiberias, v. Meg. 6a.
  - (12) **נֶשֶׂר** aquila, the eagle as the principal standard of the Roman legions; hence, Roman.
  - (13) I.e., the fringes for four-cornered garments, v. Num. XV, 38.
  - (14) The Nasi of Palestine, descendant of Nahshon, the first of the Princes of Judah. Cf. Ex. VI, 23.
  - (15) Nezib means month as well as officer; v. infra. Hence, they wished to intercalate one month.
  - (16) Primarily name given to Esau (Cf. Gen. XXV, 30; XXXVI, 1). **אֶדוֹם** (Edom) is used by the Talmudists for the Roman Empire, as they applied to Rome every passage of the Bible referring to Edom or Esau. In the middle ages it came to be used symbolically of Christianity, and that accounts for the substitution of **אַרְמֵי** 'Aramean' in censored editions.
  - (17) The above messages were sent in this obscure form to prevent them from being stopped by the Government under the reign of Constantius II (337-361 C.E.) when the persecutions of the Jews reached such a height that, as in the days of Hadrian, all religious exercises, including the computation of the Calendar, were forbidden under pain of severe punishment. Cf. Graetz, Geschichte, IV, 332 seq. pp. 402 seq.
  - (18) The Sanhedrin.
  - (19) The month of Ab. It is thus seen that the decision to intercalate may, in case of emergency, be made before the New Year, i.e. before Tishri.
  - (20) I Kings IV, 7. Nezib (sing. of Nezibim) can thus be employed as metonymy of 'month'.
  - (21) Ibid. IV, 19.
  - (22) I.e., make the necessary calculations and arrive at the decision to intercalate. So Tosaf. Rashi: One may not intercalate one year instead of the following. Maim. (Yad, Kid. Hahodesh IV, 13) agrees with the former.
  - (23) Akiba was kept in prison several years before being finally martyred for practising and teaching the Jewish religion. V. Ber. 61b.
  - (24) R. Akiba only made the calculation of the next three leap years, since he was the accepted authority on the computation of the calendar and the Rabbis always employed his aid in this matter, but the leap years were not in three successive years.
  - (25) Cf. Lev. XXV, 1-7. So as not to prolong the prohibition against tilling the soil.
  - (26) For the reason that the prohibition of the use of the new produce would be prolonged.
  - (27) To give an additional month for working the soil.

(28) They did not apprehend a shortage of provisions during the Sabbatical year, since importation from outside Palestine, which they held permissible (cf. Ned. 53b, and below), would prevent it.

(29) V. n. 7.

(30) Foreign soil was declared unclean. V. Shab. 14b.

(31) Even if it should involve the risk of offering the Paschal lamb in uncleanness. E.g. if the Nasi were dangerously ill, and it was judged that he would die less than a week before Passover, in which case the community, by attending the obsequies in his honour, would become unclean. (Rashi). Cf. Pes. 66b.

## Talmud - Mas. Sanhedrin 12b

yet did they eat the Passover otherwise than it is written,<sup>1</sup> for Hezekiah had prayed for them, saying: May the Lord in His goodness pardon everyone.<sup>2</sup> R. Simeon said: If the intercalation was actually on the ground of uncleanness, it holds good. Why then did Hezekiah implore Divine mercy? — Because only an Adar can be intercalated and he intercalated a Nisan in Nisan.<sup>3</sup> R. Simeon b. Judah said on behalf of R. Simeon, that it was because he had persuaded Israel to celebrate a Second Passover [unduly].<sup>4</sup>

The Master has said: ‘R. Judah said: We may intercalate [on the ground of uncleanness].’ Hence R. Judah holds that [the law of] uncleanness, in the case of an entire Community, is only suspended [and not abrogated].<sup>5</sup> But has it not been taught: The ziz,<sup>6</sup> whether it is on his [the Priest's] forehead or not, propitiates. So said R. Simeon. R. Judah said: Only when it is on his forehead does it propitiate, but not otherwise. R. Simeon thereupon said to him: The case of the High Priest on the Day of Atonement affords proof, seeing that it propitiates even when it is not worn on his forehead.<sup>7</sup> And R. Judah answered him: Leave the Day of Atonement aside<sup>8</sup>, for the [laws concerning] impurity are entirely abrogated in the case of a whole Community?<sup>9</sup> — But even according to this reasoning,<sup>10</sup> is there not a contradiction within the passage itself? [Thus:] R. Judah said: We may intercalate [on account of uncleanness]; and then he himself relates what happened in the case of Hezekiah, king of Judah, who intercalated a year because of uncleanness, but implored Divine mercy on himself [for his action]?<sup>11</sup> But the text is evidently defective, and should read as follows: ‘We may not intercalate a year on account of uncleanness, but if it has been intercalated, the decision holds good. R. Judah maintained that the intercalation is not valid,<sup>12</sup> and R. Judah observed: It once happened with Hezekiah etc.

But if so, [when] R. Simeon says: If the year is intercalated for the sake of [avoiding] uncleanness, the decision holds good, is [he not merely repeating] the opinion of the first Tanna? — Said Raba: They differ as to whether [it may be intercalated] at the outset.<sup>13</sup> It has been taught likewise: A year may not be intercalated at the outset because of uncleanness. R. Simeon said: It may be intercalated. Why then did he [Hezekiah] pray for mercy? — Because only an Adar can be intercalated, whereas he intercalated a Nisan in Nisan.

The Master has said: ‘Because only an Adar can be intercalated, whereas he intercalated a Nisan in Nisan.’ But did not Hezekiah agree [that the verse], This month shall be unto you the beginning of months,<sup>14</sup> [implies], only this month can be Nisan [once proclaimed], and no other?<sup>15</sup> — He erred on a ruling of Samuel, for Samuel said: The year is not to be intercalated on the thirtieth day of Adar, since it is eligible to be appointed [the first day of] Nisan.<sup>16</sup> He [Hezekiah] however thought that we do not consider its eligibility [to belong to Nisan].<sup>17</sup> It has been taught likewise: The year may not be intercalated on the thirtieth day of Adar, since it is eligible to be appointed [the first day] of Nisan.

[It was stated above:] ‘R. Simeon b. R. Judah said on behalf of R. Simeon that it was because he had [wrongfully] persuaded the people to celebrate a Second Passover [that Hezekiah prayed to be forgiven].’ How did it happen?<sup>18</sup> — R. Ashi said: E.g., half of Israel<sup>19</sup> were clean and half unclean, but the women<sup>20</sup> made up the number of the clean and turned it into a majority. Now, at first he held

that women too are bound [to offer the lamb] on the first [Passover],<sup>21</sup> so that only a minority<sup>22</sup> was unclean; and a minority is relegated to the Second Passover.<sup>23</sup> But later he adopted the view [that the participation of] women in the First [Passover celebration] is only voluntary,<sup>24</sup> so that the unclean were in a majority, and a majority is not relegated to the Second Passover.<sup>25</sup>

The text [states]: ‘Samuel said, The year is not to be intercalated on the thirtieth day of Adar, since it is eligible to be appointed [the first day of] Nisan.’ But what if it were intercalated? — ‘Ulla said: The month must not be sanctified.<sup>26</sup> But what if it were sanctified? — Raba said: Then the intercalation is invalid. R Nahman said: Both the intercalation and the sanctification are valid.

Raba said to R. Nahman: Let us consider! Between Purim<sup>27</sup> and the Passover there are thirty days, and from Purim we begin to lecture on the laws of Passover, as has been taught: People must begin to inquire into the Passover laws thirty days before the Festival. R. Simeon b. Gamaliel said: A fortnight before. If, then, it [sc. Passover] is postponed at the beginning of the month [of Nisan],<sup>28</sup> people<sup>29</sup> will be liable to disregard<sup>30</sup> the law regarding leaven [on Passover].<sup>31</sup> — He [R. Nahman] answered him: It is well-known that the intercalation of a year depends on [minute] calculations, hence they would say that [the declaration was not made until the thirtieth day] because the Rabbis had not completed their calculation until then.

Rab Judah said in Samuel's name: A year is not to be intercalated<sup>32</sup> unless the [summer] Tekufah<sup>33</sup> is short of completion by the greater part of the month.<sup>34</sup> And how much is that? — Sixteen days: so holds R. Judah.

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(1) I.e., not at the prescribed time, the 14th day of Nisan. Cf. Ex. XII, 9.

(2) II Chron. XXX, 18.

(3) I.e., after it had already been sanctified as Nisan, he reconsidered it and sanctified the month as the second Adar.

(4) Instead of intercalating, to render this unnecessary.

(5) There is a dispute whether uncleanness, in the case of a community, is entirely permitted, as though there were no prohibition at all against it, or whether it is merely suspended on account of the communal need. On the latter view, it is disregarded only when unavoidable, but not here, where it may be avoided by intercalation.

(6) **זָיִץ**, The golden front-plate. V. Ex. XXVIII, 36-38. It atoned for sacrifices offered in a state of uncleanness, and rendered them acceptable.

(7) The High Priest did not officiate in the interior, i.e., the Holy of Holies, on the Day of Atonement, robed in garments that had gold interwoven, as that would recall the sin of the golden calf. Cf. Lev. XVI, 3-4; R.H. 26a.

(8) It is no proof in this case.

(9) As on the Day of Atonement, when offerings for the whole Community are made. Hence the above inference of R. Simeon is contradicted.

(10) That even in a case involving a whole Community, as that of the Passover Offering, the year should be intercalated so as to avoid the state of uncleanness.

(11) Surely, according to the said argument, his action was lawful!

(12) Since there was no need at all for intercalation, the laws of impurity being withdrawn for the sake of a whole Community. Hezekiah, in intercalating the year, therefore prayed for forgiveness.

(13) According to R. Simeon it may be intercalated even at the outset, but he speaks of the case as if the act were already performed, merely in contradistinction to R. Judah.

(14) Ex. XII, 2.

(15) I.e., once Nisan has been proclaimed, it cannot be re-proclaimed Adar, making the ensuing month Nisan.

(16) When Adar is deficient.

(17) Hence he intercalated the year on that day. But afterwards, coming to agree with the standpoint represented by Samuel, and so realising his mistake, he prayed for forgiveness.

(18) That in the first place he thought it right to intercalate the year, but subsequently repented of his earlier decision?

(19) I.e., the male population. From the context, it is seen that the clean were not actually half, but a minority.

(20) Who were clean.

- (21) As is the opinion advanced by R. Judah and R. Jose. Cf. Pes. 91b.
- (22) Sc., of males, for whom the offering is compulsory.
- (23) Therefore he intercalated the year, to obviate the necessity of this.
- (24) As R. Simeon holds (ibid.).
- (25) Hence the intercalation was unnecessary.
- (26) As the second Adar. The succeeding month, however, will be sanctified as Nisan, the current month remaining unnamed.
- (27) Feast celebrated on the fourteenth of Adar in commemoration of the deliverance of the Jews from the plot of Haman, as recorded in the Book of Esther.
- (28) Through the institution of a second Adar, the lecturing on Passover laws having already begun.
- (29) Not believing the report of the messengers that an intercalation had been made. — Raba's assumption that the messengers might be disbelieved, would seem to show that there were enemies of the Jews who might seek to upset the Calendar. Cf. p. 52, n. 9 on the attitude of the Roman authorities to intercalation.
- (30) Lit., 'treat lightly'.
- (31) Because they will not treat the Passover fixed by the Rabbis as such, having already celebrated it a month before.
- (32) On account of the Tekufah. V. supra 11b.
- (33) The solar year which consists of three hundred and sixty-five and a quarter days is divided into four equal parts, each period consisting of ninety-one days and seven and a half hours. These are called respectively the Nisan (vernal), Tammuz (summer), Tishri (autumnal), Tebeth (winter) Tekufoth. The lunar year which forms the basis of our calendar comprises altogether three hundred and fifty-four days. Though according to Biblical tradition our months are to be lunar (cf. Ex. XII, 2), yet our Festivals are to be observed at certain agricultural seasons; Passover and Pentecost in the Spring; Tabernacles, or Feast of Ingathering, in the autumn. In order to harmonise the lunar and solar years, a second Adar is intercalated once in two or three years. Our text lays down certain principles by which the Intercalators are to be guided.
- (34) Tishri. I.e., the greater part of Tishri must be taken in to complete the Tekufah of Tammuz.

### **Talmud - Mas. Sanhedrin 13a**

R. Jose said: Twenty-one days.<sup>1</sup> Now, both deduce it from the same verse, And the Feast of Ingathering at the Tekufah [season] of the year.<sup>2</sup> One Master<sup>3</sup> holds that the whole Feast [of ingathering]<sup>4</sup> is required to be included [in the new Tishri Tekufah];<sup>5</sup> the other,<sup>6</sup> that only a part of the Festival [of ingathering] must [be included].<sup>7</sup>

Now, which view do they adopt?<sup>8</sup> If they hold that the Tekufah day<sup>9</sup> is the completion [of the previous season]: then, even if it were not so,<sup>10</sup> it will meet with the requirement neither of him who holds that the whole Festival [must be included,] nor of him who holds that only part of it [is necessary]! —<sup>11</sup> One must say therefore that they both hold that the Tekufah day begins [the new Tekufah].

An objection is raised: The Tekufah day concludes [the previous season]: this is R. Judah's view. R. Jose maintains that it commences [the new].<sup>12</sup> Further has it been taught: A year is not intercalated unless the [summer] Tekufah is short of completion by the greater part of the month [Tishri]. And how much is that? Sixteen days. R. Judah said: Two thirds<sup>13</sup> of the month. And how much is that? Twenty days.<sup>14</sup> R. Jose ruled: It is to be calculated thus: [If there are] sixteen [days short of completing the Tekufah] which precedes Passover,<sup>15</sup> the year is to be intercalated.<sup>16</sup> [If, however, there are] sixteen [short of completing the Tekufah] which precedes the Feast [of Tabernacles],<sup>17</sup> the year is not to be intercalated.<sup>18</sup> R. Simeon maintained: Even where there are sixteen [days short of completing the Tekufah] which precedes the Feast [of Tabernacles], the year is intercalated.<sup>19</sup> Others say [that the year is intercalated even if the Tekufah is short of completion] by the lesser part of the month. And how much is that? Fourteen days?<sup>20</sup> — The difficulty remained unsolved.

The Master has said: 'R. Judah said: Two thirds of the month. And how much is that? Twenty

days. R. Jose ruled: It is to be calculated [thus: if there are] sixteen [days short of completing the Tekufah] which precedes Passover, the year is to be intercalated.<sup>21</sup> But is not this view identical with R. Judah's?<sup>22</sup> — They differ as to whether the Tekufah day completes [the previous] or begins [the new cycle].<sup>23</sup>

The Master has said: '[R. Jose holds that] if there are sixteen [days short of completing the Tekufah] which precedes the Feast [of Tabernacles], the year is not intercalated.' According to R. Jose, then, only if there are sixteen [days short of completing the Tekufah] preceding the Feast [of Tabernacles is intercalation] not [permitted]; but if there are seventeen or eighteen [days short], the year is intercalated. But has he not himself said: If there are sixteen [days short of completing the Tekufah] which precedes Passover, we may intercalate, but not if less?<sup>24</sup> — But no; in neither case<sup>25</sup> may we intercalate. But seeing that he spoke of the number sixteen [with regard to the Tekufah] preceding Passover,<sup>26</sup> he gives it also [in connection with the Tekufah] preceding the Feast [of Tabernacles].

[It was stated above]: 'R. Simeon maintained:<sup>27</sup> Even where there are sixteen [days short of completing the Tekufah] which precedes the Feast [of Tabernacles], the year is intercalated.' But is not this view the same as that of the first Tanna?

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(1) As seen from the context, the entire statement, including that of the views of R. Judah and R. Jose, is Samuel's.

(2) Ex. XXXIV, 22. I.e., it must fall within the Tishri Tekufah.

(3) R. Judah.

(4) I.e., beginning with the day when the work of ingathering is permitted — the 16th day of the month, the day after the Festival.

(5) Hence if the summer Tekufah is short of completion by sixteen days, the new autumnal Tekufah begins on the seventeenth, and will thus not include all the days when the work of ingathering is permitted.

(6) R. Jose.

(7) Hence its possible delay until the 21st of the month, but not later, because the 22nd of Tishri is a full Festival again, on which no gathering is permitted. Neither consider the possibility of including Ellul, a full month of thirty days, and so giving one day more, because if Ellul were extended, it would interfere with the calculations whereby the first day of New Year must not fall on Sunday, Wednesday or Friday, v. R.H. 19b; Suk. 43b.

(8) Viz., with reference to the day on which the sun enters into the new Tekufah.

(9) I.e., the day on which the new Tekufah begins.

(10) I.e., even if it were not much short of completion, as sixteen days according to R. Judah, and twenty-one days according to R. Jose, but fifteen or twenty days, respectively.

(11) For even if the Tekufah day begins on the sixteenth or twenty-first day, the new season will commence only on the following day.

(12) Thus, according to R. Judah, none of the Festival of Ingathering is included in the new season.

(13) Lit., 'two hands' interpreted as 'two portions'. Cf. Tosef. Men. IX,10.

(14) V. infra. This refutes Samuel on both points: (a) R. Judah holds here that part of the Feast is sufficient; and (b) in his view the Tekufah day commences the new season, and does not end the last.

(15) I.e., the winter Tekufah.

(16) For if not, the summer Tekufah would not end until the 21st of Tishri, the new Tekufah beginning on the 22nd. The two Tekufoth, the spring and summer, consist of hundred and eighty-two days, and the five lunar months between Nisan and Tishri consist of hundred and forty seven days which, when added to the fourteen days of Nisan and the twenty-one days of Tishri make a total of hundred and eighty-two days. The Tishri Tekufah beginning on the 22nd of the month will thus not include any part of the Festival of Ingathering.

(17) I.e., the summer Tekufah.

(18) Because at least part of the Feast of Ingathering will then fall in the new Tekufah.

(19) V. infra.

(20) Hence the contradiction of the two statements of R. Judah.

(21) In that the end of the cycle is delayed until the 21st of Tishri. V. n. 2.

(22) As it appears that both require the inclusion of only part of the Festival of Ingathering.

(23) According to R. Judah, that day completes the previous Tekufah, consequently, if twenty days have passed and the sun has reached its new cycle on the 21st, the new Tekufah begins on the 22nd, in which case not even part of the Feast of Ingathering is included; whilst according to R. Jose's calculation, even if the solstice occurs on the 21st day, that day is added to the new cycle.

(24) According to the above, in the case of fewer days, if these carry the Tekufah seventeen or eighteen days into Tishri, intercalation is permissible.

(25) I.e., in the case of a shortage neither of seventeen nor eighteen days. The number 'sixteen' therefore is not to be taken in its exact sense, for even if there is a shortage of more than that, intercalation is not justified.

(26) In which case, it is only a shortage of sixteen days which justifies intercalation.

(27) In contradistinction to R. Jose.

## Talmud - Mas. Sanhedrin 13b

— They differ as to whether the Tekufah day completes [the previous] or begins [the new season].<sup>1</sup> But their views were not defined.<sup>2</sup>

[Again it was stated:] 'Others say: [That the year is intercalated even where there is a shortage] by the lesser part of the month. And how much is that? Fourteen days.' Now, which view do they adopt? Do they hold that the Tekufah day completes [the previous season], and that we require the whole Feast [of Ingathering to be included in the new Tekufah?] But surely in our case, it is so.<sup>3</sup> [Why then intercalate?] — The 'Others', says R. Samuel son of R. Isaac, speak of the Nisan Tekufah, for it is written, Observe the month of Abib [spring];<sup>4</sup> i.e., take heed that the beginning<sup>5</sup> of the vernal Tekufah shall occur on a day in Nisan [when the moon is still in the process of renewal].<sup>6</sup>

But why not intercalate a day in Adar?<sup>7</sup> — R. Aha b. Jacob said: The Tanna reckons from higher numbers downward, and says as follows: [If there is a deficiency] as far as [i.e., by more than] the lesser part of the month,<sup>8</sup> the year is intercalated.<sup>9</sup> And how much is that? Fourteen days.'

Rabina said: In reality, the 'Others' refer to the Tishri Tekufah, but they hold that the whole Feast [of Ingathering]<sup>10</sup> must fall [in the new Tekufah] including also the first [day of the Feast].<sup>11</sup> '[Including] the first day'?<sup>12</sup> But is it not written, The Feast of Ingathering [shall be] at the Tekufah of the year; [meaning the day on which ingathering is permitted]? — [They interpret it as] 'The Feast which occurs in the season of ingathering.'

THE LAYING ON [OF HANDS] BY THE ELDERS. Our Rabbis taught: [And the elders . . . shall lay, etc.]:<sup>13</sup> it might be assumed that it means ordinary people advanced in age;<sup>14</sup> Scripture therefore adds, of the congregation.<sup>15</sup> Now, if [you emphasised] congregation, I might think, [it referred to] the minor members of the congregation:<sup>16</sup> therefore it is stated, 'the congregation',<sup>17</sup> [meaning] the distinguished of the congregation.<sup>18</sup> And how many are required? — The plural of 'wesameku'<sup>19</sup> ['and they shall lay'] implies two; similarly, 'zikne' ['the elders'] implies two, and as there can be no court with an even number, another is added; hence five in all are required: this is R. Judah's view. R. Simeon said: 'Zikne' ['elders'] indicates two, and as a court cannot consist of an even number, another is added, making three in all. But according to R. Simeon, is it not written 'wesameku' ['and they shall lay']? — That is needed for the text itself.<sup>20</sup> And R. Judah?<sup>21</sup> — That is not needed for the text itself, since if the word wesameku has no significance for deduction, the text could have read [without it]: The Elders, their hands [being] on the head of the bullock.<sup>22</sup> And R. Simeon?<sup>23</sup> — Had it been so written,<sup>24</sup> I might have translated 'al[on], 'in proximity'.<sup>25</sup> And R. Judah?<sup>26</sup> — He deduces this [actual contact] from the use of the word rosh [head] in this case and in connection with the burnt offering.<sup>27</sup> And R. Simeon? — He does not admit the deduction of head written here and in the case of the burnt offering.<sup>28</sup>



It is taught: The laying on [of hands], and the laying on [of hands] of the Elders is performed by three. What is meant by, 'Laying on [of hands]', and 'Laying on [of hands] of the Elders'? — R. Johanan said: [The latter] refers to the ordination of Elders. Abaye asked R. Joseph: Whence do we deduce that three are required for the ordination of Elders? Shall we say, from the verse, And he [Moses] laid his hand upon him [Joshua]<sup>29</sup> If so, one should be sufficient! And should you say, Moses stood in place of seventy-one,<sup>30</sup> then seventy-one should be the right number! — The difficulty remained unanswered.

R. Aha the son of Raba, asked R. Ashi: Is ordination effected by the literal laying on of hands? — [No,] he answered; it is by the conferring of the degree: He is designated by the title of Rabbi and granted the authority to adjudicate cases of *kenas*.<sup>31</sup>

Cannot one man alone ordain? Did not Rab Judah say in Rab's name: 'May this man indeed be remembered for blessing — his name is R. Judah b. Baba; were it not for him, the laws of *kenas* would have been forgotten in Israel.' Forgotten? Then they could have been learned. But

- (1) Though they both state the number sixteen, the one who holds that the day completes the previous Tekufah must count the new season as beginning on the seventeenth.
- (2) I.e., it is not clear who is of the one and who of the other opinion.
- (3) For the Tishri Tekufah then commences on the fifteenth, whereas the Feast of Ingathering, as defined in p. 58, n. 1, commences on the sixteenth.
- (4) Deut. XVI, 1.
- (5) Lit., 'ripening'.
- (6) That accounts for the limit of fourteen days, after which it is on the wane. This is implied in the word **חודש** which, derived from **חדש** 'new', means the 'new month'.
- (7) Which would bring in the new Tekufah on the thirteenth day, when the moon is still waxing, rather than cause the derangement of a whole month; and though the first day of Passover must not fall on Monday, Wednesday or Friday, and the addition of a day might cause that, it would not matter, because the limitation of the days on which Passover may commence is due to the desire to avoid New Year falling on Sunday, Wednesday or Friday, and that could be avoided by adding a day to one of the normally defective months between Nisan and Tishri.
- (8) I.e., down to, but not including, the fourteenth day.
- (9) But if there is actually a shortage of fourteen days, only the month Adar is intercalated.
- (10) Even the first day.
- (11) And being of the view that the Tekufah day completes, the season, if there is a shortage of fourteen days, in which case the new autumnal Tekufah will begin on the fifteenth day, the first day of the Feast will not be included in it, so that intercalation is justified.
- (12) On which work is prohibited.
- (13) **וּסְמֵכוּ זְקֵנֵי**, And the elders (of the Congregation) shall lay etc. Lev. IV, 15.
- (14) Lit., 'elders of the market'.
- (15) **עֵדָה**, lit., 'Group', or 'Congregation.' 'Edah' is frequently interpreted by the Rabbis as 'Sanhedrin'. V. Num. Rab. 15, Ch. 16, and Rashi on Lev. IV, 13. The latter derives his statement from Sifra, which again derives it by analogy between 'Edah in Num. XXXV, 24-25, cf. supra 2a.
- (16) I.e., the minor Sanhedrin of twenty-three.
- (17) With the definite article.
- (18) I.e., the major Sanhedrin.
- (19) It could have been written **וּסְמַךְ** 'we-samak', denoting that any one of the elders should lay his hands. Cf. Malbim on Lev. IV, 15.
- (20) Viz., that there must be laying on of hands,
- (21) Does he not admit this?
- (22) A kind of absolute clause.
- (23) Does he not admit the superfluity of 'and they shall lay'?
- (24) As R. Judah suggests.

(25) I.e., that the hands need not actually be laid on the head but only brought near. The word *wesameku* makes it clear.

(26) Who employs *wesameku* for another interpretation.

(27) Lev. I, 4: And he shall lay his hand upon the head of the burnt offering, which obviously means actual contact.

(28) This type of exegesis, deducing identity of fact from identity of language, is called *gezerah shawah*, and it is a well-established principle that such deduction could not be made by a scholar without a direct tradition from his teacher that that particular identity of phraseology was intended to intimate identity of law. R. Simeon had no such tradition in respect of these two words.

(29) Num. XXVII, 23.

(30) I.e., having the same authority.

(31) V. Glos.

## Talmud - Mas. Sanhedrin 14a

these laws might have been abolished; because once the wicked Government,<sup>1</sup> [as an act of religious persecution],<sup>2</sup> decreed that whoever performed an ordination should be put to death, and whoever received ordination should he put to death, the city in which the ordination took place demolished, and the boundaries<sup>3</sup> wherein it had been performed, uprooted. What did R. Judah b. Baba do? He went and sat between two great mountains, [that lay] between two large cities; between the Sabbath boundaries of the cities of Usha and Shefaram<sup>4</sup> and there ordained five elders:<sup>5</sup> viz., R. Meir, R. Judah, R. Simeon, R. Jose and R. Eliezer b. Shamua'. R. Awia adds also R. Nehemia in the list. As soon as their enemies discovered them he [R.J.b.B.] urged them: 'My children, flee.' They said to him, 'What will become of thee, Rabbi?' 'I lie before them like a stone which none [is concerned to] overturn,'<sup>6</sup> he replied. It was said that the enemy did not stir from the spot until they had driven three hundred iron spear-heads into his body, making it like a sieve.<sup>7</sup> — With R. Judah b. Baba were in fact some others, but in honour to him, they were not mentioned.

Was R. Meir indeed ordained by R. Judah b. Baba? Did not Rabbah b. Bar Hannah say in R. Johanan's name: He who asserts that R. Meir was not ordained by R. Akiba is certainly in error? — R. Akiba had indeed ordained him, but the ordination was not acceptable;<sup>8</sup> while R. Judah b. Baba's later ordination, on the other hand, was accepted.

R. Joshua b. Levi said: There is no ordination outside Palestine. What is to be understood by, 'There is no ordination'? Shall we assert that they<sup>9</sup> have no authority at all to adjudicate cases of *Kenas*<sup>10</sup> outside Palestine?<sup>11</sup> But have we not learnt: The Sanhedrin has competence both within and without Palestine! — This must therefore mean that ordination cannot be conferred outside Palestine.

It is obvious, that if the ordainers are outside Palestine and those to be ordained in Palestine, [then] surely as has been said, they cannot be ordained. But what if the ordainers are in Palestine, and those to be ordained outside? — Come and hear: [It is related] of R. Johanan that he was grieved when R. Shaman b. Abba was not with them [in Palestine] to receive his ordination. [Again it is related of] R. Simeon b. Zirud and another who was with him, viz., R. Jonathan b. Akmai, or according to others [who invert the order,] R. Jonathan b. Akmai and another who was with him, viz., R. Simeon, b. Zirud,<sup>12</sup> that the one who was with them was ordained, and the other, who was not, was not ordained.<sup>13</sup>

R. Johanan was very anxious to ordain R. Hanina and R. Oshaia, but his hope could not be realised,<sup>14</sup> and it grieved him very much. They said to him: Master, you need not grieve, for we are descendants of the house of Eli.<sup>15</sup> For R. Samuel b. Nahman, quoting R. Jonathan, said: Whence do we learn that none of the house of Eli are destined to be ordained? — From the verse, And there shall be no *zaken*<sup>16</sup> [old man] in thy house for ever.<sup>17</sup> What does the word 'zaken' mean [here]? Shall we say, literally, 'an old man', but it is written [immediately after], and all the increase of thy

house shall die [young] men! — It must therefore refer to ordination.<sup>18</sup>

R. Zira used to hide himself to avoid ordination, because R. Eleazar had said: Remain always obscure,<sup>19</sup> and [so] live.<sup>20</sup> But later, having heard yet another saying of R. Eleazar, viz., One does not attain greatness unless all his sins are forgiven,<sup>21</sup> he himself strove [to obtain it]. When they ordained him, they<sup>22</sup> sang before him, ‘Neither paint nor rouge nor [hair-]dye, yet radiating charm.’<sup>23</sup>

When the Rabbis ordained R. Ammi and R. Assi, they sang thus of them: Only such men, only such men ordain ye for us, but ordain not for us any of the ‘sarmitin’ and ‘sarmisin’, or as some say, ‘hamisin’ or ‘termisin’.<sup>24</sup>

When R. Abbahu arrived at the Emperor's Court<sup>25</sup> from College, the ladies of the court went out to receive him and sang to him: Great man of thy people, leader of thy nation, lantern of light, thy coming be blessed with peace.

BREAKING THE HEIFER'S NECK IS BY THREE. Our Rabbis taught: And thy Elders and thy judges shall come forth.<sup>26</sup> ‘Elders’ [indicates] two; [similarly,] ‘judges’, two. And as a court must not be evenly-balanced, another is added; hence there are five: this is R. Judah's view. R. Simeon says: ‘Elders’ indicates two, and as a court cannot consist of an even member, another is added, making three in all. Now, according to R. Simeon, what purpose is served by the words ‘thy judges’? — It is needed, in his view, to indicate the necessity of choosing the most distinguished of ‘thy judges’.<sup>27</sup> And R. Judah?<sup>28</sup> — [He deduces it] from the pronominal suffix [appended] to Zaken.<sup>29</sup> And R. Simeon? — [He maintains:] Had ‘elders’ [alone] been written,<sup>30</sup> I might have said that it refers to [any] old men of the street.<sup>31</sup> Hence the Torah says: ‘thy elders’.<sup>32</sup> Yet had ‘thy elders’ [alone] been written, I might have said that it refers to [the members of] the minor Sanhedrin. Therefore Scripture wrote, ‘thy judges’, to indicate that the reference is to the most distinguished of ‘thy judges’.<sup>33</sup> And R. Judah?<sup>34</sup> — He derives this<sup>35</sup> from a comparison of the word elders [as used here]<sup>36</sup> and in the verse, And the elders of the congregation shall lay their hands [on the head of the bullock].<sup>37</sup> Just as there, the most distinguished of the congregation<sup>38</sup> [are necessary],<sup>39</sup> so here, too, the most distinguished of thy elders [are required]. But if this deduction be made, let us infer everything from that passage!<sup>40</sup> and what need then is there for ‘thy elders’ and ‘and thy judges’? — But [we should say: In R. Judah's opinion,] the [superfluous] waw [and] of, and thy judges, intimates the number.<sup>41</sup> And R. Simeon<sup>42</sup> — He does not employ the conjunction ‘waw’ for interpretative purposes.

But according to this line of argument, we might further deduce from the clauses, and they shall come forth, and, and they shall measure — each indicating two — that nine should be required, in R. Judah's opinion, and seven in R. Simeon's? — But these clauses are necessary, even as it has been taught: And they shall come forth, [meaning,] they, and not their deputies. And they shall measure; in all circumstances, even when the corpse is found

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(1) That of Hadrian, in the second century.

(2) [שִׂמְדָּה] given in some versions, v. D.S.]

(3) Heb. תְּחוּמֵינִי denotes the boundaries without the town, as far as which one may go on the Sabbath. That such was meant here is evident from the following passage, which states that Judah b. Baba chose a spot between two Sabbath boundary lines.

(4) Two Galilean cities prominent in the second century as places of refuge for the Sanhedrin. His purpose was that no city or region should suffer.

(5) Persons ordained bore the title of ‘zaken’.

(6) I.e., as something worthless: let them do their worst.

(7) Hence it is evident that even one person was authorised to bestow the degree of Rabbi.

(8) Lit., 'they did not accept (him)', because of R. Meir's youth at the time (Rashi). [Herford, R.T., Pirke Aboth, 108, suggests a probable explanation, viz. that R. Akiba had ordained him while on one of his journeys on which R. Meir accompanied him (v. Yeb. 121a). Such an ordination, having been performed outside the land, would not be recognised as valid. V. infra.]

(9) Who have been ordained in Palestine.

(10) V. Glos.

(11) That is, ordination, even if conferred in Palestine, is of no avail outside Palestine for such cases.

(12) The order is intended to show who was the principal ordainer and who was his assistant.

(13) Hence, a scholar outside Palestine cannot be ordained.

(14) Because when they were with him, he could not procure another two to assist him, ordination requiring a board of three.

(15) And therefore cannot receive that dignity. V. infra.

(16) זקן.

(17) I Sam, II, 32.

(18) I.e., there shall be no ordained person, etc. זקן, accordingly, is understood in its Rabbinical connotation, 'one who has acquired wisdom', viz., an ordained Rabbi,

(19) I.e., without office.

(20) V. infra 92a.

(21) I.e., office brings with it moral improvement.

(22) The schoolmen.

(23) A snatch of a song sung at weddings in honour of the bride (Rashi).

(24) Interpretations of these words are varied. Jastrow says that it was a jest at Talmudic scholars using foreign words, and translates: Do not ordain for us any of those using words like 'sermis' (semis), 'sermit', (prob. distortion of 'tremis') 'hemis' and 'tremis'. Krupnik-Silberman translate, 'superficial scholars' (halbwischer). Dalman suggests, 'half-wits' and 'third-wits' (idiots and madmen?).

(25) At Caesarea where his academy was.

(26) Deut. XXI, 2.

(27) I.e., members of the Great Sanhedrin.

(28) Whence does he deduce this?

(29) ת [זקן], thy.

(30) Alone, without the suffix.

(31) I.e., any people advanced in age.

(32) 'Thy' intimates that the reference is to distinguished elders.

(33) I.e., members of the Great Sanhedrin.

(34) How does he know that neither old men in general nor the members of the minor Sanhedrin are meant?

(35) The law that they must be members of the Great Sanhedrin.

(36) Deut. XXI, 2.

(37) Lev. IV, 15.

(38) I.e., the Great Sanhedrin.

(39) Cf. supra 13b.

(40) I.e., the number of Elders also.

(41) In truth, he does not employ the analogy, but derives the necessity of the presence of the Great Sanhedrin from the pronominal suffix to shofet ('thy judges') and their number, again from the conjunction 'waw', for it could have been written, And they shall go forth, thy elders, thy judges.

(42) Who requires only three.

## Talmud - Mas. Sanhedrin 14b

at the entrance of a town, measurement must be made.

Our Mishnah<sup>1</sup> is not in accord with the following Tanna. For it has been taught: R. Eliezer b. Jacob says, Thy elders and thy judges shall come forth.<sup>2</sup> 'Thy elders', refers to the Sanhedrin; 'and

thy judges', to the King and High Priest. [That it 'refers to] the King' is deduced from the verse, The King by justice establisheth the land.<sup>3</sup> 'The High Priest', as it is written, And thou shalt come unto the Priests, the Levites and unto the Judges.<sup>4</sup>

The schoolmen asked: Does R. Eliezer b. Jacob differ from the Mishnah in one thing, or in two? Does he differ only with respect to the King and High Priest,<sup>5</sup> but as to the [number of the members of the] Sanhedrin, [he agrees with] either R. Judah or R. Simeon; or does he differ on that point too, requiring the whole Sanhedrin to come forth? — Said R. Joseph: Come and hear! If he [sc. the rebellious elder]<sup>6</sup> found them<sup>7</sup> at Beth Pagi,<sup>8</sup> and there rebelled against their decision, one might assume that his rebellion was punishable.<sup>9</sup> Scripture therefore declares, And then shalt thou arise and get thee up unto the place,<sup>10</sup> [thus teaching] that it is the place that conditions [the act].<sup>11</sup> Now, how many had gone out? If only part of the Sanhedrin [how could the elder be condemned?] Perhaps those remaining inside would have agreed with him? It is clear therefore that the whole of the Sanhedrin must have gone out, But if so, for what? Shall we say, for a secular purpose! Are they then permitted to go out? Is it not written, Thy navel is like a round goblet wherein no mingled wine is wanting?<sup>12</sup> Hence it was obviously for a religious purpose, and for what else, if not for measuring in connection with the heifer, the author of the passage being R. Eliezer b. Jacob, who holds that the attendance of the whole Sanhedrin is required?<sup>13</sup> Abaye retorted: No; they might have gone out for the purpose of enlarging the city<sup>14</sup> or the Temple court-yards, as we learnt: The city or the Temple court-yards may be enlarged only by [the sanction of] a court of seventy-one.<sup>15</sup>

The following Baraitha agrees with R. Joseph:<sup>16</sup> If he<sup>17</sup> met them<sup>18</sup> at Beth Pagi and rebelled against their decision, when, for example, they had gone out for the purpose of measuring in connection with the heifer, or for the enlargement of the city or the Temple Courtyards, you might assume that his rebellion is culpable;<sup>19</sup> but it is written, — And thou shalt arise and get thee up to the place,<sup>20</sup> to teach that it is the place that conditions [the act].

THE VALUATION OF THE FOURTH YEAR'S FRUIT, AND THE SECOND TITHE THE VALUE OF WHICH IS NOT KNOWN, IS BY THREE. Our Rabbis taught: What kind of second tithe has no established price? Decayed fruit, wine that has grown a skin,<sup>21</sup> and rusty coins.<sup>22</sup>

Our Rabbis taught: The second tithe that has no fixed price is to be redeemed [at the valuation of] three [experienced] dealers, but not by three who are inexperienced.<sup>23</sup> Even a Gentile or the owner may be amongst the assessors. R. Jeremiah propounded: What of three who are business partners,<sup>24</sup> [can they be appointed valuers]? — Come and hear! 'A man and his two wives may redeem the second tithe of unknown value.'<sup>25</sup> Perhaps in a case such as that of R. Papa and [his wife], the daughter of Abba from Sura.<sup>26</sup>

DEDICATION IS BY THREE. Our Mishnah is not in accordance with the following Tanna: For it has been taught: R. Eliezer b. Jacob said: Even a hook of the sanctuary requires ten persons [to assess it] for its redemption.<sup>27</sup>

R. Papa said to Abaye: As to R. Eliezer b. Jacob's opinion, it is well, its grounds being Samuel's dictum. For Samuel said: There are ten Biblical references to Priest in the Chapter.<sup>28</sup> But whence do the Rabbis learn that only three [are required]? And should you answer: Because it [sc. the word Priest] appears three times in relation thereto;<sup>29</sup> then since with reference to land [redemption] the word appears four times, let four be sufficient? And should you say that this is indeed so, have we not learnt: THE VALUATION OF LAND REQUIRES NINE PERSONS AND A PRIEST? But what [will you say]? — That this is because with these verses the ten references are completed? Then should not other consecrated objects,<sup>30</sup> with the section on which six such references are completed, require six assessors? The difficulty was not solved.

THE ASSESSMENT OF MOVABLE OBJECTS etc. What is meant by THE ASSESSMENT OF MOVABLE OBJECTS?<sup>31</sup> R. Giddal, reporting Rab, says: For example, one who says, 'I undertake to give the value of this vessel';<sup>32</sup> for, R. Giddal said, reporting Rab:

- (1) Which requires only members of the Sanhedrin to come forth.
- (2) Ibid.
- (3) Prov. XXIX, 4. The deduction is based on the cognate words 'judges' and 'justice', whence it follows that the same person is meant in both.
- (4) Deut. XVII, 9.
- (5) Viz., that they must come forth,
- (6) Deut. XVII, 8.
- (7) The Sanhedrin.
- (8) 'The house of figs', a place within the walls of Jerusalem, which is treated as Jerusalem in all matters. The place cannot be exactly identified. V. Neubauer, *Geographie*, 147ff.
- (9) Lit., 'is a rebellion', which is punishable by strangulation.
- (10) Deut. XVII, 8.
- (11) I.e., on the Temple Mount alone can a rebellious elder be judged. (V. *infra* 87a).
- (12) Cant. VII, 3. I.e., if one wished to leave, it must be seen that twenty-three remain. Cf. *infra* 37b.
- (13) Thus proving that he differs in both matters.
- (14) Of Jerusalem.
- (15) Shebu. 14a.
- (16) Who assumes that their purpose was for measuring in connection with the heifer.
- (17) The rebellious elder.
- (18) The Sanhedrin.
- (19) V. p. 67, n. 10.
- (20) Deut. XVII, 8.
- (21) Gone sour.
- (22) I.e., if the second tithe was redeemed, and the redemption money became rusty, and lost its face value, the coins must be assessed and redeemed (i.e., exchanged) for others of current acceptance.
- (23) Lit., 'who are not dealers'.
- (24) Lit., 'Three who throw into one purse'.
- (25) And those have a common purse.
- (26) Who traded on her own, and he had therefore no share in her profits (cf. Keth. 39a).
- (27) V. *infra* 88a.
- (28) Relating to the laws of Redemption; thrice in reference to human beings, Lev. XXVII, 8; thrice in reference to beasts; *ibid.* 11-13, and four times in reference to land, *ibid.* 14, 18, 23, — from which he deduces the need of ten persons for valuation.
- (29) I.e., in the section dealing with the redemption of animals, and presumably the same applies to the redemption of all forms of *hekdesch*.
- (30) Such as unclean beasts.
- (31) For the laws of assessment in Lev. XXVII comprise only men, beasts and land.
- (32) To the Sanctuary.

### **Talmud - Mas. Sanhedrin 15a**

If one declares, 'I dedicate the value of this vessel [to the Sanctuary]', its value must be handed over. Why so? Because it is well known<sup>1</sup> that there is no fixed assessment [in the Torah] for such objects:<sup>2</sup> he must therefore have spoken with reference to value;<sup>3</sup> consequently, he must pay its value. But if so, [the words in the Mishnah] VALUATIONS OF MOVABLE OBJECTS should have read VALUATION CAUSED BY MOVABLE OBJECTS?<sup>4</sup> — Read: VALUATIONS CAUSED BY MOVABLE OBJECTS.

R. Hisda, quoting Abimi [said]: It refers to one who pledges movable objects in payment of his own dedicated value.<sup>5</sup> But in that case the words VALUATIONS OF MOVABLE OBJECTS should have been written MOVABLE OBJECTS OF ASSESSMENT!<sup>6</sup> Read: MOVABLE OBJECTS OF ASSESSMENT.

R. Abbahu said: This refers to one who declares, 'I dedicate my value;' when the Priest comes to collect it, [on his failure to pay],<sup>7</sup> movable property is assessed by three; immovable property by ten.<sup>8</sup>

R. Aha of Difti said to Rabina: The requirement of three assessors is correct in the case of one having to redeem anything out of the possession of the Sanctuary;<sup>9</sup> but why need three to bring them into its possession?<sup>10</sup> — It is common sense, he answered. What is the difference between appropriating a thing to, and expropriating a thing from [the possession of the Sanctuary]? In the case of expropriation, the reason [for three assessors] is the eventuality of error; but the same eventuality exists in the case of appropriation.<sup>11</sup>

R. JUDAH SAYS etc. R. Papa said to Abaye: On R. Judah's opinion this is right: for that reason 'Priest' is written. But according to the Rabbis,<sup>12</sup> [who hold that no priest is required] — what is the purpose of that reference? — The question remained unanswered.

LAND VALUATION NEEDS NINE AND A PRIEST. Said Samuel: Whence is this inferred? — [From the] ten Biblical references to 'Priest' in the chapter [relating to valuation],<sup>13</sup> One is needed for the actual law;<sup>14</sup> the others are merely exclusions [of non-priests], one following the other. And [according to Talmudic rule,]<sup>15</sup> exclusion, following exclusion, implies, not limitation, but extension,<sup>16</sup> and so includes [as valid, a valuation made] even by nine non-priests,<sup>17</sup> and [only] one priest.

R. Huna, the son of R. Nathan, demurred: Why not say that the ten assessors must consist of five priests and five non-priests?<sup>18</sup> The difficulty remained unsolved.

THE VALUATION OF A MAN IS SIMILAR. But is a man an object that can be dedicated?<sup>19</sup> — The words refer, said R. Abbahu, to the case of one who says; 'I dedicate my value'; as it has been taught 'If one says, I dedicate my value [to the Sanctuary-]', he is assessed exactly as a slave sold in the market; — and a slave is equated to immovable property.<sup>20</sup>

R. Abin asked: How many assessors are needed for the valuation of hair that is ready to be shorn? Is it regarded as already shorn, and thus assessed by three,<sup>21</sup> or as attached to the body, hence by ten?<sup>22</sup> — Come and hear! If one dedicates his slave, no liability to a trespass-offering is incurred in respect of him.<sup>23</sup> But R. Simeon b. Gamaliel says: Liability is incurred in respect of his hair. And we know that the point on which they differ is regarding the hair which is ready to be shorn. Infer, therefore, from this [that R. Abin's question is a point of difference among the Rabbis].

Shall we take it that these Tannaim<sup>24</sup> differ in the same respect as the Tannaim of the following Mishnah? For we learnt: R. Meir says: There are things that notwithstanding their attachment to the soil are considered as movable property.<sup>25</sup> But the Sages disagree with him. In what case? [If A says to B.] 'I handed over to thee ten vines laden with fruit,' and the latter replies, 'They were only five,' R. Meir imposes [an oath on the defendant],<sup>26</sup> while the Sages say that an object which is still attached to the soil is subject to the laws of immovable property.<sup>27</sup> And R. Jose b. Hanina said: The case in question is one of grapes ready to be gathered: according to the one master,<sup>28</sup> they are considered as gathered; according to the other.<sup>29</sup> they are not! — No, you might say it is so<sup>30</sup> even according to R. Meir. Only there, in the case of grapes, which after ripening deteriorate by remaining ungathered, does R. Meir hold that they are considered as gathered: whereas hair, the longer it is left,

the better it is.

CAPITAL CASES, CASES OF CARNAL CONNEXION WITH BEASTS etc. The law is stated categorically, without any distinction whether the connection is between a beast and a man or a beast and a woman. It is right as regards the [requirement of twenty-three] in the case of a woman, as this follows from the verse, Thou shalt slay the woman and the beast.<sup>31</sup> But whence is it to be deduced in the case of a man? — It is written, Whosoever lieth with a beast shall surely be put to death.<sup>32</sup> If this has no bearing on a case where a man is the active participant,<sup>33</sup> we must refer it to one in which he is the passive offender. And it is expressed in the Divine Law as if the man were the active sinner, for the purpose of equating the passive sinner to him. Just as in the case where the man approaches the beast, both he and the beast are judged by [a court of] twenty-three; so also, where the man is approached by the beast, both he and the beast are judged by twenty-three.

THE CASE OF AN OX TO BE STONED IS BY TWENTY-THREE, AS IT IS WRITTEN: THE OX SHALL BE STONED AND ITS OWNER ALSO SHALL BE PUT TO DEATH.<sup>34</sup> AS THE DEATH OF THE OWNER [IS BY TWENTY-THREE], SO THE DEATH OF THE OX. Abaye said to Raba: Whence do we know that the verse, and its owner also shall be put to death, means to [teach that] the judgment of the ox is to be similar to that of the owner?

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(1) Lit., 'a man knows'.

(2) In the Bible, the word עֶרֶךְ ('erek) is used only in reference to men, and indicates a dedication of fixed sums varying according to the age and sex of the person who is the subject of such a dedication. Hence, strictly speaking, the word is meaningless when used in reference to utensils, and therefore a different meaning has to be given to it here.

(3) For, according to the Talmudic dictum, 'No man makes a purposeless declaration.' Cf. 'Ar. 5a.

(4) The difficulty is a grammatical one. עֶרְכִּין is the absolute form, and therefore עֶרְכִּין הַמְטַלְטְלִין really means, 'valuations which are movable' the article הַ being here a relative pronoun. The Talmud answers that the genitive particle שֶׁ is to be understood.

(5) Which, until their value is redeemed, are subject to the laws of sacred property, the assessment of which requires three. This interpretation is to justify the grammatical form used in the Mishnah, the meaning of the phrase being VALUATIONS (of human beings) which have been tendered in the form of MOVABLE OBJECTS.

(6) I.e., movable objects offered as the redemption price of human dedications.

(7) In case of non-payment his property is seized. V. 'Ar. 21a.

(8) The Mishnah therefore is to be interpreted thus: As for הָעֶרְכִּין (human dedications), if movable property be rendered in redemption thereof, it is assessed by three; if real estate, by ten.

(9) As in the cases quoted by R. Giddal and R. Hisda.

(10) As in the case advanced by R. Abbahu.

(11) Hence the need of assessors in either case.

(12) The representatives of the first opinion cited anonymously.

(13) Lev. XXVII v. p. 69, n. 6.

(14) I.e., to state that a priest must be the assessor.

(15) Which is based on the following inference: For excluding purposes, one reference to 'priest' would have been sufficient; hence its repetition is not intended to exclude non-priests, but to extend. V. R. Han. a.l.

(16) In this case the extension to non-priests of the authority to make assessments.

(17) Lit., 'Israelites'. There were three classes in Israel, viz., 'Priests', 'Levites' and 'Israelites'.

(18) Since the rule that 'exclusion following exclusion implies extension' is based on redundancy, where there are a whole series of such exclusions, they are not all redundant. Thus, the first 'priest' teaching the exclusion of an Israelite, the second is redundant, and therefore teaches his inclusion. Hence, when the word has been written twice, we know that one priest and one Israelite are necessary. But for that very reason, the third 'priest' is not redundant, but to intimate that a priest is again required; after which the fourth is redundant, and so on; thus the first, third, fifth, seventh and ninth are needed for the actual law of priests and the others are superfluous, which gives five priests and five Israelites.

(19) So that he may be classed with sacred property.

(20) V. Meg. 23b. This is derived from the verse, And ye may make them an inheritance to your children after you, to



hold for a possession. Lev. XXV, 46. Hence the need of ten assessors.

(21) Like movable property.

(22) Like immovable property.

(23) So, if one puts him to service, as is the case when one makes use of any other consecrated object; for the laws concerning the unlawful use of sacred property are not applicable to lands or things of similar status, as slaves. v. Me'i. 18b.

(24) R. Simeon b. Gamaliel and the first Tanna of the Baraitha.

(25) Lit., 'there are things which are as real estate (being attached to the soil) yet are not as real estate (in a legal sense).'

(26) As in a case where there is partial admission of the claim (cf. B.K. 107a) and though an oath is not administered in cases of immovable property (v. Shebu, VI, 5). Here, however, since the vines no longer depend on the soil for ripening, they are considered as gathered.

(27) Hence no oath can be administered.

(28) R. Meir.

(29) The Rabbis.

(30) I.e., that hair, even though ready for cutting, is to be considered as immovable property, because the cases are not alike.

(31) Lev. XX,16, which indicates that the judgment on the ox is similar to that on the woman, and therefore the verdict must be pronounced by a similar body.

(32) Ex. XXII, 18.

(33) Since the reference in Lev. XX, 15, And if a man lie with a beast, he shall surely be put to death, suffices.

(34) Ex. XXI, 29.

## **Talmud - Mas. Sanhedrin 15b**

Perhaps it is meant to [indicate] capital punishment [for the owner]? — In that case it should have been written, and the owner also, and no more. But [perhaps] had the Divine Law written so,<sup>1</sup> it could be argued that [the text implies death] by stoning?<sup>2</sup> — Could this view possibly be entertained! If a man himself is the murderer, his death is by the sword:<sup>3</sup> when his property [sc. an ox] slays, shall he [the owner] be stoned!<sup>4</sup>

But might it not be argued<sup>5</sup> that the reason the Divine Law wrote 'yumath'<sup>6</sup> is to [indicate] an easier death, i.e., to commute death by the sword to death by strangulation?<sup>7</sup> Now, on the view that strangulation is a severer death,<sup>8</sup> it is correct;<sup>9</sup> but according to the view that strangulation is an easier death [than decapitation],<sup>10</sup> what is there to be said [against it]?<sup>11</sup> — This cannot be entertained, because it is written, If there be laid on him a ransom;<sup>12</sup> and, should you maintain that he is liable to death, is it not written, You shall take no ransom for the life of a murderer?<sup>13</sup> On the contrary, that fact [proves that the text is literal, Thus:] in case of a man's own crime, money is no adequate punishment, only death; whereas, when his beast kills, he can ransom himself with money?<sup>14</sup> — But, said Hezekiah, and thus said a Tanna of the school of Hezekiah: Scripture state, He that smote him [a human being] shall surely be put to death, he is a murderer.<sup>15</sup> For a murder committed by himself, you may put him to death, but you may not put him to death for a murder committed by his ox.<sup>16</sup>

The schoolmen asked: How many were needed [to judge] the ox [that sinned in approaching] Mount Sinai?<sup>17</sup> [The question is] whether we can derive a temporary enactment from permanent practice or not? — Come and hear! Rammi b. Ezekiel taught, Whether it be beast or man, it shall not live;<sup>18</sup> just as a man is judged by twenty-three, so is a beast judged by twenty-three.

THE LION AND THE WOLF etc. . . . Resh Lakish said: Provided, however, that they killed [a human being], but not otherwise.<sup>19</sup> Thus he holds that they can be tamed and have owners.<sup>20</sup> R. Johanan says [that it is R. Eliezer's view] even when they have killed no one. Hence he holds that they cannot be tamed or have owners.<sup>21</sup>

We learnt: R. ELIEZER SAYS, WHOEVER IS FIRST TO KILL THEM [WITHOUT TRIAL], ACQUIRES. This is correct according to R. Johanan:<sup>22</sup> What does he acquire? — He acquires [the possession of] their skin. But according to Resh Lakish, what does he acquire? As soon as they killed someone, the Rabbis regarded them as sentenced [to death], in which case every benefit from them is prohibited!<sup>23</sup> What then does he acquire? — He acquires [merit] in the sight of Heaven.

There is [a Baraitha] taught which is in agreement with Resh Lakish: It is all one whether it be an ox, or any other beast or animal that killed a man, [it is judged] by twenty-three. R. Eliezer says: Only an ox that killed [is tried] by twenty-three, but any other animal or beast who killed, whoever is first to kill them acquires merit in the sight of Heaven.<sup>24</sup>

R. AKIBA SAID etc. Is not R. Akiba's opinion identical with that of the first Tanna [of the Mishnah]?<sup>25</sup> — [No;] they differ in the case of a serpent.<sup>26</sup>

A WHOLE TRIBE MUST NOT BE JUDGED etc. What sin was committed by the tribe? Shall I say, that it is a case of a tribe that desecrated the Sabbath? But<sup>27</sup> if the Divine Law made a distinction between individual sinners and a multitude, it was only in cases of idolatry; did it then differentiate in cases [of the transgression] of other commandments? — It must therefore refer to a tribe that was beguiled [into idolatry]. Is it to imply that it must be tried like a multitude? [If so,] this coincides with the opinion of neither R. Josiah nor R. Jonathan. For it has been taught: How many inhabitants must a town have that it may be proclaimed condemned? Not less than ten and not more than a hundred:<sup>28</sup> this is the view of R. Josiah. R. Jonathan says: From a hundred to the majority of the tribe in question. And even R. Jonathan admits only the majority of a tribe, but not the whole of it.<sup>29</sup> The case in question, says R. Mathna, is one

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- (1) Without the word *yumath*, יומת ('he shall be put to death').
  - (2) I.e., that the same death should be meted out to both man and ox.
  - (3) V. infra 52a.
  - (4) A severer death. Surely not!
  - (5) In support of the literal interpretation.
  - (6) Which is apparently superfluous.
  - (7) For by an unspecified death, strangulation is meant (infra 52b).
  - (8) As held by R. Simeon, cf. infra 49b.
  - (9) For it would appear illogical to punish the owner more severely than in the case of his own act.
  - (10) As held by the Rabbis, *ibid*.
  - (11) Sc. the argument in support of the literal interpretation of 'yumath'.
  - (12) Ex. XXI, 30.
  - (13) Num. XXXV, 31; and surely, if he is to be executed, he is considered as such.
  - (14) And where there is no offer of a ransom he is to be put to death. And the question — 'perhaps the verse means to indicate capital punishment for the owner' — remains.
  - (15) *Ibid*.
  - (16) Deduced from the words, 'he is a murderer', which appear superfluous.
  - (17) Cf. Ex. XIX, 13. Approach was forbidden to man and beast on pain of death.
  - (18) *Ibid*.
  - (19) Only then does R. Eliezer maintain that the sooner they are killed the better.
  - (20) I.e., their owners acquire legal title to them. For otherwise, it would be natural to assume that R. Eliezer meant that they should always be slain as potential mankillers.
  - (21) And even if a person does breed them, he acquires no legal title thereto, and anyone is at liberty to kill them.
  - (22) In whose opinion there is no ownership. Moreover, since they are slain even before they have killed a human being, they are not treated as animals sentenced to death, all benefit from which is prohibited.
  - (23) V. B.K. 41b.

(24) Tosef. Sanh. III.

(25) Why then state his view as though he differed with the first Tanna?

(26) Which, according to R. Akiba, can be killed even without trial.

(27) Lit., 'Say'.

(28) Only a town, referred to as 'ir (v. Deut. XIII, 14) can be condemned. R. Josiah holds that a community of less than ten is a village (kefar) and one of more than a hundred is an entire community, of which the 'city' is only a part.

(29) For in the case of a whole tribe, the members are to be tried individually as when an entire community, as distinct from a town, practises idolatry (v. preceding note).

## Talmud - Mas. Sanhedrin 16a

where the head of the tribe has sinned;<sup>1</sup> did not R. Adda b. Ahabah say: Every great matter they shall bring unto thee<sup>2</sup> means the delinquencies of the great man;<sup>3</sup> so this one [sc. the head of a tribe] too, is a great man.<sup>4</sup>

'Ulla, quoting R. Eleazar says: [This refers to the case of] a dispute over the division of land [where the procedure must be the same] as at the first [division] in Eretz Yisrael. As in the commencement,<sup>5</sup> [such a dispute was decided by a Court of] seventy-one, so does it stand for all time.<sup>6</sup> But if so, just as originally the division was made by means of the urn, the Urim and Tummim,<sup>7</sup> and in the presence of all Israel, so at all times there must be an urn, the Urim and Tummim, and the presence of all Israel! But clearly, the answer given by R. Mathna is the better one.

Rabina says: I still maintain that the case in question is that of a tribe led astray into idolatry, and if you object that such should be judged after the manner of a multitude [I say,] True! though they are executed as individuals;<sup>8</sup> yet their trial must indeed be by a court competent to try a multitude.<sup>9</sup> For did not R. Hama son of R. Jose say in the name of R. Oshaia [in reference to the Scriptural passage]: Then shalt thou bring forth that man and that woman,<sup>10</sup> that an individual man or woman may be brought unto [the court at] thy gates,<sup>11</sup> but not a whole town?<sup>12</sup> Similarly in this case, only an individual man or woman canst thou bring forth to thy gates, but thou canst not bring forth a whole tribe.

NOR THE FALSE PROPHET. Whence is this inferred? — R. Jose son of R. Hanina says: It is derived from [the analogy set up] by the word hazadah,<sup>13</sup> used both here,<sup>14</sup> and in reference to the rebellious elder.<sup>15</sup> Just as there, [the rebellious elder is to be put to death only if he has rebelled against a Sanhedrin of] seventy-one, so here too, [the false prophet is to be tried by a court of] seventy-one. But is not the expression 'hazadah' mentioned in reference to his execution,<sup>16</sup> which is determined by a court of twenty-three? —<sup>17</sup> Resh Lakish therefore said: It is derived from the use of dabar [word] employed here,<sup>18</sup> and in reference to his [the elder's] rebelliousness. But let us, in turn, deduce [that the execution of] the rebellious elder [is by seventy-one] by employing the analogy of hazadah written therein and in the case of the false prophet.<sup>19</sup> — He [the Tanna] had a tradition authorising the analogy of dabar, but not that of hazadah.<sup>20</sup>

### NOR THE HIGH PRIEST.

Whence is this derived? — R. Adda b. Ahabah said: Scripture states, Every great matter they shall bring unto thee.<sup>21</sup> [This means:] The matters [viz., delinquencies] of the great [man].<sup>22</sup>

An objection is raised: A great matter [means] 'a difficult<sup>23</sup> case'. You say, 'a difficult case'; but perhaps it is not so, the meaning being 'the matters of the great man'? Since Scripture states further on, Hard causes [difficult cases] they brought unto Moses,<sup>24</sup> it is clear that difficult cases are meant. [Hence great matter means 'difficult case']? — His<sup>25</sup> view is that of the following Tanna. For it has been taught: Every great matter, means 'the matters of a great [man]'. You say so, but may it not

mean, 'every difficult case'? When Scripture further refers to 'hard causes' [difficult cases], these have already been mentioned.<sup>26</sup> How then, do I interpret, 'great matter'? — 'The matters of the great [man].'<sup>27</sup>

But according to that Tanna,<sup>28</sup> why the need of both verses? — The one states the law itself; the other, its practice.<sup>29</sup> But the other [Tanna]?<sup>30</sup> — If so,<sup>31</sup> either 'great' should be employed in both passages, or 'difficult' in both. Why 'great' in one passage and 'difficult' in the other? We may infer therefrom the two meanings.<sup>32</sup>

R. Eleazar asked: How many judges are needed to judge the [goring] ox of the High Priest? Is it assimilated to the execution of his owner,<sup>33</sup> or is it assimilated to that of owners in general?<sup>34</sup> — Abaye said: Since he raised the question with regard to his ox, it seems that in regard to his other monetary cases, he is certain.<sup>35</sup> But is not this obvious? — No, for you might have supposed from the verse, Every great matter . . . that every matter of the great man<sup>36</sup> [is to be brought before the great Sanhedrin]. He [Abaye] therefore informs us [otherwise].

#### WAR OF FREE CHOICE etc.

Whence do we deduce this? — Said R. Abbahu: Scripture states, And he shall stand before Eleazar the Priest [who shall inquire for him by the judgment of the Urim before the Lord. At his word shall they go out and at his word they shall come in, both he and all the children of Israel with him even all the Congregation].<sup>37</sup> 'He', refers to the King;<sup>38</sup> 'And all the children of Israel with him,' to the Priest anointed for the conduct of war;<sup>39</sup> and, 'all the Congregation,' means the Sanhedrin.<sup>40</sup> But perhaps it is the Sanhedrin whom the Divine Law instructs to inquire of the Urim and Tummim?<sup>41</sup> — But [it may be deduced] from the story related by R. Aha b. Bizna in the name of R. Simeon the Pious: A harp hung over David's bed, and as soon as midnight arrived, a northerly wind blew upon its strings and caused it to play of its own accord. Immediately David arose and studied the Torah until the break of dawn. At the coming of dawn, the Sages of Israel entered into his presence and said unto him: 'Our Sovereign King, thy people Israel need sustenance.' 'Go and support yourselves by mutual trading,'<sup>42</sup> David replied, 'But,' said they, 'a handful does not satisfy the lion, nor can a pit be filled with its own clods.'<sup>43</sup> Whereupon David said to them: 'Go and stretch forth your hands with a troop [of soldiers].'<sup>44</sup> Immediately they held counsel with Ahitophel and took advice from the Sanhedrin<sup>45</sup> and inquired of the Urim and Tummim. R. Joseph said: What passage [states this]?

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(1) Irrespective of the manner of transgression, provided it carries with it the penalty of death.

(2) Ex. XVIII, 22.

(3) I.e., the High Priest (כהן גדול lit., 'great priest'), v. infra, and 18b.

(4) Who, accordingly, is tried by seventy-one (v. preceding note).

(5) When Palestine was divided for the first time amongst the tribes.

(6) Lit., 'here'.

(7) Objects used as a kind of Divine oracle which the High Priest wore on his breast, v. B.B. 122a.

(8) By stoning.

(9) Viz., of seventy-one.

(10) Deut. XVII, 5.

(11) The local court of twenty-three.

(12) But before a court of seventy-one.

(13) הנדדה presumption.

(14) In reference to the false prophet, Deut. XVIII, 20.

(15) Ibid. XVII, 12. And the man that does presumptuously (bezadon).

(16) Ibid: that man shall die.

(17) The reference to the Sanhedrin in Deut. XVII, 12, is only with respect to his disregard of their decision.

(18) The false prophet: *ibid.* XVIII, 20, The prophet that shall speak a word. The elder: *ibid.* XVII, 10, And thou shalt do according to the word. The need of seventy-one for the false prophet, therefore, is derived from the passage relating to the rebelliousness of the elder, which must be directed against the major Sanhedrin.

(19) I.e., just as the rule, that the judgment of the false prophet must be by seventy-one, is derived from an analogy of the two dabars, so, on the other hand, we may deduce that the execution of the elder must be by seventy-one, from an analogy of the two hazadahs.

(20) That analogy was not handed down to him by his teachers, and no man may set up an analogy of his own. Cf. *Pes.* 66a and other places.

(21) Moses. *Ex.* XVIII, 22.

(22) E.g., the High Priest. *v.* p. 76, n. 8.

(23) Lit., 'hard'.

(24) *Ibid.* XVIII, 26.

(25) R. Adda b. Ahabah.

(26) And therefore the previous verse is unnecessary on this assumption.

(27) I.e., the High Priest.

(28) The first Tanna, who interprets 'great matter' as 'difficult case'.

(29) *Ex.* XVIII, 22, states the law; *ibid.* 26 merely relates that this was carried out, but gives no new law.

(30) I.e., why interpret both verses (*v.* n. 11) as stating laws, when the second is obviously mere narrative?

(31) That the same thing is referred to in both verses.

(32) a) Matters of a great man, b) difficult case. For though the second verse is a narrative, it refers to a difficult case, and is not identical with the first verse.

(33) Which is by seventy-one.

(34) Which is by twenty-three, *v.* *Mishnah*, *supra* 2a.

(35) That they must be tried before a court of three.

(36) Even monetary cases.

(37) *Num.* XXVII, 21-22.

(38) Joshua, who had regal authority.

(39) And whose call to war must be heeded by all Israelites.

(40) *V.* p. 3, no. 4.

(41) I.e., that none but the Sanhedrin (also the King and the Priest anointed for war) may enquire of the Urim and Tummim: but not because of any need to obtain their permission for the proclamation of war.

(42) Lit., 'one from another'.

(43) A community cannot live on its own resources.

(44) Invade foreign territory.

(45) Hence the ruling in the *Mishnah*, that the permission of the Sanhedrin was required for the proclamation of war.

## **Talmud - Mas. Sanhedrin 16b**

— And after Ahitophel was Benaiah the son of Jehoiada<sup>1</sup> and Abiathar; and the Captain of the king's host was Joab.<sup>2</sup> 'Ahitophel' is the adviser, even as it is written, And the counsel of Ahitophel which he counselled in those days, was as if a man inquired from the word of God.<sup>3</sup> 'Benaiah the son of Jehoiada', refers to the Sanhedrin, and 'Abiathar' to the Urim and Tummim. And so it is written, And Benaiah the son of Jehoiada was over<sup>4</sup> the Kerethites and Pelethites.<sup>5</sup> And why were they<sup>6</sup> termed Kerethites?<sup>7</sup> — Because they gave definite instructions,<sup>8</sup> And Pelethites?<sup>9</sup> — Because their acts were wonderful. Only after this [is it written]. And the captain of the king's host was Joab.<sup>10</sup> R. Isaac the son of R. Adda, — others state, R. Isaac b. Abudimi — said: What verse [tells us of the harp hanging over David's bed]? — Awake my glory, awake psaltery and harp; I will wake the dawn.<sup>11</sup>

THE ENLARGEMENT OF THE CITY, etc. Whence is this derived? R. Shimi b. Hiyya said: Scripture states, According to all that I show thee, the pattern of the Tabernacle [and the pattern of all the furniture thereof] even so shall ye make it<sup>12</sup> — [meaning,] in future generations<sup>13</sup> Raba

objected: All vessels made by Moses were hallowed by their anointing: those made subsequently were consecrated by [their] service.<sup>14</sup> But why? Let us suppose [that] ‘even so shall you make’ applies to future generations [in this respect too]!<sup>15</sup> — There it is different, for Scripture states, And he had anointed them and sanctified ‘otham’ [them];<sup>16</sup> [hence] only they [were sanctified] by anointing, but not those of later generations. But why not deduce this: those<sup>17</sup> [could be consecrated only] by anointing, whereas the vessels made afterwards might be consecrated either by service or by anointing? — R. Papa said: Scripture reads, . . . wherewith they shall minister in the Sanctuary.<sup>18</sup> . Thus, Scripture made them [i.e., their consecration] dependent on service.<sup>19</sup> Why then do we need ‘otham’?<sup>20</sup> — But for ‘otham’, I might have thought that the consecration of the vessels of the future required both anointing and service, since it is written, so shall you make it;<sup>21</sup> the Divine Law therefore emphasised, ‘otham’,<sup>22</sup> i.e., only they need anointing, but not those of future generations.

THE APPOINTMENT OF THE SANHEDRIN IS BY SEVENTY-ONE. Whence do we derive this law? — Since we find that Moses set up Sanhedrins,<sup>23</sup> and Moses had an authority equal to that of seventy-one.<sup>24</sup>

Our Rabbis taught: Whence do we know that judges are to be set up for Israel? — From the verse, Judges thou shalt make thee.<sup>25</sup> Whence do we deduce the appointment of officers<sup>26</sup> for Israel? — From the same verse, Officers shalt thou make thee. Whence the appointment of judges for each tribe? — From the words, Judges . . . for thy tribes.<sup>27</sup> And the appointment of officers for each tribe? — From the words, Officers . . . for thy tribes. Whence the appointment of judges for each town? From the words, Judges . . . in all thy gates. And the appointment of officers for each town? — From the words, Officers . . . in all thy gates.<sup>28</sup> R. Judah says: One [judicial body]<sup>29</sup> is set over all the others, as it is written, . . . shalt thou make thee.<sup>30</sup> Rabban Simeon b. Gamaliel said: [The immediate connection] of ‘they shall judge’ and ‘for thy tribes’<sup>31</sup> indicates that the tribal court must judge only those of its own tribe.

THE CONDEMNATION OF A TOWN [etc.]. Whence is this derived? — R. Hiyya b. Joseph said in R. Oshaia's name: Scripture states, Then shalt thou bring forth that man or that woman,<sup>32</sup> [teaching,] an individual man or woman thou mayest bring to thy gates,<sup>33</sup> but not a whole town.<sup>34</sup>

A CITY ON THE BORDER MAY NOT BE CONDEMNED. Why? — Because the Torah says: From the midst of thee,<sup>35</sup> but not [a city] on the border.<sup>36</sup>

NOR CAN THREE CITIES BE CONDEMNED. For it is written, Concerning one of the cities.<sup>37</sup> Yet one or two may be condemned, as it is written, of thy cities.<sup>38</sup>

Our Rabbis taught: [Concerning] one [of the cities]: ‘one’, excludes three. You say that it excludes three; but why not assume that it excludes even two? — When it states, ‘thy cities’, two then are indicated;<sup>39</sup> hence, how do I explain ‘one’? — That one [or two] cities may be condemned, but not three. At times Rab said that a single court cannot condemn three cities, but that [that number] may be condemned by two or three courts; at others he maintained that [three cities] can never be condemned, even by two or three courts. What is Rab's reason? — Because of ‘baldness’.<sup>40</sup> Resh Lakish said: They [sc. the Rabbis] taught this [only if the cities are] in a single province,<sup>41</sup> but if they lie in two or three different provinces, they may be condemned. R. Johanan holds that they may not be condemned [even in that case], for fear of ‘baldness’. [A Baraitha] was taught which is in agreement with R. Johanan: We cannot condemn three cities in Eretz Yisrael; but we may condemn two [if situated in two provinces] e.g. one in Judea and one in Galilee; but two in Judea or two in Galilee may not be condemned; and near the border, even a single city cannot be condemned. Why? Lest the Gentiles become aware of it and destroy the whole of Eretz Yisrael.<sup>42</sup> But may not this<sup>43</sup> be deduced from the fact that the Divine law wrote, From the midst of thee, [implying], but not from the border? — He [the author of the Baraitha] is R. Simeon, who always interprets the Biblical law on

the basis of its meaning.<sup>44</sup>

THE GREAT SANHEDRIN etc. What is the reason for the Rabbis maintaining that MOSES WAS OVER THEM?<sup>45</sup> — Scripture says, That they may stand there

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(1) The Biblical version of the verse is Jehoiada the son of Benaiah. Tosaf. Hananel and Aruk (art. אָהָר a.) base their versions on this reading and comment accordingly. Rashi and this translation follow the text of the printed editions of the Talmud which agree with II Sam. XX, 23, and I Chron. XVIII, 17.

(2) I Chron. XXVII, 34.

(3) II Sam. XVI, 23.

(4) Of higher rank (Rashi).

(5) I Chron. XVIII, 17, and II Sam. XX, 23. Since Abiathar is mentioned in the previous verse after Benaiah, it follows that it is he who is referred to by Kerethites and Pelethites. [According to the text adopted by R. Tam (v. Tosaf.), the verse 'Benaiah the son of Jehoiada etc.' follows the word 'Sanhedrin'. The explanation of Kerethites and Pelethites refers accordingly to the Sanhedrin.]

(6) The Urim and Tummim.

(7) כָּרַתִּי fr. כָּרַת 'to cut'.

(8) Lit., 'they cut their words.'

(9) פִּלְתִּי fr. פִּלַּא 'wonder'.

(10) I.e., only after the Sanhedrin had authorised a war was there any need for Joab, the chief general.

(11) Ps. LVII, 9. 'I will wake the dawn' implies that 'I am up and stirring before the dawn'.

(12) Ex. XXV, 9.

(13) Just as the position and bounds of the Tabernacle were regulated by Moses, representing the Great Sanhedrin, so must the boundaries of the city and Temple Courts be decided upon by the Great Sanhedrin.

(14) I.e., by their very use itself. Shebu. 15a.

(15) I.e., in regard to the consecration of the vessels by the anointing.

(16) Num. VII, 1.

(17) Of the time of Moses.

(18) Num. IV, 12.

(19) And the use of the imperfect יִשְׂרְתוּ (they shall minister) implies that the reference is to vessels of generations subsequent to Moses.

(20) אֹתָם 'them', in Num. VII, 1, which appears to serve as an exclusion — which in face of the said verse is unnecessary.

(21) Interpreted to mean, 'for later generations', v. supra.

(22) 'Them, to indicate a limitation.

(23) Ex. XVIII, where it is related how Moses followed the advice of Jethro, his father-in-law.

(24) V. supra 13b.

(25) Deut. XVI, 18.

(26) To execute the sentence of the court.

(27) Ibid.

(28) Ibid.

(29) I.e., the major Sanhedrin.

(30) Which indicates that the whole of Israel was to be treated as a corporate unit.

(31) The verse reads, Judges . . . shalt thou make thee . . . for (E.V. throughout) thy tribes, and they shall judge . . . thus; 'for thy tribes' is coupled with 'and they shall judge'.

(32) Deut. XVII, 5.

(33) I.e., to the court at thy gates which consists of twenty-three.

(34) The latter before a court of seventy-one.

(35) Ibid. XIII, 14.

(36) V. p. 83, n. 4.

(37) Ibid. XIII, 13.

(38) 'Undefined plurals mean at least two,' is a Talmudic rule.

**(39)** V. n. 12.

**(40)** I.e., depopulation.

**(41)** Lit., 'place'; e.g., Judea and Galilee.

**(42)** Tosef. Sanh. XIV.

**(43)** That a border city may not be condemned.

**(44)** V. 111.

**(45)** I.e., that the court consisted of seventy besides Moses.



## Talmud - Mas. Sanhedrin 17a

with thee:<sup>1</sup> 'With thee' implies, 'and thou with [i.e., in addition to] them.' And R. Judah?<sup>2</sup> — 'With thee' was stated on account of the Shechinah.<sup>3</sup> And the Rabbis?<sup>4</sup> — Scripture saith, And they shall bear the burden of the people with thee:<sup>5</sup> 'With thee' implies, 'and thou with them'. And R. Judah? — 'With thee' intimates that [the elders must] be like thee,<sup>6</sup> [Moses]. And the Rabbis?<sup>7</sup> — Scripture saith, So shall they make it easier for thee and bear the burden with thee;<sup>8</sup> and the major Sanhedrin is deduced from the minor.

Our Rabbis taught: But there remained two men in the camp.<sup>9</sup> Some say: They [i.e., their names]<sup>10</sup> remained in the urn.<sup>11</sup> For when the Holy One, blessed be He, said to Moses, Gather unto me seventy of the elders of Israel,<sup>12</sup> Moses said [to himself]: 'How shall I do it? If I choose six out of each tribe, there will be two more [than the required number]; if I select five, ten will then be wanting. If, on the other hand, I choose six out of one and five out of another, I shall cause jealousy among the tribes.' What did he do? — He selected six men [out of each tribe], and brought seventy-two slips, on seventy of which he wrote the word 'Elder', leaving the other two blank. He then mixed them all up, deposited them in an urn, and said to them, 'Come and draw your slips.' To each who drew a slip bearing the word 'Elder', he said, 'Heaven has already consecrated thee.' To him who drew a blank, he said: 'Heaven has rejected thee, what can I do?' Similarly, thou readest, Thou shalt take five shekels apiece by the poll.<sup>13</sup> Moses reasoned: How shall I act toward Israel? If I say to a man, 'Give me [the shekels for] thy redemption,' he may answer, 'A Levite has already redeemed me.' What did he do? He brought twenty-two thousand slips and wrote on each, 'Levite', and on another two hundred and seventy-three he wrote, 'five shekels'. Then he mixed them up, put them into an urn and said to the people, 'Draw your slips.' To each who drew a slip bearing the word 'Levite', he said, 'The Levite has redeemed thee.' To each who drew a ticket with 'five shekels' on it, he said, 'Pay thy redemption and go.'

R. Simeon said: They<sup>14</sup> remained in the Camp. For when the Holy One, blessed be He, ordered Moses: Gather unto me seventy of the elders of Israel, Eldad and Medad observed, 'We are not worthy of that dignity.' Thereupon the Holy One, blessed be He, said, 'Because you have humbled yourselves, I will add to your greatness yet more greatness.' And how did He add to their dignity? — In that all [the other prophets] prophesied and ceased, but their prophesying did not cease. And what did they prophesy? — They said, 'Moses shall die and Joshua shall bring Israel into the land.'

Abba Hanin said on the authority of R. Eliezer: They prophesied concerning the matter of the quails,<sup>15</sup> [saying], 'Arise, quail; arise, quail.'

R. Nahman said: They prophesied concerning **Gog and Magog**,<sup>16</sup> as it is said, Thus saith the Lord God: Art thou he of whom I spoke in old time by My servants the prophets of Israel, that prophesied in those days for many years<sup>17</sup> that I would bring thee against them? etc.<sup>18</sup> Read not 'shanim' [years] but 'shenayim' [two].<sup>19</sup> And which two prophets prophesied the same thing at the same time? — Say, they are **Eldad and Medad**.

The Master said: 'All the other prophets prophesied and ceased, but they prophesied and did not cease.' Whence do we infer that the others ceased? Shall we say, from the verse, They prophesied 'velo yasafu' [but they did so no more]?<sup>20</sup> If so, what of the passage. With a great voice, velo yasaf?<sup>21</sup> Does that too mean, it went on no more?<sup>22</sup> But that must be interpreted, It did not cease!<sup>23</sup> — But here<sup>24</sup> it is written, And they prophesied,<sup>25</sup> whereas there<sup>26</sup> it is stated, [they] were prophesying<sup>27</sup>, i.e., they were still continuing to prophesy.

Now, according to the statement [that they prophesied] that Moses would die, [Joshua's request,] My Lord Moses, forbid them, is understandable; but on these two other views,<sup>28</sup> why [did he say],

My Lord Moses, forbid them<sup>29</sup> — Because their behaviour was not seemly, for they were like a disciple who decides questions in the very presence of his teacher. Now, according to these two other opinions [the wish expressed by Moses,] Would that all the Lord's people were prophets<sup>29</sup> is reasonable; but on the view [that they prophesied] that Moses would die, was he then pleased therewith? — They did not complete their prophecy in his presence. How was Moses to 'forbid them' [as Joshua requested]? He [Joshua] said to him: Lay upon them public cares, and they will cease [prophesying] of themselves.<sup>30</sup>

WHENCE DO WE LEARN THAT WE MUST FIND ANOTHER THREE? But after all, a majority of two for an adverse verdict is impossible:<sup>31</sup> if eleven find the man not guilty and twelve find him guilty, there is still a majority of only one;<sup>32</sup> and if there are ten for not guilty and thirteen for guilty, there is a majority of three? — R. Abbahu said: [The majority of two] is possible only where [two] judges are added,<sup>33</sup> and then the Mishnah agrees with the opinion of all, whilst in the major Sanhedrin, it is possible in accordance with the view of R. Judah, who holds their number to be seventy.<sup>34</sup>

R. Abbahu also said: Where judges are added, an evenly-balanced court may be appointed from the very outset. But is this not obvious?<sup>35</sup> — You might have assumed that the one who says, 'I do not know' is regarded as an existing member, and that anything he says is to be taken into consideration. We are therefore informed that he who says, 'I do not know,' is regarded as nonexistent, and if he gives a reason [for a particular verdict] we do not listen to him.

R. Kahana said: If the Sanhedrin unanimously find [the accused] guilty, he is acquitted. Why? — Because we have learned by tradition that sentence must be postponed till the morrow in hope of finding new points in favour of the defence.<sup>36</sup> But this cannot be anticipated in this case.<sup>37</sup>

R. Johanan said: None are to be appointed members of the Sanhedrin, but men of stature, wisdom, good appearance, mature age, with a knowledge of sorcery,<sup>38</sup> and who are conversant with all the seventy languages of mankind,<sup>39</sup> in order that the court should have no need of an interpreter. Rab Judah said in Rab's name: None is to be given a seat on the Sanhedrin unless he is able to prove the cleanness of a reptile from Biblical texts.<sup>40</sup> Rab said: 'I shall put forward an argument to prove its cleanness.

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(1) Num. XI, 16.

(2) How does he interpret 'with thee'?

(3) I.e., in order to deserve that the Shechinah should rest upon them, as it is written, And I will take of the spirit which is upon thee etc. (Num. XI, 17). But it does not teach that Moses was to be counted in addition to them.

(4) How do they know that Moses was over them, seeing that 'with thee' has a different meaning?

(5) Num. XI, 17.

(6) E.g., in purity of family descent and bodily perfection.

(7) Whence do they deduce this?

(8) Ex. XVIII, 22, referring to the minor Sanhedrin.

(9) Num. XI, 26.

(10) Eldad and Medad.

(11) V. infra.

(12) Num. XI, 16.

(13) Num. III, 47. After the completion of the Tabernacle, the Levites were called to replace the firstborns of all Israelites in the service of the Sanctuary, (cf. Ex. XXIV, 5; XIX, 24.) In order to effect this transfer of office, both the firstborn and the Levites were numbered. And when it was found that of the former there were twenty-two thousand two hundred and seventy-three; and of the latter, twenty-two thousand, the two hundred and seventy-three firstborns who were in excess of the Levites were redeemed at the rate of five shekels per head. (Five shekels is the legal sum for the redemption of a firstborn. v. Num. XVIII, 16). To solve the difficulty of deciding who was to be redeemed and who

exchanged, the above scheme was adopted.

(14) Eldad and Medad.

(15) The birds by which the Israelites were miraculously fed in the wilderness. Ex XVI, 11-13; Num. XI, 31.

(16) According to a widespread tradition, Gog and Magog represented the heathen nations or aggregate powers of evil, as opposed to Israel and the Kingdom of God, v. 'Eduy. II, 5. Ezekiel (XXXVIII, 2; XXXIX, 6) pictured the final destruction of the heathen world before the city of Jerusalem, as the defeat of Gog and Magog.

(17) שנים which may be read either 'shanim' years or 'shenayim' 'two'.

(18) Ezek. XXXVIII, 17.

(19) I.e., the two prophets who prophesied, etc.

(20) ולא יספו

(21) ולא יסף Deut. V, 19.

(22) But surely this cannot be said of the Shechinah.

(23) So in the first verse, יספו must bear the same connotation.

(24) Speaking of the elders, Num. XI, 25.

(25) ויתנבאו (imperfect with waw conversive = perfect).

(26) In the case of Eldad and Medad, Num. XI, 27.

(27) מתנבאים (participle).

(28) That they prophesied concerning the quails, or about Gog and Magog.

(29) Ibid. XI, 29.

(30) There is here a play on words, 'forbid them' being connected with 'ceasing'. Communal activities bring sorrow, and prophecy is possible only to the joyous spirit (Tosaf.).

(31) In a Sanhedrin of twenty-three.

(32) And for conviction, a majority of two is necessary; v. p. 3.

(33) As in the following case: If eleven found him guilty and eleven not guilty, while the twenty-third is dubious, the law provides for an addition of two members. In case these agree with the accusers, the majority for condemnation is then two, v. Mishnah infra 40a.

(34) It might happen that thirty-six condemn and thirty-four acquit.

(35) Surely this has already been stated in the Mishnah cited. For if two are added when the twenty-third is dubious, the court consists of an even number.

(36) V. infra 34a; 35a.

(37) Lit., 'But these will no more see for him (any merit).'

(38) So as to be able to detect those who seduce and pervert by means of witchcraft, cf. Rashi.

(39) This number is given frequently in Talmud and Midrash as the number of languages existing in the world. V. Pirke de R. Eliezer, ch. 24; Targum Jonathan on Gen. XI, 8, and Rashi on Deut. I, 5. As it is impossible for one man to know all these languages, he must have meant that amongst them all, all the languages were to be known. But cf. Rab's dictum below.

(40) I.e., he must be of subtle mind, so as to be able to prove the cleanness of reptiles that are definitely declared unclean in Scripture. V. Lev. XI, 29-39.

## Talmud - Mas. Sanhedrin 17b

If a snake which causes so much uncleanness through killing is clean,<sup>1</sup> should not a reptile, which does not kill and spread uncleanness, be clean?' But it is not so, [as is proved] by comparison with an ordinary thorn.<sup>2</sup>

Rab Judah said in Rab's name: A Sanhedrin must not be established in a city which does not contain [at least] two who can speak [the seventy languages] and one who understands them. In the city of Bethar there were three and in Jabneh four [who knew how to speak them]: [viz.,] R. Eliezer, R. Joshua. R. Akiba, and Simeon the Temanite, who used to discuss before them sitting on the ground.<sup>3</sup>

An objection is raised: A Sanhedrin that has three<sup>4</sup> [able to speak the seventy languages] is wise

[capable]; if four,<sup>5</sup> it is of the highest standard possible.<sup>6</sup> — He<sup>7</sup> holds the same view as the Tanna [of the following Baraita]: It has been taught: With two, [the Sanhedrin is] wise [capable]; with three, it reaches the highest standard possible.

[The following rules apply throughout the Talmud: The statement,] ‘It was argued before the Sages,’ refers to Levi who argued before Rabbi. ‘It was discussed before the Sages,’ refers to Simeon b. Azzai, Simeon b. Zoma, Hanan the Egyptian, and Hanania b. Hakinai<sup>8</sup>. R. Nahman b. Isaac taught that there were five: the three Simeons,<sup>9</sup> Hanan [the Egyptian] and Hanania [b. Hakinai].

‘Our Rabbis in Babylon’ refers to Rab and Samuel.

‘Our Rabbis in Eretz Yisrael’, to R. Abba.

‘The judges of the Exile’, to Karna.<sup>10</sup>

‘The judges of Eretz Yisrael’, to R. Ammi and R. Assi.

‘The judges of Pumbeditha’, to R. Papa b. Samuel,

‘The judges of Nehardea’, to R. Adda bar Minyomi.

‘The elders of Sura’, to R. Huna and R. Hisda.

‘The elders of Pumbeditha’, to Rab Judah and R. ‘Aina.

‘The keen intellects of Pumbeditha’, to ‘Efa and Abimi, sons of Rehabah.

‘The Amoraim of Pumbeditha’, to Rabbah and R. Joseph.

‘The Amoraim of Nehardea’, to R. Hama. [Where we read,] ‘Those of Neharbelai<sup>11</sup> taught,’ it refers to Rammi b. Berabi.<sup>12</sup>

‘They said in the School of Rab’, refers to R. Huna. But did not R. Huna himself say, ‘They said in the School of Rab’? — R. Hammuna is therefore the one referred to.

‘They said in the West’,<sup>13</sup> refers to R. Jeremiah.

‘A message was sent from Palestine,’<sup>14</sup> to R. Jose b. Hanina. ‘They laughed at it in the West’, to R. Eleazar. But do we not read: ‘A message was sent from Palestine: according to R. Jose b. Hanina . . .?’<sup>15</sup> — Therefore reverse it: ‘A message was sent from Palestine’ refers to R. Eleazar; ‘They laughed at it in the West’, to R. Jose b. Hanina.

WHAT MUST THE POPULATION OF A CITY BE IN ORDER THAT IT MAY QUALIFY FOR A SANHEDRIN? A HUNDRED AND TWENTY, etc. What is the reason for that NUMBER?<sup>16</sup> — Twenty-three, corresponding to the number of the minor Sanhedrin, and three rows of twenty-three,<sup>17</sup> make ninety-two. Adding the ten ‘batlanim’<sup>18</sup> of the Synagogue, we have a hundred and two. Then, a further two clerks,<sup>19</sup> two sheriffs,<sup>20</sup> two litigants, two witnesses, two zomemim,<sup>21</sup> and two to refute the zomemim,<sup>22</sup> gives a hundred and fourteen in all. Moreover, it has been taught: A scholar should not reside in a city where the following ten things are not found: A court of justice that imposes flagellation and decrees penalties; a charity fund<sup>23</sup> collected by two and distributed by three;<sup>24</sup> a Synagogue; public baths; a convenience; a circumciser; a surgeon, a

notary;<sup>25</sup> a slaughterer<sup>26</sup> and a school-master.<sup>27</sup> R. Akiba is quoted [as including] also several kinds of fruit [in the list], because these are beneficial<sup>28</sup> to the eyesight.

R. NEHEMIA SAYS, [TWO HUNDRED AND THIRTY etc.]. It has been taught: Rabbi said:

- (1) As it is not included in the list of unclean creatures in Scripture; *ibid.*: and its dead carcase does not defile.
- (2) For a thorn-prick also causes death, and so spreads uncleanness, yet it cannot be regarded by anyone as otherwise than clean.
- (3) Because he was as yet unqualified owing to his immaturity, yet he was allowed to take part in the discussion.
- (4) [Lit. 'of three', v. *Yad. Ramah.*]
- (5) Cf. preceding note.
- (6) Hence it appears that at least three such men are needed by a city, in order that it may qualify for a Sanhedrin.
- (7) I.e., Rab, who says that only two are required.
- (8) Though not ordained they were permitted to join the discussion in the presence of the ordained Rabbis; v. *Bacher, AT. I, 409, 3.*
- (9) I.e., the two Simeons referred to above, and Simeon the Temanite.
- (10) [Var. lec. Samuel and Karna, v. *Rashbam, B.B. (Sonc. ed.) p. 279. n. 8; p. 419, n. 3.*
- (11) [*Neharbel identified with Nehar Bil, east of Bagdad, Obermeyer, p. 269.*]
- (12) *Beribi* (v. *Rashi, Bezah 8b*); or 'Beroki' according to the *Aruch*.
- (13) The Babylonians, when alluding to Palestine, called it the West, as Palestine was to the W. of Babylon. *V. Ber. 2b.*
- (14) Lit., 'from there', which refers usually to Palestine, v. p. 15.
- (15) How then could the sender himself be R. Jose b. Hanina?
- (16) Lit., 'what has (the number) to do (with that)?'
- (17) Usually seated behind the Sanhedrin for the purpose of completing courts. For full explanation, v. *Mishnah, infra 37a.*
- (18) **בטלנים** fr. **בטל** 'to rest from labour', 'to be at ease or idle', hence men with leisure. Ten such men were appointed in every Community to attend religious services, in order to ensure the requisite quorum for public worship — the *minyán*. v. *Meg. 3b.*
- (19) To take down notes for the prosecution and defence, v. *infra 37a.*
- (20) The court beadles, who summoned the litigants and carried out the court sentences, such as flagellation.
- (21) *V. Glos.* No testimony is valid if there is no possibility of its being refuted. Hence two are necessary for that.
- (22) As a further precaution, lest false witnesses be hired to refute the first two.
- (23) **קופה**, *kupah*, the communal fund from which distributions in money were made to the poor every Friday. *B.B. 8b.*
- (24) *V. B.B. 8b.*
- (25) For writing scrolls, etc.
- (26) *Rashal* deletes this; in that case, the charity fund ranks as two institutions, viz., the collection and distribution.
- (27) *Rashi* suggests the following persons as the six necessary to complete the hundred and twenty: viz., the two collectors and three distributors of charity, and one man capable of practising all the other professions.
- (28) Lit., 'enlighten'.

## Talmud - Mas. Sanhedrin 18a

[The population must be] two hundred and seventy-seven.<sup>1</sup> But has it not been taught: Rabbi said, [The population must be] two hundred and seventy-eight? — There is no difficulty: The one statement is according to R. Judah;<sup>2</sup> the other according to the Rabbis.<sup>3</sup>

Our Rabbis taught: And place such over them to be rulers of thousands, rulers of hundreds, rulers of fifties and rulers of tens:<sup>4</sup> The rulers of thousands amounted to six hundred;<sup>5</sup> those of hundreds, six thousand; those of fifties, twelve thousand; and those of tens, sixty thousand. Hence the total number of judges in Israel was seventy-eight thousand and six hundred.

## CHAPTER II

MISHNAH. THE HIGH PRIEST MAY JUDGE AND BE JUDGED, TESTIFY AND BE TESTIFIED AGAINST. HE MAY PERFORM HALIZAH,<sup>6</sup> AND THE SAME MAY BE DONE TO HIS WIFE. THE DUTY OF YIBBUM<sup>7</sup> MAY BE PERFORMED TO HIS WIFE; HE HOWEVER, MAY NOT, PERFORM THAT DUTY, SINCE HE IS FORBIDDEN TO MARRY A WIDOW.<sup>8</sup>

IF A DEATH HAPPENS IN HIS FAMILY, HE MUST NOT WALK IMMEDIATELY BEHIND THE BIER,<sup>9</sup> BUT WHEN THEY<sup>10</sup> DISAPPEAR,<sup>11</sup> HE MAY SHOW HIMSELF;<sup>12</sup> WHEN THEY APPEAR [IN ONE STREET], HE MUST BE HIDDEN.<sup>13</sup> [IN THIS MANNER] HE MAY GO WITH THEM AS FAR AS THE ENTRANCE OF THE GATE OF THE CITY. SO HOLDS R. MEIR. R. JUDAH SAID: HE MUST NOT LEAVE THE SANCTUARY, BECAUSE IT IS WRITTEN, NEITHER SHALL HE GO OUT OF THE SANCTUARY'.<sup>14</sup> WHEN HE CONSOLES OTHERS, IT IS CUSTOMARY FOR THE PEOPLE TO PASS ALONG, ONE AFTER THE OTHER,<sup>15</sup> AND FOR THE 'MEMUNNEH'<sup>16</sup> TO PLACE HIM BETWEEN HIMSELF AND THE PEOPLE.<sup>17</sup> IF HE IS CONSOLED BY OTHERS, ALL THE PEOPLE SAY TO HIM, 'MAY WE BE THY ATONEMENT, AND HE ANSWERS THEM,' BE YE BLESSED OF HEAVEN. AND WHEN THE MOURNERS' MEAL<sup>18</sup> IS GIVEN TO HIM, ALL THE PEOPLE ARE SEATED ON THE FLOOR AND HE ON A STOOL.

THE KING MAY NEITHER JUDGE NOR BE JUDGED, TESTIFY NOR BE TESTIFIED AGAINST. HE MAY NOT PERFORM HALIZAH NOR MAY IT BE PERFORMED TO HIS WIFE. HE MAY NOT PERFORM YIBBUM, NOR MAY IT BE PERFORMED TO HIS WIFE. R. JUDAH SAID: IF HE WISHES TO PERFORM HALIZAH OR YIBBUM, HE SHALL BE REMEMBERED FOR GOOD. BUT THEY [THE RABBIS] SAID: [EVEN IF HE WISHES] HE IS NOT LISTENED TO; NOR MAY ANY ONE MARRY HIS WIDOW. R. JUDAH SAID: A KING MAY MARRY A KING'S WIDOW, FOR SO WE FIND IN THE CASE OF DAVID WHO MARRIED THE WIDOW OF SAUL, AS IT IS WRITTEN, AND I GAVE THEE THY MASTER'S HOUSE AND THY MASTER'S WIVES INTO THY BOSOM.<sup>19</sup>

GEMARA. THE HIGH PRIEST [MAY JUDGE]. But is this not obvious? — It is necessary to state, HE MAY BE JUDGED.<sup>20</sup> But that too is obvious, for if he cannot be judged, how can he judge? It is not written, hithkosheshu wa-koshshu,<sup>21</sup> which Resh Lakish interpreted: Adorn yourselves first, and then adorn others?<sup>22</sup> — But since he [the Tanna] wishes to state: A KING MAY NEITHER JUDGE NOR BE JUDGED, he also, teaches' THE HIGH PRIEST MAY JUDGE AND BE JUDGED. Alternatively, he [the Tanna] informs us of the following: Viz., of what has been taught: If a High priest killed anyone; if intentionally, he is executed, if unintentionally, he is exiled.<sup>23</sup> He transgresses positive and negative commandments, and ranks as a hedyot<sup>24</sup> in all respects.<sup>25</sup>

'If intentionally, he is executed.' Is this not obvious? — It is necessary to state, 'If unintentionally, he is exiled.'<sup>26</sup> But is not that, too, evident? It is necessary; for you might have thought that I could argue from the verse, And he shall dwell therein until the death of the High Priest<sup>27</sup> that only he whose return is provided for,<sup>28</sup> is exiled, but one whose return is not provided for, is not exiled. For we learnt:

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(1) Tosef. III. Two hundred and thirty in accordance with R. Nehemia, and forty-seven held in reserve for increasing the number of the court of twenty-three, where one is uncertain and the rest equally divided, adding two at a time, up to a maximum of seventy or seventy-one, v. infra 40a.

(2) Requiring only seventy to constitute the Sanhedrin.

(3) Requiring seventy-one.

(4) Ex. XVIII, 21.

(5) Since the population consisted of 600,000. Likewise for the other officials. (Ex. XII, 35.). [This is to teach that the

judges were included in the number of each respective group (Tanh. Mishpatim).

(6) V. n. p. 1 and p. 31.

(7) **יְבוּמוֹ**, The duty of a levirate marriage, i.e., the obligation of marrying one's brother's widow if she be childless. (V. Deut. XXV, 5.) Although marriage with a brother's widow was forbidden as a general rule (Lev. XVIII, 16; XX, 21), in the case of childlessness it was obligatory. This obligation could, however, be avoided by the ceremony of Halizah, which was recommended later in Talmudic times in preference to yibbum (v. Yeb. 39b; 109a).

(8) Lev. XXI, 14. A widow, or one divorced, or a profaned woman, or a harlot, these shall he not take.

(9) Though by following the bier, he would not come in actual contact with the dead: (v. p. 18, n. 7), precautions had to be taken so as to prevent any possibility of his becoming levitically impure.

(10) The other mourners.

(11) From one street, having entered a second.

(12) In the first.

(13) I.e., he must always be one street behind the concourse following the bier.

(14) Lev. XXI, 12.

(15) In ordinary cases, after the burial, friends of the mourner passed by in a line and offered him comfort. In later times this was reversed, the friends standing in two rows, and the mourner passing between them.

(16) Lit., 'the appointed one'. An officer of high rank in the Temple, generally the superintendent of the Temple service. Here identical with the Segan; v. R. Papa's statement, p. 97 and n. 5. loc. cit.

(17) I.e., The High Priest was attended on the right by the Memunneh and on the left by the people.

(18) 'se'udath habra'ah', the first meal after the funeral which is prepared and given to the mourners by a neighbour. (v. II Sam. III. 35; M.K. 27b). This meal consists of bread and eggs. V.B.B. 16b.

(19) II Sam. XII, 8.

(20) And so the first is mentioned too, for completeness.

(21) **קוּשׁוּ וְהִתְקוּשׁוּ קוּשׁוּ** Zeph. II, 1. E.V. Gather yourselves together, yea, gather together.

(22) By a play on the similarity of 'gather yourselves together', fr. **קוּשׁוּ** and 'adorn yourselves', Heb. **קָשׁוּ**

(23) V. Num. XXXV, 11.

(24) V. Glos.

(25) V. Sanh. Tosef. IV.

(26) V. p. 92, n. 4.

(27) Num. XXXV, 25.

(28) I.e., by the death of the High Priest.

## Talmud - Mas. Sanhedrin 18b

One who killed the High Priest [unintentionally] or the High Priest who [so] killed a person, may never come forth from his place of exile.<sup>1</sup> Hence I would say that he should not be exiled. He therefore informs us [that he is]. But perhaps it is indeed so?<sup>2</sup> — Scripture states, Every man slayer may flee thither,<sup>3</sup> implying even the High Priest.

'He transgresses positive and negative commandments.' But is he bound<sup>4</sup> to transgress?<sup>5</sup> — What it means is: If he transgressed a positive or a negative commandment, he is in every respect [equal to] a hedyot.<sup>6</sup> But is this not obvious? — [No,] I might think, since we learnt: 'A whole tribe, a false prophet or a high priest are not to be judged except by a court of seventy one';<sup>7</sup> and R. Adda b. Ahabah said: [This is deduced from the verse,] Every great matter they shall bring unto thee,<sup>8</sup> meaning, 'the matters of a great man':<sup>9</sup> — therefore (I might think) all matters of a great man [involve trial by the Great Sanhedrin]; the Tanna therefore teaches us [otherwise].<sup>10</sup>

But perhaps it is so?<sup>11</sup> — Is it actually written, 'matters of a great [man]'? What it states is: 'The great matter', i.e., the really important matter.<sup>12</sup>

HE MAY TESTIFY AND BE TESTIFIED AGAINST. He may testify? But has it not been taught: And hide thyself from them;<sup>13</sup> there are times when thou mayest hide thyself<sup>14</sup> and there are times

when thou mayest not. How so?<sup>15</sup> — [E.g., when the finder is] a Kohen and it [sc. the object found] is in a grave-yard;<sup>16</sup> or an old man, and it is undignified for him;<sup>17</sup> or when his work is of greater value than his neighbour's [loss]: in such cases Scripture says, And hide thyself<sup>18</sup>. — said R. Joseph: He may be a witness for the king.<sup>19</sup> But have we not learnt: HE [THE KING] MAY NEITHER JUDGE NOR BE JUDGED; TESTIFY NOR BE TESTIFIED AGAINST? — But, said R. Zera: He may be a witness for the king's son. But the king's son is a commoner!<sup>20</sup> — Rather [say thus]: He may testify in the presence of the king.<sup>21</sup> But surely the king may not be given a seat on the Sanhedrin! — For the sake of the High Priest's dignity, he comes and sits down until his evidence is received, after which he leaves and then we deliberate on his<sup>22</sup> case.

The text [states]: 'The king may not be given a seat on the Sanhedrin;' nor may the king or the High Priest be members of the board for the intercalation of the year.

'The king [may not be given a seat] in the Sanhedrin,' — because it is written, Thou shalt not speak 'al rib [in a case].<sup>23</sup> [meaning], thou shalt not speak against the rab [chief of the judges].<sup>24</sup> Again, 'nor may the king or the High Priest be members of the board for the intercalation of the year.' The king, on account of 'Afsanya' [the upkeep of the army];<sup>25</sup> the High Priest, because of the [autumnal] cold.<sup>26</sup>

R.Papa said: This<sup>27</sup> proves that the seasons of the year fall in with the normal lunar months.<sup>28</sup> But is it so? Were there not three cowherds who were standing conversing, and who were overheard by some Rabbis. One of them said: If the early and late sowing<sup>29</sup> sprout together, the month is Adar; if not, it is not Adar.<sup>30</sup> The second said: If in the morning frost is severe enough to injure<sup>31</sup> an ox, and at mid-day the ox lies in the shade of the fig-tree and scratches its hide,<sup>32</sup> then it is Adar, if not, it is not Adar. And the third said: When a strong east wind is blowing and your breath can prevail against it, the month is Adar; if not, it is not Adar. Thereupon the Rabbis intercalated the year?<sup>33</sup> — Is it then logical for you to assume that the Rabbis intercalated the year by a simple reliance upon cowherds? But they relied on their own calculations, and the cowherds [merely] corroborated their proposed action.<sup>34</sup>

HE MAY PERFORM HALIZAH. The Tanna teaches this<sup>35</sup> categorically, irrespective of whether [his sister-in-law was widowed] after nesu'in or only after erusin.<sup>36</sup> Now, as for a widow after nesu'in, it is correct, since he is interdicted by a positive and a negative command;<sup>37</sup>

(1) That is, if there was no High Priest at the time when he was exiled. V. Mak. 11b.

(2) That he should actually be exempt from exile.

(3) Deut. XIX,3.

(4) Lit., 'Is there no way', 'is it impossible that he should not transgress'?

(5) 'He transgresses etc.' implies that he must transgress.

(6) V. Tosef. Sanh. IV.

(7) V. supra 2a.

(8) Ex. XVIII, 22.

(9) I.e., the High Priest, v supra 16b.

(10) That through transgression he becomes a mere hedyot and is tried by three.

(11) May not the interpretation of the matters of a great man apply to this also?

(12) I.e., one involving capital punishment.

(13) Deut. XXII, 4, in reference to the return of lost objects.

(14) I.e. refrain from carrying out the duty of returning the find.

(15) When is one permitted to retreat?

(16) V. p. 18, n.7.

(17) To pick up the object.

(18) Thus a man's dignity abrogates the injunction, Thou mayest not hide thyself'; in the same way, the duty of bearing



testimony (v. Lev. V,1) should be abrogated in favor of a High Priest, since it is not in keeping with his exalted office.

(19) I.e. in a case where the king is one of the litigants.

(20) Hence even so it is still undignified for the High Priest to testify.

(21) I.e., when the king is a member of the Sanhedrin.

(22) The king's son's (Rashi).

(23) Ex. XXIII, 2. **רַב** rib is here written defectively, i.e., without a yod, hence can be read rab, 'master' or 'chief'.

(24) I.e. if the king were a member of the Sanhedrin, other members would be inclined to suppress their opinions in deference to him.

(25) Gr.\*\* from \*\* wages. As it would be to his interest sometimes to intercalate and sometimes not to intercalate the year. according as the payment of the army is by the year or by the month.

(26) Since he might be biased against intercalation which, by placing the Day of Atonement later in the autumn, would make the several ritual baths which he has to take on that day (five immersions in all) rather cold. V. Yoma 31b.

(27) The objection to the High Priest's taking part in the intercalation of the year.

(28) I.e., when the year is intercalated, the weather in Tishri is the equivalent of that of Marcheshvan in an ordinary year.

(29) I.e., the wheat sown earlier and the barley that was sown later (Rashi).

(30) But Shewat.

(31) Lit., 'kill'.

(32) Through the heat.

(33) Thus we see that the purpose of intercalation is to readjust the seasons, and the second Adar then has the climate of the first Adar in normal years, therefore Tishri will have its usual degree of heat in an intercalated year.

(34) In case, therefore, intercalation has been prompted by a reason other than the readjusting of the seasons, the weather will vary according to the months.

(35) That the High Priest may not perform Yibbum.

(36) V. Glos. A widow after erusin is still a virgin.

(37) a) A virgin of his people he shall take to wife, Lev.XXI, 14; b) A widow he shall not take. *ibid*.

## Talmud - Mas. Sanhedrin 19a

and a positive command<sup>1</sup> cannot abrogate a positive and a negative command. But in the case of a widow after erusin, why [is he not permitted to marry her]?<sup>2</sup> The positive command<sup>3</sup> should set aside the negative? — The first act of connubial intercourse was forbidden as a preventive measure against further acts.<sup>4</sup> It has been taught likewise: [Where the widow is forbidden in marriage to the brother-in-law by a negative or positive command] and he has connubial relations at all with her, he acquires [her in marriage] but may not retain her for further cohabitation.<sup>5</sup>

IF A DEATH HAPPENS IN HIS FAMILY. Our Rabbis taught: Neither shall he go out of the Sanctuary:<sup>6</sup> [this means,] he shall not go out with them, but he may go after them. How so? — When they [the other mourners] disappear, he may reveal himself [to the public]; and when they appear [in a street], he must be hidden [in another].<sup>7</sup>

AND HE MAY GO WITH THEM AS FAR AS THE ENTRANCE GATE OF THE CITY. [R. JUDAH SAID. . . BECAUSE IT IS WRITTEN . . .]. Surely R. Judah's argument is correct? — R. Meir will tell you: in that case,<sup>8</sup> he must not [leave the Temple] even for his house!<sup>9</sup> Hence this must be the meaning of, Neither shall he go out of the Sanctuary: He must not depart from [i.e., profane] his holy status, and in this case, since he has something to remind him [of his status]<sup>10</sup> he will not come into contact [with the dead]. And R. Judah? — Owing to his bitter grief, he might be tempted to overlook that, and thus come into contact [therewith].

WHEN HE GOES TO CONSOLE OTHERS. Our Rabbis taught: When he passes along the row to comfort others, the Segan<sup>11</sup> and the former High Priest<sup>12</sup> stand on his right; whilst the Rosh-Beth-Ab,<sup>13</sup> the mourners and all the people are on his left. And when he stands in the row to be comforted by others, the Segan is stationed on his right and the Rosh Beth Ab and all the public on

his left. But the former High Priest is not present on this latter occasion. Why? — He [the High Priest] might feel depressed by the thought, ‘He rejoices at my misfortune.’<sup>14</sup>

From this Baraitha. says R. Papa, we can infer three things: [i] that the Segan [here] and the Memunneh [in the Mishnah] are identical;<sup>15</sup> [ii] that the mourners stand, while the people pass by; [iii] that the mourners are placed to the left of the comforters.

Other Rabbis taught: Formerly the mourners used to stand still while the people passed by. But there were two families in Jerusalem who contended with one another, each maintaining, ‘We shall pass first’. So the Rabbis established the rule that the public should remain standing and the mourners pass by.

Rammi bar Abba said: R. Jose restored the earlier custom in Sepphoris,<sup>16</sup> that the mourners should stand still and the public pass by. He also said: R. Jose enacted in the same town that a woman should not walk in the street followed by her child,<sup>17</sup> owing to an incident that once happened.<sup>18</sup> Further, Rammi B. Abba said: R. Jose also enacted in that town that women while in the closet should talk to one another for the sake of privacy. [from the intrusion of men].

R. Manashia b. ‘Awath said: I inquired of R. Josiah the Great, in the grave-yard of Huzal,<sup>19</sup> and he told me that a row [for condolence] must consist of not less than ten people, excluding the mourners, and that it was immaterial whether the mourners stood still and the public passed by, or the mourners passed by and the public remained standing.

WHEN HE IS COMFORTED BY OTHERS etc. The schoolmen asked: When he consoled others, what did he say to them? — Come and hear! ‘And he said [to them], Be comforted’. On what occasion [did he actually say this]? Shall we say, when others comforted him? But how could he say, ‘Be comforted’? He would suggest ill-omen to them! — it must therefore be taken that when he comforted others, he said: ‘Be comforted’. Draw your own conclusion!

THE KING MAY NEITHER JUDGE etc. R. Joseph said: This refers only to the Kings of Israel, but the Kings of the House of David may judge and be judged, as it is written, O House of David, thus saith the Lord, execute justice in the morning;<sup>20</sup> and if they may not be judged, how could they judge: is it not written, Hithkosheshu wakoshshu,<sup>21</sup> which Resh Lakish interpreted. ‘adorn yourself first and then adorn others’?<sup>22</sup> But why this prohibition of the kings of Israel? Because of an incident which happened with a slave of King Jannai.<sup>23</sup> who killed a man. Simeon b. Shetah<sup>21</sup> said to the Sages: ‘Set your eyes boldly upon him and let us judge him.’ So they sent the King word, saying: ‘Your slave has killed a man.’ Thereupon he sent him to them [to be tried]. But they again sent him a message ‘Thou too must come here, for the Torah says, If warning has been given to its owners,<sup>24</sup> [teaching], that the owner of the ox must come and stand by his ox.’<sup>25</sup> The king accordingly came and sat down. Then Simeon b. Shetah said: ‘Stand on thy feet, King Jannai, and let the witnesses testify against thee; yet it is not before us that thou standest, but before Him who spoke and the world came into being, as it is written, Then both the men between whom the controversy is, shall stand etc.’<sup>26</sup> ‘I shall not act in accordance with what thou sayest, but in accordance with what thy colleagues say,’ he answered.

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(1) Sc. Her husband's brother shall go in into her and take her to him to wife. Deut. XXV, 5.

(2) Since he is interdicted only by a negative command, viz., a widow he shall not take, Lev. XXI, 14.

(3) Of yibbum. — This is a general rule, where two precepts come into opposition.

(4) Which would be a transgression, the precept having been fulfilled by the first.

(5) V. Yeb. 20b. This proves that a second act of connubial relationship is forbidden.

(6) Lev. XXI, 12.

(7) V. notes on Mishnah.

- (8) If the verse is meant literally.
- (9) Which is absurd. He must go home sometimes.
- (10) Viz., the unusual procedure.
- (11) V. p. 91, n. 11. [The Segan generally rendered 'deputy high priest' Schurer, II, 421, identifies him with the \*\* mentioned in Josephus, the superintendent of the Temple service. V., however, Schwarz, A., in MGWJ., LXIV, 30ff.
- (12) **משוח שעבר** lit., 'the anointed who has passed (from his office)'. Provisional High Priest — a Priest who is appointed to act as a substitute for the High Priest when temporarily disqualified by uncleanness. When the first returns to office, this one is known as the ex-anointed.
- (13) **ראש בית אב**. Priests were divided into eight divisions, each called Mishmar; and each Mishmar was again divided into six subdivisions, called Beth-Ab, for the service of each week-day. The chief of these sub-divisions was called Rosh-beth-ab. Cf. Maim, Yad, Kele Hamikdash, IV, 3-11.
- (14) Probably because the Mashuah she-'abar would be reluctant to hand over the office, and so bear ill-feelings against the rightful occupant.
- (15) This is deduced from the fact that the High Priest here also is placed between the mourners and the public.
- (16) **צפורי** (lit. 'bird'). Important city in Galilee, at one time its capital. Frequently identified in the Talmud (Meg. 6a) with Kitron (Judges I, 30). R. Jose was born in Sepphoris and knew it well. [V. Klein, S. **מאמרים שונים להקרת ארץ ישראל**, 54ff.]
- (17) But that she should follow the child.
- (18) Rashi says: Once immoral men kidnapped a child which was following its mother, and she was searching for it, lured her into a house and there assaulted her.
- (19) [A place between Nehardea and Sura. Obermeyer op. cit. p. 299].
- (20) Jer. XXI, 12.
- (21) Zeph. II, 1.
- (22) V. p. 92. n. 6.
- (23) Alexander Jannaeus (Jonathan) lived 103-76 B.C.E. third son of John Hyrcanus, King of Judea but not of the House of David. (8) He was a brother of the queen (v. Ber. 48a), yet the relationship of the ruler with the Pharisees, of whom Simeon b. Shetah was the head, was one of bitter antagonism. History relates most cruel acts which Jannai committed against them (v. Graetz, Geschichte III, 146ff.) At times during his reign, the Sanhedrin consisted almost entirely of Sadducees, Simeon being the only Pharisee among them (v. Meg. Ta'anith 10). This fact might be traced also from this incident [V. Hyman, A., Toledoth, III, 124. A similar story is related by Josephus. (Ant. XIV, 9, 4) of Herod who, as 'servant' of Hyrcanus was charged with murder. The identification of the incident related here with that reported by Josephus, involving a confusion of names on the part of the Talmud, as suggested by Krauss, Sanhedrin-Makkot, 103, is quite unwarranted.]
- (24) Ex. XXI, 29.
- (25) So too in the case of a slave, who is regarded as one of the chattels of his master.
- (26) Deut. XIX, 17.

## Talmud - Mas. Sanhedrin 19b

[Simeon] then turned first to the right and then to the left, but they all, [for fear of the King], looked down at the ground.<sup>1</sup> Then said Simeon b. Shetah unto them: 'Are ye wrapped in thoughts?<sup>2</sup> Let the Master of thoughts [God] come and call you to account!' Instantly, Gabriel<sup>3</sup> came and smote them to the ground, and they died. It was there and then enacted: A King [not of the House of David] may neither judge nor be judged; testify, nor be testified against.

HE MAY NOT PERFORM HALIZAH NOR MAY IT BE PERFORMED etc. [R. JUDAH SAID etc.]

But is this really so?<sup>4</sup> Did not R. Ashi say, that even according to the view that if a Nasi foregoes his honour his renunciation is accepted, yet if a King foregoes his honour, it is not accepted; for it is written, Thou shalt not in any wise set him over thee<sup>5</sup> intimating, that his authority<sup>6</sup> should remain over you?<sup>7</sup> — A precept is a different matter.

NOR MAY ANYONE MARRY [HIS WIDOW. R. JUDAH SAID . . .] It has been taught: They [the Rabbis] said to R. Judah: He [David] married women of the house of the King who were permissible to him, namely, Merab and Michal.<sup>8</sup>

R. Jose was asked by his disciples: How could David marry two sisters while they were both living?<sup>9</sup> He answered: He married Michal after the death of Merab. R. Joshua b. Korha said: His marriage to Merab was contracted in error,<sup>10</sup> as it is said, Deliver me my wife Michal whom I betrothed unto me for a hundred foreskins of the Philistines.<sup>11</sup> How does this prove it? — R. Papa answered: Because he said, My wife Michal but not ‘my wife Merab’. Now, what was the error in his marriage [with Merab]? [It was this:] It is written, And it shall be that the man who killeth him, the king will enrich him with great riches and will give him his daughter.<sup>12</sup> Now he [David] went and slew him, whereupon Saul said to him: I owe thee a debt, and if one betroths a woman by a debt,<sup>13</sup> she is not betrothed.<sup>14</sup> Accordingly he gave her to Adriel, as it is written, But it came to pass at the time when Merab, Saul's daughter should have been given to David, that she was given to Adriel the Meholathite to wife.<sup>15</sup> Then Saul said to David, ‘If you still wish me to give you Michal to wife, go and bring me [another] hundred foreskins of the Philistines.’ He went and brought them to him. Then he said: ‘You have now two claims on me, [the repayment of] a loan<sup>16</sup> and a perutah.<sup>17</sup> Now, Saul held that when a loan and a perutah are offered [as kiddushin], he [the would-be husband] thinks mainly of the loan;<sup>18</sup> but in David's view, when there is a loan and a perutah, the mind is set on the perutah.<sup>19</sup> Or if you like, I will say, all agree that where a loan and a perutah [are offered], the mind is set on the perutah. Saul, however, thought that [the hundred foreskins] had no value, while David held that they had value at least as food for dogs and cats. How does R. Jose<sup>20</sup> interpret the verse, Deliver me my wife Michal? —<sup>21</sup> He explains it by another view of his. For it has been taught: R. Jose used to interpret the following confused passage thus: It is written, But the king took the two sons of Rizpah the daughter of Ayah whom she bore unto Saul, Armoni and Mephibosheth, and the five sons of Michal, the daughter of Saul, whom she bore to Adriel the son of Barzillai, the Meholathite etc.<sup>22</sup> But was Michal really given to Adriel; was she not given to Palti the son of Layish, as it is written, Now Saul had given Michal, David's wife, to Palti the son of Layish . . .?<sup>23</sup> But Scripture compares the marriage of Merab to Adriel to that of Michal to Palti, to teach that just as the marriage of Michal to Palti was unlawful.<sup>24</sup> so was that of Merab to Adriel.<sup>25</sup>

Now as to R. Joshua b. Korha,<sup>26</sup> surely it is written, And the five sons of Michal the daughter of Saul whom she bore to Adriel. — R. Joshua [b. Korha] answers thee: Was it then Michal who bore them? Surely it was rather Merab who bore them! But Merab bore and Michal brought them up; therefore they were called by her name. This teaches thee that whoever brings up an orphan in his home, Scripture ascribes it to him as though he had begotten him.

(Mnemonic: Hanina — he called, Johan — and his wife, Eleazar — and Redemption; and Samuel among his Disciples.)<sup>27</sup>

R. Hanina says this is derived from the following: And the women her neighbours, gave it a name, saying, There is a son born to Naomi.<sup>28</sup> Was it then Naomi who bore him? Surely it was Ruth who bore him! But Ruth bore and Naomi brought him up; hence he was called after her [Naomi's] name.

R. Johan — says it is derived from the following: And his wife Ha-Jehudiah<sup>29</sup> bore Yered the father of Gedor [and Heber the father of Soco, and Jekuthiel the father of Zanoah]<sup>30</sup> and these are the sons of Bithia the daughter of Pharaoh, whom Mered took.<sup>31</sup> Now, ‘Mered’ was Caleb; and why was he called Mered?<sup>32</sup> . — Because he opposed the counsel of the other spies.<sup>33</sup> But was he [Moses]<sup>34</sup> indeed born of Bithia and not rather of Jochebed? — But Jochebed bore and Bithia reared him,<sup>35</sup> therefore he was called after her.

R. Eleazar says: It is inferred from the following: Thou hast with thine arm redeemed thy people, the sons of Jacob and Joseph, Selah.<sup>36</sup> Did then Joseph beget them; surely it was rather Jacob? — But Jacob begot and Joseph sustained them; therefore they are called by his name.

R. Samuel b. Nahmani said in R. Jonathan's name: He who teaches the son of his neighbour the Torah, Scripture ascribes it to him as if he had begotten him, as it says, Now, these are the generations of Aaron and Moses;<sup>37</sup> whilst further on it is written, These are the names of the sons of Aaron: thus teaching thee that Aaron begot and Moses taught them; hence they are called by his name.<sup>38</sup>

Therefore thus saith the Lord unto the house of Jacob, who redeemed Abraham.<sup>39</sup> But where do we find that Jacob redeemed Abraham? — Rab Judah answered; It means that he redeemed him from the pains of rearing children;<sup>40</sup> hence the passage, Jacob shall not now be ashamed, neither shall his face now wax pale.<sup>41</sup> He shall not now be ashamed — of his father, neither shall his face now become pale — because of his grandfather.

[The second husband of David's undivorced wife] is variously called Palti<sup>42</sup> and Paltiel!<sup>43</sup> — R. Johanan said: His name was really Palti, but why was he called Paltiel? Because God saved him from transgression.<sup>44</sup> What did he do [to be delivered from sin]? He planted a sword between her [Michal] and himself, and said, Whoever [first] attempts this thing,<sup>45</sup> shall be pierced with this sword. But is it not stated: And her husband [Palti] went with her?<sup>46</sup> — This means that he was to her like a husband.<sup>47</sup> But is it not written, He went weeping? — This was for losing the good deed [of self-restraint]. Hence [he followed her] to Bahurim, implying that they both had remained like unmarried youths<sup>48</sup> and not tasted the pleasure of marital relations.

R. Johanan said: Joseph's strong [temptation]<sup>49</sup> was but a petty trial to Boaz;<sup>50</sup> and that of Boaz was small in comparison with that of Palti son of Layish. 'Joseph's strong temptation was but a petty trial to Boaz,' as it is written, And it came to pass at mid-night and the man was startled, 'wa — yillafeth'.<sup>51</sup> What is the meaning of wa — yillafeth? — Rab said: His flesh became [as hard] as turnip heads.<sup>52</sup>

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(1) Lit 'they pressed their faces into the ground,' fearing to express an opinion.

(2) Lit., 'You are masters of (hesitating) thoughts.' I.e., 'Are you in doubt on the point as to whether the law applies to the king or not?' Said sarcastically, of course.

(3) גבריאל (lit., 'man of God'). Angel mentioned in Dan. VIII, 16 and IX, 21. Frequently cited in Talmud as God's messenger on various missions, particularly punishment.

(4) Referring to R. Judah's view.

(5) Deut. XVII, 15.

(6) Lit., 'his fear'.

(7) I.e., fear of him should always be before your eyes. This follows from the emphasis of 'set', expressed in the Heb. as usual, by the double form of the word. — The ceremony of Halizah is an undignified one.

(8) The daughters of Saul, but not his widows whom he was not permitted by law to marry.

(9) V. Lev. XVIII, 18, Thou shalt not take a woman to her sister.

(10) And so was invalid.

(11) II Sam. III, 14.

(12) I Sam. XVII, 25, referring to the slaying of Goliath.

(13) I.e., by remitting the amount to her or, if she is a minor, to her father.

(14) For in returning a money loan, unlike a trust, the debtor is not obliged to return the actual coin lent, but its equivalent. Hence the woman receives actually nothing at the time of betrothal, by which it should be effected. V. Kidd. 6b; 47a.

(15) I Sam, XVIII, 19.

(16) The promise to enrich him which stands as a loan.

- (17) A small coin representing the estimated value of the hundred foreskins. A perutah is sufficient to serve as token of betrothal (kiddushin).
- (18) And consequently, as stated above, she would not be betrothed.
- (19) Hence the betrothal is valid.
- (20) Who holds that before his marriage to Michal, David was legally married to Merab.
- (21) Which seems to exclude Merab as his wife.
- (22) II Sam, XXI, 8.
- (23) I Sam. XXV, 44.
- (24) And so invalid, as she was already betrothed to David.
- (25) Hence R. Jose interprets the words, 'Michal my wife', not as excluding Merab as wife, but rather as showing that just as Michal was legally his wife, so was Merab. Hence the marriages of Michal and Merab to Palti b. Layish and Adriel respectively, were transgressions.
- (26) Who holds that Merab's marriage to Adriel was not lawful.
- (27) V. p. 21, n. 5.
- (28) Ruth IV, 17.
- (29) Bithia, the daughter of Pharaoh, who is referred to at the conclusion of the verse.
- (30) All these names are designations of Moses (v. Meg. 13a).
- (31) I Chron. IV, 18.
- (32) מָרַד, 'to disobey', 'oppose' or 'rebel'.
- (33) Num. XIII, 30.
- (34) V. n. 4.
- (35) Ex. II, 10.
- (36) Ps. LXXVII, 16.
- (37) Num. III, 1.
- (38) Under the earliest system of education, children were taught at home by their fathers, until Joshua b. Gamala reorganised the system by setting up schools in every town (B.B. 21a). Although that system was completely in vogue in the days of R. Samuel b. Nahmani, his dictum here might indicate that some virtue was still ascribed to private teaching by the parent or his proxy. It is doubtful whether it would simply refer to an ordinary elementary school teacher.
- (39) Isa. XXIX, 22. The E.V. translates differently.
- (40) Abraham, who was actually promised multiplication, should have borne the burden of rearing the children, but it fell upon Jacob.
- (41) Ibid.
- (42) I Sam. XXV, 44.
- (43) II Sam. III, 15.
- (44) The word is composed of פָּלַט — 'to escape' and אֵל — 'God'. Bible onomatopoeia has a large number of compound names which express distinct ideas. Many are compound with the name of God (El) preceding it, as El-Nathan, or succeeding it, as Amiel, or as in the instance in question. The chief reason for the later addition of 'El' to 'Palti' is taken to express, as it were, the ineffably holy name to which he dedicated himself.
- (45) I.e. forbidden indulgence.
- (46) II Sam. III, 16.
- (47) I.e., maintaining and loving her, but no more.
- (48) בְּחַוִּים pl. of בְּחֹר, a youth.
- (49) V. Gen. XXXIX, 7-13.
- (50) V. Ruth III, 8-15. I.e., the strong temptation to which Joseph was exposed, and which called forth his greatest powers of resistance, was but as a small thing, for which the mere exercise of a little self-restraint would suffice, in comparison to the temptation withstood by Boaz.
- (51) וַיִּלְפַּת, (E.V. 'and turned himself'), Ruth III, 8.
- (52) לַפְתָּוֹת רֹאשֵׁי (רֹאשׁ = head; לַפְתָּ = turnip).

## Talmud - Mas. Sanhedrin 20a

'And that of Boaz was small in comparison with that of Palti son of Layish.' as has been stated

above.<sup>1</sup>

R. Johanan said: What is meant by the verse, Many daughters have done valiantly, but thou excellest them all?<sup>2</sup> — ‘Many daughters’, refers to Joseph and Boaz; ‘and thou excellest them all’, to Palti son of Layish.<sup>3</sup>

R. Samuel b. Nahmani said in R. Jonathan's name: What is meant by the verse, Grace is deceitful, and beauty is vain, but a woman that feareth the Lord, she shall be praised?<sup>4</sup> — ‘Grace is deceitful’ refers to [the trial of] Joseph; ‘and beauty is vain’, to Boaz; while ‘and a woman that feareth the Lord, she shall be praised’, to the case of Palti son of Layish. Another interpretation is: ‘Grace is deceitful’, refers to the generation of Moses;<sup>5</sup> ‘and beauty is vain’ to that of Joshua; ‘and she that feareth the Lord shall be praised’, to that of Hezekiah.<sup>6</sup> Others Say: ‘Grace is deceitful’, refers to the generations of Moses and Joshua; ‘and beauty is vain’, to the generation of Hezekiah; while ‘she that feareth the Lord shall be praised’. refers to the generation of R. Judah son of R. Ila'i, of whose time it was said that [though the poverty was so great that] six of his disciples had to cover themselves with one garment between them, yet they studied the Torah.<sup>7</sup> MISHNAH. IF A DEATH OCCURS IN HIS [THE KING'S] FAMILY, HE MUST NOT GO OUT OF THE DOOR OF HIS PALACE. R. JUDAH SAID: IF HE WISHES TO FOLLOW THE BIER, HE MAY, EVEN AS WE FIND IN THE CASE OF DAVID, WHO FOLLOWED THE BIER OF ABNER, AS IT IS WRITTEN, AND KING DAVID FOLLOWED THE BIER.<sup>8</sup> BUT THEY [THE RABBIS] ANSWERED: [THIS IS NO PROOF, FOR] THAT WAS BUT TO PACIFY THE PEOPLE.<sup>9</sup> AND WHEN THE MOURNERS' MEAL<sup>10</sup> [AFTER THE FUNERAL] IS GIVEN TO HIM, ALL THE PEOPLE RECLINE ON THE GROUND, AND HE SITS ON THE DARGESH.<sup>11</sup>

GEMARA. Our Rabbis taught: Wherever it is customary for women to follow the bier, they may do so; to precede it, they may do so [likewise]. R. Judah said: Women must always precede the bier, for we find that David followed the coffin of Abner, as it is written, And King David followed the bier.<sup>12</sup> They [sc. the Rabbis] said to him: That was only to appease the people, and they were indeed appeased, for David went to and fro, from the men to the women and back from the women to the men, as it is written, So all the people and all Israel understood that day that it was not of the king to slay Abner.<sup>13</sup>

Raba expounded [in a lecture]: What is meant by the verse, And all the people came ‘lehabroth’ [to cause] David [to eat bread]?<sup>14</sup> The original text was, ‘lehakroth’<sup>15</sup> but we read, ‘lehabroth’. At first they intended to destroy him;<sup>16</sup> but afterwards, [being appeased,] they gave him to eat [the comforters' meal].

Rab Judah said in Rab's name: Why was Abner punished? — Because he should have protested to Saul<sup>17</sup> but did not. R. Isaac, however, said: He did indeed do so, but was not heeded. Both derive their views from the same verse, viz., And the king lamented for Abner and said: Should Abner die as a churl dieth, thy hands were not bound nor thy feet put into fetters.<sup>18</sup> The one who says that he did not protest, interprets it thus: Thy hands were not bound nor thy feet put into fetters, why then didst thou not protest? [Therefore,] As a man falleth before the children of iniquity so didst thou fall. The other who maintains that Abner did protest but was not listened to, [holds that] he [David] expressed his astonishment: Should he have died as a churl dieth? Seeing that thou didst indeed protest to Saul, Why, then, didst thou fall as a man falleth before the children of iniquity? But on the view that he did protest, why was he punished? — R. Nahman b. Isaac says: Because he delayed the accession of David's dynasty by two and a half years.<sup>19</sup>

AND WHEN THE MOURNERS MEAL IS GIVEN TO HIM etc. What is a dargesh? — ‘Ulla said: The bed of the domestic genius.<sup>20</sup> The Rabbis asked ‘Ulla: How can it be that he should be made to sit on it now [as a mourner], when he had never sat on it before? Raba refuted their

objection: What is the difficulty? Is this not similar to the eating and drinking, for hitherto we had not given him food and drink, while now, [after the funeral] we do!<sup>21</sup> But if there is any objection, it is this: [It was taught] The dargesh need not be lowered<sup>22</sup> but must be stood up.<sup>23</sup> Thus, should you maintain that the daresh is the bed of the domestic genius, why is there no need to lower it? Surely it has been taught: The mourner in lowering the beds shall lower not only his own couch but all the others he has in the house! — But what is the difficulty? Perhaps it [the dargesh] is in the same category as a bed [sideboard] designed for holding utensils of which, the Tanna taught, that if it is designed for holding utensils, it need not be lowered. If indeed, there is any objection, it is this: [It has been taught:] Rabban Simeon b. Gamaliel said: As for the dargesh, its loops are undone, and it collapses of itself. Now if it be the bed of the domestic genius, has it any loops? — But when Rabin came [from Palestine]<sup>24</sup> he said: One of the Rabbis named R. Tahlifa. who frequented the leatherworkers' market, told me that dargesh was the name of a bed of skins.<sup>25</sup> R. Jeremiah said in R. Johanan's name: A dargesh

(1) For the former withstood temptation but once, while the latter, night after night, for many years.

(2) Prov. XXXI, 29.

(3) I.e., to the moral victories gained by these men on account of the seductiveness of women.

(4) Ibid. 30

(5) I.e., they eschewed the pleasures of women in their eagerness to study the Torah, and so the other two mentioned immediately after.

(6) In whose days the Law was studied even more assiduously than in the days of Moses and Joshua. V. infra 94b.

(7) [On the poverty of scholars in the days of R. Judah b. Ila'i as a result of the Hadrianic persecutions, v. Buchler, A., The Jewish Community of Sepphoris, 67ff.]

(8) II Sam. III, 31.

(9) I.e., to dispel the suspicion that Abner had been killed by him

(10) V. p. 92, n. 2.

(11) Explained in the Gemara.

(12) Ibid. From which it is inferred that the women preceded it, for it is improbable that the King would have walked in their midst.

(13) II Sam. III, 37.

(14) להכרות ibid. 35.

(15) להכרות 'to dig or pierce'. Though not found so in our Bibles, it must have been in theirs. In fact, such a version was known to Saruk and R. Joseph. Kimhi (father of David) and such a form is sighted from a number of MSS, v. Kennicott; cf. marginal note of Berlin I. infra 103a.

(16) Suspecting that he had a hand in Abner's death.

(17) For putting the Priests of Nob to death. V. I Sam. XXII, 18.

(18) II Sam. III, 33.

(19) By his act of appointing Ish-Bosheth (Saul's only surviving son) as king of Israel. Ish-Bosheth, being feeble, owed his crown entirely to Abner. He reigned two years. (II Sam II.) Six months having elapsed after he was slain, David was generally recognised as king of Israel. There is a controversy with regard to the chronology of his reign. Rashi and Tosaf. both agree that the throne of Israel remained vacant for five years, but they differ as to the time the vacancy occurred. The former maintains it took place before the reign of Ish-Bosheth.

(20) I.e., a small couch not used for rest, but placed in the home merely as an omen of good fortune.

(21) I.e., it was not necessary for him to eat and drink the food of others, whilst now it is.

(22) As is the rule with all other stools and beds in a house of mourning.

(23) V. M.K. 27a.

(24) V. p. 390, n. 1.

(25) Its strapping consisted of leather instead of ropes. Not being supported by long legs, it stood very low, and therefore, on practical grounds, the first Tanna maintains that it must not be undone and lowered, as the leather will be spoiled through the damp earth; whilst Rabban Simeon b. Gamaliel holds that there is no fear of this.



## Talmud - Mas. Sanhedrin 20b

has the strapwork inside,<sup>1</sup> while an ordinary bed has the strapwork fixed over the frame.

An objection is raised: At what time do wooden utensils become susceptible to uncleanness?<sup>2</sup> A bed and a cradle when they are rubbed over with fish-skin.<sup>3</sup> Now if the ordinary bed has the strapwork over the frame, what need is there to rub over with fish-skin, [seeing that it is covered with the straps]? — Hence, both [a bed and a dargesh have the strappings] inside. But while the straps of a bed go in and out through slits, those of a dargesh go in and out through loops.

R. Jacob said in R. Joshua b. Levi's name: The halachah follows Rabban Simeon b. Gamaliel.

R. Jacob b. Ammi said: In the case of a bed whose poles<sup>4</sup> protrude [downward],<sup>5</sup> it is sufficient to set it up [on one side only].<sup>6</sup> MISHNAH. HE [THE KING] MAY LEAD FORTH [THE HOST] TO A VOLUNTARY WAR<sup>7</sup> ON THE DECISION OF A COURT OF SEVENTY-ONE. HE MAY FORCE A WAY THROUGH PRIVATE PROPERTY<sup>8</sup> AND NONE MAY OPPOSE HIM. THERE IS NO LIMITATION TO THE KING'S WAY.<sup>9</sup> THE PLUNDER TAKEN BY THE PEOPLE [IN WAR] MUST BE GIVEN TO HIM, AND HE RECEIVES THE FIRST CHOICE [WHEN IT IS DIVIDED].

GEMARA. But we have already once learnt it:<sup>10</sup> A voluntary war may be declared only by the permission of a court of seventy-one? — As the Tanna deals with all matters pertaining to the king, he also states [the law] concerning the declaration of a voluntary war.

Rab Judah said in Samuel's name: All that is set out in the chapter [dealing with the actions] of a king,<sup>11</sup> he is permitted to do. Rab said: That chapter was intended only to inspire them with awe,<sup>12</sup> for it is written, Thou shalt in anywise set him king over thee;<sup>13</sup> [i.e.,] his awe should be over thee.

[The same point of difference is found among the following] Tannaim; R. Jose said: All that is set out in the Chapter [relating to the king],<sup>14</sup> the king is permitted to do. R. Judah said: That section was stated only to inspire them with awe,<sup>12</sup> for it is written, Thou shalt in anywise set him king over thee,<sup>13</sup> [meaning], that his awe should be over thee. And thus R. Judah said: Three commandments were given to Israel when they entered the land: [i] to appoint a king,<sup>15</sup> [ii] to cut off the seed of Amalek,<sup>16</sup> and [iii] to build themselves the chosen house.<sup>17</sup> While R. Nehorai<sup>18</sup> said: This section<sup>19</sup> was spoken only in anticipation of their future murmurings,<sup>20</sup> as it is written, And shalt say, I will set a king over me etc.<sup>21</sup>

It has been taught: R. Eliezer<sup>22</sup> said: The elders of the generation made a fit request, as it is written, Give us a king to judge us.<sup>23</sup> But the am ha-arez<sup>24</sup> acted unworthily, at it is written, That we also may be like all the nations and that our king may judge us and go before us.<sup>25</sup>

It has been taught: R. Jose<sup>26</sup> said: Three commandments were given to Israel when they entered the land; [i] to appoint a king; [ii] to cut off the seed of Amalek; [iii] and to build themselves the chosen house [i.e. the Temple] and I do not know which of them has priority. But, when it is said: The hand upon the throne of the Lord, the Lord will have war with Amalek from generation to generation,<sup>27</sup> we must infer that they had first to set up a king, for 'throne' implies a king, as it is written, Then Solomon sat on the throne of the Lord as king.<sup>28</sup> Yet I still do not know which [of the other two] comes first, the building of the chosen Temple or the cutting off of the seed of Amalek. Hence, when it is written, And when He giveth you rest from all your enemies round about etc., and then [Scripture proceeds], Then it shall come to pass that the place which the Lord your God shall choose,<sup>29</sup> it is to be inferred that the extermination of Amalek is first. And so it is written of David, And it came to pass when the king dwelt in his house, and the Lord had given him rest from his enemies round about, and the passage continues; that the king said unto Nathan the Prophet: See

now, I dwell in a house of cedars etc.<sup>30</sup>

Resh Lakish said: At first, Solomon reigned over the higher beings,<sup>31</sup> as it is written, Then Solomon sat on the throne of the Lord as king;<sup>32</sup> afterwards, [having sinned,] he reigned [only] over the lower,<sup>33</sup> as it is written, For he had dominion over all the region on this side the river, from Tifsah even to Gaza.<sup>34</sup>

Rab and Samuel [explain this verse in different ways]: One says, Tifsah was situated at one end of the world<sup>35</sup> and Gaza at the other. The other says: Tifsah and Gaza were beside each other,<sup>36</sup> and just as he reigned over these, so did he reign over the whole world. But eventually his reign was restricted to Israel, as it is written, I Koheleth have been king over Israel etc.<sup>37</sup> Later, his reign was confined to Jerusalem alone, even as it is written, The words of Koheleth, son of David, king in Jerusalem.<sup>38</sup> And still later he reigned only over his couch,<sup>39</sup> as it is written, Behold it is the litter of Solomon, three-score mighty men are about it etc.<sup>40</sup> And finally, he reigned only over his staff as it is written, This was my portion from all my labour.<sup>41</sup>

Rab and Samuel [explain this differently]: One says: His staff [was all that was left him]; the other: His Gunda.<sup>42</sup>

Did he regain his first power, or not? Rab and Samuel [differ]: One maintains that he did; the other, that he did not. The one who says that he did not, agrees with the view that Solomon was first a king and then a commoner;<sup>43</sup> the other, who says that he did, agrees with the view that he was first king, then commoner and finally king again.

#### HE MAY FORCE A WAY THROUGH PRIVATE PROPERTY etc.

Our Rabbis taught: Royal treasures<sup>44</sup> [must be given] to the king; but of all other spoil, half to the king and half to the people. Abaye said to R. Dimi or, according to others, to Rab Aha: We quite understand it is the natural thing to give royal treasures [wholly] to the king; but where do we learn that of all other spoil he is to receive half? — From the verse,

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(1) I.e., the straps are attached on the inside through slits in the frame.

(2) An article cannot become unclean until it is completely finished for use.

(3) To polish the surface. Kel. XVI, 1.

(4) The **נקליטין** were two poles, fixed at the head and foot of the bedstead, in the centre probably of the width. To these a cross piece was attached, the whole forming a frame over which a curtain was slung.

(5) I.e., below the level of the bedding, to the space underneath.

(6) Because if actually lowered, it may appear to be standing in its usual position, since then the poles protrude upwards.

(7) In contradistinction to the obligatory war, which was directed against the seven nations that inhabited Canaan. Obligatory war includes also the campaign against Amalek or against an enemy attacking Israel. Voluntary war is waged merely with the object of extending territory. It might therefore be defined as a war of aggression, as opposed to a defensive war. V. Sot. 44b; Maim. Yad, Melakim 5, 1.

(8) For strategical purposes. V. ibid. 5, 3. Rashi, however, explains: To make a path to his field and vineyards.

(9) From B.B. 99b and 100b it appears that this is connected with the preceding: HE MAY FORCE etc. because THERE IS NO etc. Further, whereas a public thoroughfare was to be 16 cubits in breadth, his road might be unlimited.

(10) Supra 2a.

(11) I Sam. VIII.

(12) By indicating the extent of his authority, but not implying that he is permitted to abuse his power.

(13) Deut. XVII, 15.

(14) I Sam. VIII.

(15) Ibid.

(16) Ibid. XXV, 19.

- (17) Ibid. XII, 10. The three were to be in that order.
- (18) [Ms. M. 'R. Nehemiah.']
- (19) Ibid. XVII, 14.
- (20) It was not a command to appoint a king, but a prophecy that Israel would demand one; then, a king having been appointed, he would be subject to the laws stated in the section.
- (21) Ibid.
- (22) [This is a continuation of the preceding passage in Tosef. Sanh. IV, where the reading is 'R. Eliezer b. Jose'. The words, 'It has been taught' are omitted by Rashal.]
- (23) I Sam. VIII, 6.
- (24) Lit., 'people of the land', 'rustics', Talmudic term for illiterate or vulgar people.
- (25) I Sam. VIII, 20. Thus the main purpose of the elders was to ensure law and order, whereas the 'am ha-arets thought chiefly of warlike expeditions.
- (26) V.1. 'R. Judah.'
- (27) Ex. XVII, 16.
- (28) I Chron. XXIX, 23.
- (29) Deut. XII, 10.
- (30) II Sam. VII, 1-2.
- (31) I.e., his influence reached the highest spheres, the angels and the spirits.
- (32) I Chron. XXIX, 23.
- (33) I.e., his influence was on the wane.
- (34) I Kings V, 4.
- (35) [Tifsah would thus be identified (probably by Samuel, who was a Babylonian) with Thapsacus, the most important crossing-place of the middle Euphrates, above the mouth of the Belek.]
- (36) [Tifsah would thus be identified (probably by Rab the Palestinian) with the town mentioned in II Kings XV, 16 near Mount Ephraim.]
- (37) Eccl. I, 12.
- (38) Ibid.
- (39) Household.
- (40) Cant. III, 7.
- (41) Eccl. II, 10.
- (42) a) A pitcher; b) an over-all, to protect clothes, c) a duster. V. Shab. 14b and 'Er. 21b, where it is related that Solomon instituted 'Erub (providing for the transportation of objects from one domain to another on the Sabbath day), and the washing of hands before touching holy food. Probably the 'staff' (measurestick) and 'pitcher' allude to these.
- (43) Rashi in Git. 68b explains that his dominion was curtailed only as far as the higher beings (v. supra) were concerned.]
- (44) Taken in war.

## **Talmud - Mas. Sanhedrin 21a**

And anointed him [Solomon] unto the Lord to be prince, and Zadok to be priest.<sup>1</sup> Thus, the prince is compared with Zadok: just as in the case of Zadok [High Priest], half belonged to him, and half to his brethren, so also in the case of the ruler. And whence do we know it of Zadok himself? — As it has been taught, for Rabbi said: And it [the shewbread] shall be for Aaron and his sons;<sup>2</sup> this means, half belonged to Aaron and half to his sons.

MISHNAH. NEITHER SHALL HE MULTIPLY WIVES TO HIMSELF<sup>3</sup> — ONLY EIGHTEEN. R. JUDAH SAID: HE MAY HAVE MORE, PROVIDED THEY DO NOT TURN AWAY HIS HEART. R. SIMEON SAID: HE MUST NOT MARRY EVEN ONE WHO MAY TURN AWAY HIS HEART. WHY THEN IS IT WRITTEN, NEITHER SHALL HE MULTIPLY WIVES TO HIMSELF?<sup>4</sup> — EVEN THOUGH THEY BE WOMEN LIKE ABIGAIL.<sup>5</sup>

GEMARA. Are we to assume that R. Judah interprets Biblical law on the basis of its reason,<sup>6</sup> and

R. Simeon does not?<sup>7</sup> But we find the reverse; for it has been taught: A pledge must not be taken from a widow, whether poor or rich, as it is written, Thou shalt not take the widow's raiment to pledge:<sup>8</sup> this is R. Judah's view. R. Simeon ruled: We may take a pledge of a rich widow but not of a poor one, for [in the latter case] thou art bound to return [the pledge] to her daily, and [thereby] cause her an evil name among her neighbours. Whereon we asked: What does he mean? [And the answer was:] Since thou hast taken a pledge of her, thou must return it to her [each evening]<sup>9</sup> and so [by her frequent visits to thee] thou wouldst get her an evil name among her neighbours. Hence we see that R. Judah does not interpret the Biblical law according to its reason, while R. Simeon does!<sup>10</sup> — Generally, indeed, R. Judah does not interpret Biblical law on the basis of its reason; here, however, it is different, for here he merely expounds the reason stated in the text. Thus: Why the command, he shall not multiply wives to himself? It is that his heart be not turned aside.<sup>11</sup>

And R. Simeon? — He could answer you: Let us see: Generally we interpret the law according to the reason implied;<sup>12</sup> then Scripture should have read, He shall not multiply wives to himself, and nothing further, and I would then have known that the reason was that his heart turn not away. Why then state: That his heart turn not away? — To imply that he must not marry even a single one who may turn away his heart. Then how am I to explain, he shall not multiply?<sup>13</sup> — [As meaning that he may not marry many] even though they be [women like Abigail.

Whence do we deduce the number eighteen? — From the verse, And unto David were sons born in Hebron; and his first-born was Ammon of Ahinoam the Jezreelitess; the second, Chileab of Abigail the wife of Nabal the Carmelite; the third Absalom the son of Maacah; and the fourth, Adonijah the son of Haggith; and the fifth, Shefatiah the son of Abital; and the sixth, Ithream of Eglah, David's wife. These were born to David in Hebron.<sup>14</sup> And of them the Prophet said: And if that were too little, then would I add unto thee the like of these, [Ka-hennah] and the like of these, [we-kahennah],<sup>15</sup> each 'kahennah' implying six, which, with the original six, makes eighteen in all. Rabina objected: Why not assume that 'kahennah' implies twelve,<sup>16</sup> and 'we-kahennah', twenty-four?<sup>17</sup> It has indeed been taught likewise: 'He shall not multiply wives to himself beyond twenty-four.' And according to him who interprets the redundant 'waw',<sup>18</sup> it ought to be forty-eight. And it has been taught even so: 'He shall not multiply wives to himself, more than forty-eight.' Then what is the reason of the Tanna of our Mishnah? — R. Kahana said: He parallels the second 'kahennah' with the first; thus, just as the first 'kahennah' indicates [an increase of] six, so does the second. But there was Michal too!<sup>19</sup> — Rab said: Eglah is Michal. And why was she called Eglah? Because she was beloved by him, as an Eglah [calf] by its mother. And thus it is said, If ye had not ploughed with my heifer etc.<sup>20</sup> But did Michal have children? Is it not written, And Michal the daughter of Saul had no child unto the day of her death.<sup>21</sup> — R. Hisda said: She had no child until the day of her death, but on the day of her death she did.<sup>22</sup>

Let us see then: His children are enumerated [as born] in Hebron, whereas the incident with Michal<sup>23</sup> occurred in Jerusalem,<sup>24</sup> as it is written, Michal the daughter of Saul looked out at the window, and saw king David leaping and dancing before the Lord, and she despised him in her heart.<sup>25</sup> And Rab Judah, or according to others, R. Joseph, said: Michal received her due punishment?<sup>26</sup> — But we might argue thus: Prior to that incident she did have [children], but after it she did not.

[Now as to the number eighteen:] Is it not stated, And David took him concubines and wives out of Jerusalem?<sup>27</sup> — To make up the eighteen. What are 'wives', and what are 'concubines'? — Rab Judah said in Rab's name: Wives have 'kethubah',<sup>28</sup> and 'kiddushin',<sup>29</sup> concubines have neither.

Rab Judah also said in Rab's name: David had four hundred children, and all born of yefoth to'ar;<sup>30</sup> they had long locks<sup>31</sup> and all drove<sup>32</sup> in golden carriages. They used to march at the head of the troops and were men of power in the household of David.

Rab Judah further said in Rab's name: Tamar was a daughter of a yefath to'ar, as it is written, Now therefore I pray thee,<sup>33</sup> speak unto the King, for he will not withhold me from thee.<sup>34</sup> Now, should you imagine that she was the offspring of a legitimate marriage, how could his sister have been granted him [in marriage]? We must infer therefore, that she was the daughter of a yefath-to'ar.

And Amnon had a friend, whose name was Jonadab the son of Shimeah, David's brother, and Jonadab was a very subtle man etc.<sup>35</sup> Rab Judah said in Rab's name: 'Subtle' to do evil. And he said unto him, Why, O son of the king, art thou thus becoming leaner . . . . And Jonadab said unto him, Lay thee down on thy bed and feign thyself sick . . . and she dress the food in my sight . . . And she took the pan and poured them [the cakes] out before him.<sup>36</sup> Rab Judah in the name of Rab said: She made for him some kind of pancakes.<sup>37</sup>

Then Amnon hated her with exceeding great hatred etc.<sup>38</sup> For what reason? — R. Isaac answered: A hair becoming entangled, mutilated him privily. If this happened of itself, what was her part in it? — But we might rather say that she entangled it and caused, mutilation. But is this so? Did not Raba expound: What is meant by the verse: And thy renown went forth among the nations for thy beauty.<sup>39</sup> It is that the daughters of Israel had neither under-arm nor pubic hair?<sup>40</sup> — It was otherwise with Tamar, for she was the daughter of a yefath to'ar.

And Tamar put ashes on her head and rent her garment of many colours.<sup>41</sup> It was taught in the name of R. Joshua b. Korha. In that hour Tamar set up a great fence [about chastity]. They<sup>42</sup> said: if this could happen to kings' daughters, how much more to the daughters of ordinary men; if this could happen to the chaste, how much more to the wanton?

Rab Judah said in Rab's name: On that occasion, they made a decree

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(1) I Chron. XXIX, 22.

(2) Lev. XXIV, 9.

(3) Deut. XVII, 17.

(4) Ibid. From which it might be inferred that he may marry a lesser number even if they should corrupt him.

(5) I.e., even of the most virtuous, only eighteen are permitted, and not a single one who misleads is permitted. Abigail was the wife of Nabal the Carmelite. (I Sam. XXV, 3.) She is regarded in the Aggadah as one of the most remarkable women in Jewish history. V. Meg 15a.

(6) Lit., 'he searches out the reason of the verse'.

(7) Therefore, notwithstanding the explicit statement that the king must not multiply wives, R. Judah permits it, where the feared consequences will not follow; whilst R. Simeon keeps to the letter of the law.

(8) Deut. XXIV, 17.

(9) Ibid. 13.

(10) By differentiating between poor and rich widows.

(11) Therefore in his opinion, Scripture itself restricts the law to these conditions.

(12) [Ms M. omits, 'Generally . . . implied.']

(13) From which it is inferred that a small number is permissible.

(14) II Sam. III, 2-5.

(15) Ibid. XII, 8.

(16) I.e., as many again, six and six.

(17) He increases the number in geometrical progression, i.e., 6: 12: 24.

(18) In 'we-kahennah'. The prefix 'waw' between two words or sentences at the beginning of a chapter, which does not necessarily express their relations to one another, is used for interpretation by some Sages. v. infra 51b.

(19) Additional to the six wives enumerated.

(20) Of Delilah, Judges XIV, 18.

(21) II Sam. VI, 23.

- (22) I.e., she died in child-birth.
- (23) As a consequence of which she was punished with childlessness.
- (24) That is, later.
- (25) II Sam. VI, 16.
- (26) Childlessness. **מִיִּטְרַפְסָא**, lit., ‘debt matured for collection by seizure’ (Jast.).
- (27) II Sam. V, 13. Hence it appears that he had many.
- (28) V. p. 34, n. 4.
- (29) Legal and legitimate marriage. V. Glos.
- (30) Captive woman taken as concubines by the king because of their beauty. V. Deut. XXI, 10-13 .
- (31) [Lit., ‘they grew a belorith’ (etym. obscure), a heathen fashion of growing locks from the crown of the head, hanging down in plaits at the back; v. Krauss, TA. I, 645].
- (32) Lit., ‘sat’.
- (33) Amnon.
- (34) II Sam. XIII, 13.
- (35) Ibid. 3.
- (36) Ibid. 4 et seq.
- (37) \*\* frying-pan.
- (38) II Sam. XIII, 15.
- (39) Ezek. XVI, 14.
- (40) Before they sinned. (Rashi.)
- (41) II Sam. XIII, 19.
- (42) All the other women.

## Talmud - Mas. Sanhedrin 21b

against yihud<sup>1</sup> with [a married] or unmarried woman. But surely the prohibition of yihud with a married woman is a Biblical law! For R. Johanan said on the authority of R. Simeon b. Jehozadak: Where is [the prohibition of] yihud alluded to in the Biblical text? It is written: if thy brother, the son of thy mother entice thee.<sup>2</sup> Is it then only the son of a mother that can entice, and not the son of a father? But it is to teach that only a son may be alone with his mother; but no other man may be alone with women Biblically interdicted on account of incest!<sup>3</sup> — Say rather that they enacted a decree against yihud with unmarried women.

And Adonijah the son of Haggith exalted himself, saying: ‘I will be king.’<sup>4</sup> Said Rab Judah in the name of Rab: This teaches us that he attempted to fit [the crown on his head] but it would not fit him.<sup>5</sup>

And he prepared him chariots and horses and fifty men to run before him.<sup>6</sup> What is there remarkable in this?<sup>7</sup> — Rab Judah said in Rab's name: They all had their spleen<sup>8</sup> and also the flesh of the soles of their feet cut off.<sup>9</sup> MISHNAH. HE SHALL NOT MULTIPLY HORSES UNTO HIMSELF<sup>10</sup> — ONLY AS MANY AS SUFFICE FOR HIS CHARIOT. AND SILVER AND GOLD HE SHALL NOT GREATLY MULTIPLY UNTO HIMSELF<sup>11</sup> — ONLY AS MUCH AS IS REQUIRED FOR ‘ASPANYA’.<sup>12</sup> AND HE SHALL WRITE IN HIS OWN NAME A SEFER TORAH.<sup>13</sup> WHEN HE GOES FORTH TO WAR HE MUST TAKE IT WITH HIM; ON RETURNING, HE BRINGS IT BACK WITH HIM; WHEN HE SITS IN JUDGMENT IT SHALL BE WITH HIM, AND WHEN HE SITS DOWN TO EAT, BEFORE HIM, AS IT IS WRITTEN: AND IT SHALL BE WITH HIM AND HE SHALL READ THEREIN ALL THE DAYS OF HIS LIFE.<sup>14</sup>

GEMARA. Our Rabbis taught: He shall not multiply horses to himself [lo]:<sup>15</sup> I might think, [this meant] not even such as are required for his horsemen and chariots. Scripture therefore states: ‘lo’ [to himself]: for himself<sup>16</sup> he may not multiply, but he may multiply as many as are required for his

chariots and horsemen. How then am I to interpret the word horses?<sup>17</sup> — As [referring to] horses that stand idle.<sup>18</sup> And whence do we know that even a single idle horse comes under such a prohibition? — Scripture states: that he should multiply *sus* [a horse].<sup>19</sup> But if even a single idle horse involves [the prohibition,] He shall not multiply, why state horses [plural]? — To show us that with each single idle horse he transgresses anew the prohibitory command.

[Reverting to chariot horses:] Thus, it is only because Scripture wrote 'lo' [to him]: but otherwise, might we have thought that even those necessary for his chariots and horsemen are forbidden?<sup>20</sup> — It is necessary here to permit a large number.<sup>21</sup>

AND SILVER AND GOLD HE SHALL NOT MULTIPLY UNTO HIMSELF etc.

Our Rabbis taught: And silver and gold he shall not multiply 'lo' [unto himself]:<sup>22</sup> I might think [this meant] even for 'aspanya'. Therefore Scripture writes, 'lo'; only for himself [i.e., his own use] may he not multiply silver and gold, but he may do so for 'aspanya'. Thus, it is only because Scripture wrote 'lo': but otherwise, might we have thought that the prohibition extended even to money for 'aspanya'?<sup>23</sup> — [the word] is necessary here only to permit him a more generous provision.

Now that you say that 'lo' [to him] is for purpose of exegesis, how will you interpret, He shall not multiply wives 'lo' [to himself]?<sup>24</sup> — As excluding commoners.<sup>25</sup>

Rab Judah raised a point of contradiction [in the following passages:] It is written, And Solomon had forty thousand stalls of horses for his chariots.<sup>26</sup> But elsewhere we read, And Solomon had four thousand stalls for horses and chariots.<sup>27</sup> How are these [to be reconciled]? Thus: If he had forty thousand stables, each of them must have contained four thousand horsestalls; and if he had four thousand stables, each of them must have contained forty thousand stalls.

R. Isaac raised the following point of contradiction: It is written, Silver was nothing accounted for in the days of Solomon,<sup>28</sup> and further, And the king made silver to be in Jerusalem [as plentiful] as stones.<sup>29</sup> [Hence it had some value?] But these verses present no difficulty; the former refers to the period before he married Pharaoh's daughter; the latter, to the period after he married her.<sup>30</sup>

R. Isaac said: When Solomon married Pharaoh's daughter, Gabriel<sup>31</sup> descended and stuck a reed in the sea, which gathered a sand-bank around it, on which was built the great city of Rome.<sup>32</sup>

R. Isaac also said: Why were the reasons of [some] Biblical laws not revealed? — Because in two verses reasons were revealed, and they caused the greatest in the world [Solomon] to stumble. Thus it is written: He shall not multiply wives to himself,<sup>33</sup> whereon Solomon said, 'I will multiply wives yet not let my heart be perverted.' Yet we read, When Solomon was old, his wives turned away his heart.<sup>34</sup> Again it is written: He shall not multiply to himself horses;<sup>35</sup> concerning which Solomon said, 'I will multiply them, but will not cause [Israel] to return [to Egypt].' Yet we read: And a chariot came up and went out of Egypt for six [hundred shekels of silver].<sup>36</sup>

AND HE SHALL WRITE IN HIS OWN NAME A SEFER TORAH. A Tanna taught: And he must not take credit<sup>37</sup> for one belonging to his ancestors.

Rabbah said: Even if one's parents have left him a Sefer Torah, yet it is proper that he should write one of his own, as it is written: Now therefore write ye this song<sup>38</sup> for you.<sup>39</sup>

Abaye raised an objection: 'He [the king] shall write a Sefer Torah for himself, for he should not seek credit<sup>40</sup> for one [written] by others.' [Surely, this implies] only a king [is thus enjoined], but

not a commoner? — No, it is necessary here to teach the need for two Scrolls of the Law [for the King], even as it has been taught: And he shall write him the repetition<sup>41</sup> of this law,<sup>42</sup> [i.e.,] he shall write for himself two copies, one which goes in and out with him and the other to be placed in his treasure-house. The former which is to go in and out with him, [he shall write in the form of an amulet<sup>43</sup> and fasten it to his arm, as it is written, I have set God always before me, surely He is at my right hand, I shall not be moved.]<sup>44</sup> He may not, while wearing it, enter the bath house, or the closet, as it is written: And it shall be with him and he shall read therein<sup>45</sup> — in places appropriate for reading it.

Mar Zutra or, as some say, Mar 'Ukba said: Originally the Torah was given to Israel in Hebrew characters and in the sacred [Hebrew] language; later, in the times of Ezra,<sup>46</sup> the Torah was given in Ashshurith script<sup>47</sup> and Aramaic language. [Finally], they selected for Israel<sup>48</sup> the Ashshurith script and Hebrew language, leaving the Hebrew characters and Aramaic language for the hedyototh. Who are meant by the 'hedyototh'? — R. Hisda answers: The Cutheans.<sup>49</sup> And what is meant by Hebrew characters? — R. Hisda said: The libuna'ah script.<sup>50</sup>

It has been taught: R. Jose said: Had Moses not preceded him, Ezra would have been worthy of receiving the Torah for Israel. Of Moses it is written, And Moses went up unto God,<sup>51</sup> and of Ezra it is written, He, Ezra, went up from Babylon.<sup>52</sup> As the going up of the former refers to the [receiving of the] Law, so does the going up of the latter. Concerning Moses, it is stated: And the Lord commanded me at that time to teach you statutes and judgments;<sup>53</sup> and concerning Ezra, it is stated: For Ezra had prepared his heart to expound the law of the Lord [his God] to do it and to teach Israel statutes and judgments.<sup>54</sup> And even though the Torah was not given through him, its writing was changed through him, as it is written:

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(1) Private meetings of the sexes.

(2) Deut. XIII, 7.

(3) Incest includes adultery. Hence the prohibition of yihud with married women originates in the Bible.

(4) I Kings I, 5.

(5) An Aggadah quoted by Rashi runs as follows: A golden rod passed through the hollow of the crown, from one end to the other, which fitted into a cleft or indenture in the skull — a mark peculiar to some in the house of David. Only he whom the crown fitted was deemed worthy to be king.

(6) Ibid.

(7) Surely, fifty men for a prince is no exception.

(8) The spleen causes a feeling of heaviness (Rashi). [The old belief that the removal of the spleen facilitates fast running is also recorded by Plinius, v. Preuss, *Biblischtalmudische Medizin*, p. 249.]

(9) So that they might be fleet of foot and impervious to briars and thorns.

(10) Deut. XVII, 16.

(11) Ibid. 17.

(12) The Aruch and the TJ render it 'Afsanya' from \*\*, soldiers' pay, v. p. 95, n. 1.

(13) Book of the law.

(14) Deut. XVII, 19.

(15) <sup>15</sup>Ibid, 16.

(16) I.e., for his own private use.

(17) Ibid. Which are generally harnessed to chariots, so implying a restriction of them even for that purpose, otherwise it should have read his horses.

(18) And which bring only personal grandeur.

(19) Deut. XVII, 16.

(20) Surely not — a king without these would be a nonentity.

(21) I.e., he may have many for that purpose.

(22) Deut. XVII, 17.

(23) Which latter surely is essential



- (24) Ibid.
- (25) Who are not so restricted in wives.
- (26) I Kings V, 6.
- (27) II Chron. IX, 25.
- (28) I Kings X, 21.
- (29) Ibid. XXVII, 3.
- (30) In punishment for which the prosperity of the country waned; hence silver assumed some value.
- (31) V. p. 99, n. 6.
- (32) By this, his moral weakness, he laid the foundations of a hostile world symbolised by the Talmud as Rome, which overthrew Israel.
- (33) 'That his heart turn not away', Deut. XVII, 17.
- (34) I Kings XI, 4.
- (35) So as not to cause the people to return to Egypt, the great horse market. Deut. XVII, 17.
- (36) I Kings X, 29. Israelites went to and fro, trading with Egypt.
- (37) Lit., 'adorn himself with'.
- (38) The Book of the Law which includes the Song (Deut. XXXII); Maim. Yad, Sefer Torah VII, 2. In Aggadah we meet frequent references to 'Song' as the symbol of the Torah. Cf. Hul. 133a.
- (39) Deut. XXXI, 19.
- (40) Lit., 'adorn himself with'.
- (41) מִשְׁנֵה (E.V. 'copy').
- (42) Deut. XVII, 18.
- (43) In minuscule (Rashi).
- (44) Ps. XVI, 8. Rashal deletes the whole of the bracketed passage.
- (45) Deut. XVII, 19.
- (46) Neh. VIII, 1ff.
- (47) Assyrian; modern Hebrew square writing.
- (48) [R. Han. reads, 'Israel chose for themselves'.]
- (49) 'The Samaritans', so called because they were brought by Sargon, king of Assyria, from Cuthea, to take the place of the exiled Israelites. (V. II Kings XVII, 24 ff.). The reason for the change from Hebrew to Assyrian characters, was to build a greater barrier between the Samaritans and the Jews. V. Weiss, Dor, v. I, 59.
- (50) Rashi: Large characters as employed in amulets. R. Tam, in Tosaf. s. v. כִּתְבֵי recognises in 'libuna'ah' an adjective from the name of some locality. (Lebanon, or Libya?) Another opinion is that libuna'ah is derived from 'lebenah', brick; hence writing found on clay-tablets. V. J.E. I, p. 445.
- (51) Ex. XIX, 3.
- (52) Ezra VII, 6.
- (53) Deut. IV, 14.
- (54) Ezra VII, 10.

## Talmud - Mas. Sanhedrin 22a

And the writing of the letter was written in the Aramaic character and interpreted into the Aramaic [tongue].<sup>1</sup> And again it is written, And they could not read the writing nor make known to the king the interpretation thereof.<sup>2</sup> Further, it is written: And he shall write the copy [mishneh] of this law,<sup>3</sup> — in writing which was destined to be changed.<sup>4</sup> Why is it called Ashshurith? — Because it came with them from Assyria.<sup>5</sup>

It has been taught: Rabbi said: The Torah was originally given to Israel in this [Ashshurith] writing. When they sinned, it was changed into Ro'az.<sup>6</sup> But when they repented,<sup>7</sup> the [Assyrian characters] were re-introduced, as it is written: Turn ye to the stronghold, ye prisoners of hope; even to-day do I declare that I will bring back the Mishneh unto thee.<sup>8</sup> Why [then] was it named Ashshurith?<sup>9</sup> — Because its script was upright [me'ushshar].

R. Simeon b. Eliezer said on the authority of R. Eliezer b. Parta, who spoke on the authority of R. Eleazar of Modin: This writing [of the law] was never changed, for it is written: The 'waws' [hooks] of the pillars.<sup>10</sup> As the word 'pillars' had not changed, neither had the word 'wawim' [hooks].<sup>11</sup> Again it is written, And unto the Jews, according to their writing and language<sup>12</sup>; as their language had not changed, neither had their writing. Then how shall I interpret the words, and he shall write for himself Mishneh [a copy] of this law?<sup>13</sup> — As indicating the need of two written Torahs; the one to go in and out with him; the other to be deposited by him in his treasure-house. The one that is to go in and out with him, he is to write in the form of an amulet and attach to his arm, as it is written, I have set God always before me.<sup>14</sup> But how does the other [who maintains that the writing was changed]<sup>15</sup> interpret, I have set [etc.]? — He employs it as R. Hanah b. Bizna, who said in the name of R. Simeon the Pious: He who prays should regard himself [i.e., behave] as if the Shechinah were before him, as it is written, I have set God always before me.<sup>16</sup>

But what can the phrase, they could not read the writing, mean [on the view of R. Simeon, who asserts that this writing was not changed]? — Rab said: The passage was written in Gematria:<sup>17</sup> Y-T-T. Y-T-T. 'A-D-K. P-U-G-H-M-T.<sup>18</sup> How did he interpret it to them? — As M-N-A. M-N-A. T-K-L. U-F-R-S-Y-N.<sup>19</sup> — 'Mene', God has numbered thy kingdom and brought it to an end. 'Tekel', thou art weighed in the balances and art found wanting. 'Peres', thy kingdom is divided and given to the Medes and Persians.

Samuel said: [It was written thus:] M-M-T-U-S. N-N-K-F-Y. 'A-'A-L-R-N.<sup>20</sup> R. Johanan said: [It was written:] A-N-M. A-N-M. L-K-T-N-Y-S-R-F-U;<sup>21</sup> while R. Ashi says: It was written: N-M-A. N-M-A.K-T-L. F-U-R-S-Y-N.<sup>22</sup>

MISHNAH. NO ONE MAY RIDE ON HIS [THE KING'S] HORSE, OR SIT ON HIS THRONE, OR MAKE USE OF HIS SCEPTRE, NO ONE MAY SEE HIM WHEN HIS HAIR IS BEING CUT, OR WHEN HE IS NAKED, OR WHEN IN HIS BATH, FOR IT IS WRITTEN: THOU SHALT SURELY SET OVER THEE A KING<sup>23</sup> — THAT HIS AWE MAY BE OVER THEE.

GEMARA. R. Jacob said in R. Johanan's name: Abishag was permitted to Solomon [in marriage]<sup>24</sup> but not to Adonijah.<sup>25</sup> She was permitted to Solomon, for he was a king, and a king may make use of the king's sceptre;<sup>26</sup> but she was forbidden to Adonijah, for he was a commoner.

What are the facts regarding Abishag? — It is written: King David was old, stricken in years etc. His servants said unto him, Let there be sought etc. Further it is written, They sought for him a fair damsel etc.; and it is written, And the damsel [Abishag] was very fair, and she became a companion to the king and ministered unto him.<sup>27</sup> She said to him, 'Let us marry,' but he [David] said: 'Thou art forbidden to me.'<sup>28</sup> 'When courage fails the thief, he becomes virtuous,'<sup>29</sup> she gibed. Then he said to them [his servants], 'Call me Bath-Sheba'. And we read: And Bath-Sheba went to the king into the chamber.<sup>30</sup> Rab Judah said in Rab's name: On that occasion Bath-Sheba dried herself thirteen times.<sup>31</sup>

R. Shaman b. Abba said: Come and see with what great reluctance is divorce granted; King David was permitted yihud [with Abishag], yet not divorce [of one of his wives].<sup>32</sup>

R. Eliezer<sup>33</sup> said: For him who divorces the first wife, the very altar sheds tears, as it is written: And this further ye do, ye cover the altar of the Lord with tears, with weeping and with sighing, in so much that he regardeth not the offering any more, neither receiveth it with good will at your hand.<sup>34</sup> Further it is written: Yet ye say, Wherefore? Because the Lord hath been witness between thee and the wife of thy youth, against whom thou hast dealt treacherously, though she is thy companion and the wife of thy covenant.<sup>35</sup>

R. Johanan or, as some say, R. Eleazar said: The death of a man's wife may only be ascribed to his failure to pay his debts,<sup>36</sup> as it is said: If thou hast not wherewith to pay, why should he take away the bed from under thee?<sup>37</sup> R. Johanan also said: He whose first wife has died, [is grieved as much] as if the destruction of the Temple had taken place in his days, as it is written: Son of man, behold I take away from thee the desire of thine eyes with a stroke; yet thou shalt not make lamentation nor weep; neither shall thy tears run down.<sup>38</sup> Again it is written, And I spoke unto the people in the morning, and at even my wife died. And further it is written, Behold I will profane my Sanctuary, the pride of your power, the desire of your eyes.<sup>39</sup>

R. Alexandri said: The world is darkened for him whose wife has died in his days [i.e., predeceased him], as it is written, The light shall be dark because of his tent<sup>40</sup> and his lamp over him shall be put out.<sup>41</sup> R. Jose b. Hanina said: His steps grow short,<sup>42</sup> as it is said: The steps of his strength shall be straightened.<sup>43</sup> R. Abbahu said: His wits collapse, as it is written, And his own counsel shall cast him down.<sup>44</sup>

Rabbah b. Bar Hannah said in R. Johanan's name: To effect a union between man and woman is as difficult as the dividing of the Red Sea,<sup>45</sup> as it is written: God maketh the solitary dwell in houses; He bringeth out the prisoners unto prosperity.<sup>46</sup> But is it really so? Did not Rab Judah say in Rab's name: Forty days before the embryo is formed, a heavenly voice goes forth and says: The daughter of so and so for so and so? — There is no difficulty: this applies to the first marriage; the earlier statement, to the second.

R. Samuel b. Nahman said: All things can be replaced, except the wife of one's youth, as it is written, And a wife of [one's] youth, can she be rejected?<sup>48</sup>

Rab Judah taught his son R. Isaac: Only with one's first wife does one find pleasure,<sup>49</sup> as it is said: Let thy fountain be blessed and have joy of the wife of

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(1) Ezra IV, 7.

(2) Dan. V, 8; i.e., none except Daniel could read it, which shows that the Assyrian characters were not popularised until the days of Ezra.

(3) Deut. XVII, 18.

(4) The root **שנה** of the word **משנה** means 'to repeat' and also 'to change', indicating that the writing was destined to be changed. V. also Zeb. 62b.

(5) [Assyria stands here for Babylon, cf. Jer. II, 18: Ezra VI, 22]

(6) **רועץ**, akin to **רצץ** 'to break, or dash into pieces' (cf. Isa. XLII, 3), hence, 'broken', 'rugged' — the form of the Samaritan script. [The variant **דועץ** receives support from the word deession given by Epiphanius in a passage reporting the tradition about the change of the script and which he translates insculptum, applicable to the ancient chiselled type, as distinguished from the flowing cursive of the Hebrew characters (Montgomery, *The Samaritans*, p. 281 ff.); v. Krauss, op. cit. III, 138 ff.]

(7) In the days of Ezra.

(8) Zech. IX, 12. Again, a play on 'shannah' 'to change', 'to restore', 'to double or bring back', the Mishneh, the earlier writing which was due to suffer change as above.

(9) Since on the view of Rabbi, they did not bring it from Assyria.

(10) Ex. XXVII, 10.

(11) Waw in Heb. means 'hook', and is also the sixth letter of the alphabet which resembles a hook, and according to the argument here, the very fact that the letter waw meant a hook in the days of Moses, shews that it must have borne that shape then as now, and is therefore unchanged.

(12) Esth. VIII, 9.

(13) Mishneh here =, 'a double.' V. n. 3.

(14) Ps. XVI, 8. V. supra p. 118, n. 12.

(15) By deduction from the word Mishneh, according to which the king had only one Sefer Torah, since there is now

nothing to indicate two, and this was probably placed in his treasure house. V 'Anaf-Yosef' on En Jacob a.l.

(16) [The problem of the origin of the Hebrew Alphabet, as well as the question how and when the change of the script was effected, remains unsolved, despite the many attempts by distinguished scholars, mediaeval and modern. For the literature on the subject, v. Bergstrasser. G., Hebraische Grammatik, p. 29 ff., to which may be added Grunberg, S., Die ursprüngliche Schrift des Pentateuchs (cf. Munk, M., Ezra Ha Sofer, p. 69 ff.); and Goldschmidt, V., Unser Alphabet, both of which are in support of the view of Rabbi.]

(17) Either (a) a cryptograph which gives, instead of the intended word, its numerical value, or (b) a cipher produced by the permutation of letters, as in this case (Levias, c., J. E., v. 589.) The etymology of Gematria is obscure. Generally derived from \*\*, 'notarius', v. loc. cit.

(18) **יֹת יִטֵּת אֲדָךְ פּוֹגַחֲמַט**

(19) By interchanging the letters of the alphabet on the at bash **אֵת בֵּשׁ** principle, the first with the last; the second with the one before the last etc. The Hebrew then reads: **מֵנֵה מֵנֵה טֵקֵל וּפְרָסִין** Mene, Mene, Tekel, Upharsin.

(20) [The original words here \*\* were written vertically, \*\* not horizontally, thus:] \*\*

(21) **אֲנָם אֲנָם לְתֵק נִסְרַפָּן**, the left-right direction being used instead of the right-left. [These systems of permutation were not artificial creations, but were well known methods of writing in secret code. V. Gandz, S., Proceedings of the American Academy for Jewish Research, IV, 89.]

(22) **נִמְאָ נִמְאָ קֵתֵל פּוֹרְסִין** i.e., Daniel shifted the second letter of each word to the beginning.

(23) Deut. XVII, 15.

(24) Had he so wished.

(25) Solomon's elder brother who wished to secure Abishag for his wife, as an inheritance from his father, as a public confirmation of his claim to the throne, in accordance with the archaic law of succession, [cf. II Sam. XII, 8 and Herodotus III, 68].

(26) I.e., all that belonged to the King, including his harem.

(27) I Kings I, 1-5 ff.

(28) Since he had already the allotted number of eighteen wives.

(29) So taunting him with impotence.

(30) I Kings I, 15.

(31) I.e., they had intercourse.

(32) Which would have rendered Abishag permissible to him for marriage.

(33) [Ms. M.: R. Eleazar (b. Pedath), v. Git. 90b.]

(34) Mal. II, 13.

(35) Mal. II, 14.

(36) The principle of 'measure for measure' (cf. Sotah 8b) is taken to be applicable here; as the man has deprived another of his possession, he is punished by the loss of his dearest possession.

(37) Prov. XXII, 27.

(38) Ezek. XXIV, 16-18.

(39) Likening the death of one's wife, whom the Rabbis regarded as the principal factor in guarding the sanctity of the home, to the destruction of the Sanctuary.

(40) **בְּאֶהְלֹו** (E.V. 'in his tent'), used metaphorically for wife. Hence, 'The light shall be dark because of the loss of his wife.' V. Deut. V, 30. M. K. 7b.

(41) Job XVIII, 6.

(42) His bodily strength diminishes.

(43) Ibid. 7.

(44) Ibid.

(45) For the passage of the Israelites.

(46) Ps. LXVIII, 7. This is derived from the juxtaposition of the two parts of the verse, thus comparing the difficulty of making the solitary unite and dwell in houses as man and wife to that of delivering the Israelites from Egypt, i.e., of bringing out the prisoners from bondage unto prosperity. Current texts continue: 'Read not **מּוֹצִיא** but **כְּמוֹצִיא** (as when He bringeth out). Again, read not **בְּכוֹשְׁרוֹת** but **בְּכִי שִׁירוֹת** (with wailing and song).' I.e., just as the deliverance of Israel brought forth wailing from Egypt and rejoicing from the Israelites, so is it when there is no mutual satisfaction in married life (cf. Midrash Tanhuma 'Thisa 5). This passage is, however, missing in most editions and Ms. M; v. D.S. a.l.

(47) I.e., since marriage is predestined, what is the difficulty in mating man and woman?

(48) Isa. LIV, 6.

(49) Lit., 'quickenings of spirit'.

## Talmud - Mas. Sanhedrin 22b

thy youth.<sup>1</sup> 'Of what kind of woman do you speak?' he asked him. — 'Of such as your mother', was the reply. But is this true? Had not Rab Judah taught his son R. Isaac, the verse: And I find more bitter than death the woman whose heart is snares and nets,<sup>2</sup> and he [the son] asked him: 'What kind of woman?' He answered. 'Such as your mother'? — True, she was a quick-tempered woman but nevertheless easily appeased with a word.

R. Samuel b. Unya said in the name of Rab: A woman [before marriage] is a shapeless lump,<sup>3</sup> and concludes a covenant only with him who transforms her [into] a [useful] vessel, as it is written: For thy maker is thy husband; the Lord of Hosts is his name.<sup>4</sup>

A Tanna taught: The death of a man is felt by none but his wife; and that of a woman, but her husband. Regarding the former, it is said: And Elimelech, Naomi's<sup>5</sup> husband, died.<sup>6</sup> And regarding the latter it is written: And as for me, when I came from Padan, Rachel died unto me.<sup>7</sup>

NOR MAY ONE SEE HIM etc. Our Rabbis taught: The king has his hair trimmed every day; the High Priest, every eve of the Sabbath, and a common Priest, once in thirty days.

'The king has his hair trimmed every day.' as it is written, Thine eyes shall see the king in his beauty.<sup>8</sup> 'The High Priest, every eve of the Sabbath.' R. Samuel b. Nahman said in R. Johanan's name: This is because of the [weekly] renewal of the priestly watches.<sup>9</sup>

'The Common Priest, once in thirty days,' because it is written: Neither shall they shave their heads nor suffer their locks [pera'] to grow: they shall only poll their heads.<sup>10</sup> Identity of law is deduced from [the use of] pera' here and in the section on the Nazirite; here it is written, They shall not let their locks [pera'] grow; while there it is stated, He shall let the locks [pera'] of the hair of his head grow long;<sup>11</sup> Just as there, [a] thirty days' [growth is meant], so here too.<sup>12</sup> And we also learnt:<sup>13</sup> The period for unspecified neziruth<sup>14</sup> is thirty days. Whence do we deduce this in the other passage?? — R. Mathna said: Scripture states, He shall be [yihyeh] holy;<sup>15</sup> the gematria<sup>16</sup> of yihyeh being thirty.<sup>17</sup>

R. Papa said to Abaye: But perhaps [it means] that they shall not [let their hair] grow so long — [i.e. for a full month]?<sup>18</sup> — He answered: Were it written, 'They shall not let [their hair] grow to become 'pera''; it would have meant what you suggest. But since the text reads, And their locks [pera'] they shall not let grow, it implies that they may let it become 'pera'' but thereafter must not let it grow longer. If so [that the prohibition is based on that verse], it should [hold good] even nowadays, [when there is no Temple]! — This [restriction] is analogous to [that of] wine: just as wine was forbidden [them] only when they entered [the Temple],<sup>19</sup> but permitted at any other time, so is the growing of hair forbidden only when there is entry [into the Temple] and permitted at all other times. But is wine permitted them when there is no entering into the Temple? Has it not been taught: Rabbi said: In my opinion, Priests should by right be at all times forbidden to drink wine,<sup>20</sup> but what can I do, seeing that 'their calamity [the destruction of the Temple] has been to their advantage in the matter?'<sup>21</sup> Whereon Abaye said: In agreement with whom do priests drink wine nowadays? In agreement with Rabbi. It may therefore be inferred that the Rabbis forbid it!<sup>22</sup> — In that case, the reason is this: the Temple might speedily be rebuilt and when a priest suitable for its service is required, he might not be found. Then here too [i.e., regarding the restriction of hair-growth] may not the same thing happen? — In the latter case, it is possible to trim the hair and

[immediately] enter. But there too [sc. wine drinking], one can slumber a while [i.e., sleep it off] and then enter? For R. Aha said: A mil's walk or a little sleep counteracts [the effects of] wine. But surely it was stated of this: R. Nahman said in R. Abbahu's name: This applies only to one who has drunk not more than a rebi'ith;<sup>23</sup> but if he has drunk more, the walk will only cause more fatigue, and the sleep more drunkenness!

R. Ashi said: Since those drunk with wine defile the service [if they officiate], the Rabbis enacted that precautionary measure;<sup>24</sup> but seeing that those with long hair do not defile the service, they made no decree against them.

An objection is raised: The following [priests] are liable to death: those who let their hair grow and those who are drunk with wine.<sup>25</sup> Now, as for those drunk with wine, it is correct, because it is written, Drink no wine nor strong drink, thou nor thy sons with thee, that ye die not.<sup>26</sup> But whence do we know it of those with long hair? — Because the former is assimilated to the latter, for it is written, Neither shall they shave their heads nor suffer their locks to grow long, which is followed by, Neither shall they drink wine etc. Hence, just as drunkenness [during the service] is punishable by death, so is the growth of long hair. And it also follows, just as drunkenness defiles the Temple service, so does the growing of long hair!<sup>27</sup> This is a difficulty.<sup>28</sup>

Rabina said to R. Ashi: Before Ezekiel came, and told us this [that those who let their hair grow and officiate thus are punishable by death], who stated it?<sup>29</sup> — But according to your view,<sup>30</sup> what of R. Hisda's statement, [viz.,] This law<sup>31</sup> was not learnt from the teaching of Moses our teacher, until Ezekiel came and taught, No alien, uncircumcised in heart and uncircumcised in flesh shall enter into my Sanctuary to serve me.<sup>32</sup> But before Ezekiel came, who stated it? Consequently, it must have been a tradition, and then Ezekiel came and found a support for it in Scripture [i.e., the Pentateuch]. Similarly, here too, [in the question of hair-growth] it was a traditional teaching, and Ezekiel merely upheld it in the passage quoted [further, the Halachah, as handed down, states only that they are liable to death, but not that they defile the Temple-service].<sup>33</sup>

What is the meaning of, They shall only poll their heads? — A Tanna taught: Hair cut in the Julian style.<sup>34</sup> What was that? — Rab Judah said in Samuel's name: A unique manner of hairdressing. Yet what was it like? R. Ashi said: The ends of one row [of hair] lay alongside the roots of the next.

Rabbi was asked: In what fashion was the hair of the High Priest cut? — He answered: Go and observe the haircut of Ben Eleasa.<sup>35</sup> It has been taught: Not for nothing did Ben Eleasa expend money so lavishly upon his hairdressing, but to display the High-Priestly fashion. [

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(1) Prov. V, 18.

(2) Eccl. VII, 26.

(3) I.e., of undetermined character.

(4) Isa. LIV, 5. As God formed the character of Israel so does a husband that of the wife.

(5) Showing that the loss was chiefly hers.

(6) Ruth I, 3.

(7) Gen. XLVIII, 7.

(8) Isa. XXXIII, 17.

(9) In charge of the Temple Service.

(10) Ezek. XLIV, 20.

(11) Num. VI, 5.

(12) I.e., they were not to let their hair grow untrimmed for thirty days.

(13) In support of the statement cited. Cf. Nazir 5a.

(14) V. Glos.

- (15) Ibid.
- (16) V. supra p. 121, n. 4.
- (17) The numerical value of יהיה is 10+5+10+5=30.
- (18) Thus Tosaf. s. v. ואימא. The text has כלי, according to which R. Papa asks: Perhaps it means that they should not let their hair grow long at all? Rashal, following the interpretation of Tosaf. deletes כלי. Epstein, B. (Torah Temimah on Num. VI, 5) makes the ingenious suggestion that the word כלי comprises the two words כלי (the full thirty days).
- (19) Ezek. XLIV, 21: Neither shall any priest drink wine when they enter into the inner court.
- (20) As a precautionary measure against drunkenness lest the Temple be suddenly rebuilt and the Priests called upon to enter upon its service, [cf. Yad Ramah].
- (21) The fact that the Temple is destroyed makes their speedy re-instatement remote.
- (22) Even in the post-Temple age. Should not pera' then also be forbidden, for no priest can know when he should be on duty and when not?
- (23) A liquid measure, a quarter of a log (the contents of six eggs).
- (24) That even at this day Priests may not drink lest the Temple be suddenly rebuilt and their services needed.
- (25) Tosef. Ker. I.
- (26) Lev. X, 9.
- (27) Hence, on this premise, it should be forbidden even to-day?
- (28) Cf. Ta'an. 17b and v. p. 128, n. 1.
- (29) For, if there was no source, the offence could not be punishable thus.
- (30) That a previous source was required.
- (31) That an uncircumcised priest is incompetent to serve in the Temple.
- (32) Ezek. XLIV, 9.
- (33) S. Luria deletes the bracketed passage. [This is indeed the reply given in Ta'an 17b to the question which is here left unanswered supra 127, v. n. 5.]
- (34) [The reference is not clear, v. Krauss, op. cit. I, 644]
- (35) Rabbi's son-in-law.

## Talmud - Mas. Sanhedrin 23a

### CHAPTER III

MISHNAH. CIVIL ACTIONS [ARE TO BE TRIED] BY THREE. EACH [LITIGANT] CHOOSES ONE, AND THE TWO JOINTLY CHOOSE A THIRD: SO HOLDS R. MEIR. BUT THE SAGES RULE: THE TWO JUDGES NOMINATE THE THIRD. EACH PARTY MAY OBJECT TO THE JUDGE CHOSEN BY THE OTHER, SO HOLDS R. MEIR. BUT THE SAGES SAY: WHEN IS THIS SO? ONLY IF THE OBJECTOR ADDUCES PROOF THAT THEY ARE EITHER KINSMEN OR [OTHERWISE] INELIGIBLE; BUT IF FIT OR RECOGNISED BY THE BETH DIN AS MUMHIN,<sup>1</sup> THEY CANNOT BE DISQUALIFIED.

EACH PARTY MAY REJECT THE WITNESSES PRODUCED BY THE OTHER:<sup>2</sup> SO HOLDS R. MEIR. BUT THE SAGES SAY, WHEN IS THIS SO? ONLY WHEN PROOF IS BROUGHT THAT THEY ARE EITHER KINSMEN OR [OTHERWISE] INELIGIBLE; BUT IF THEY ARE [LEGALLY] ELIGIBLE, NO ONE CAN DISQUALIFY THEM.

GEMARA. Why should each of the parties choose one [Beth din]:<sup>3</sup> do not three [judges] suffice? — The Mishnah is meant thus: If each party chose a different Beth din, [so that one is not mutually accepted], they must jointly choose a third.<sup>4</sup> Can then the debtor too reject [the Beth din chosen by the creditor]? Did not R. Eleazar say:<sup>5</sup> This refers only to the creditor; but the debtor can be compelled to appear for trial in his [the creditor's] town? — It is as R. Johanan said [below]: we learnt this only in reference to Syrian lawcourts;<sup>6</sup> and so here too; but not Mumhin.<sup>7</sup> R. Papa said: It may even refer to Mumhin, e.g., the courts of R. Huna and R. Hisda,<sup>8</sup> for he [the debtor] can say:

Am I giving you any trouble?<sup>9</sup>

We learnt: THE SAGES RULE: THE TWO JUDGES NOMINATE THE THIRD. Now, should you think it means as we have said, viz., Beth din;<sup>10</sup> can a Beth din, after being rejected, go and choose them another?<sup>11</sup> Again, how interpret, EACH PARTY CHOOSES ONE?<sup>12</sup> — But it means thus: Each [litigant] having chosen a judge, these two [litigants] jointly select a third. Why should they do so? — They said in ‘the West’<sup>13</sup> in the name of R. Zera: Since each selects a judge, and together they [the litigants] select the third, a true judgment will be rendered.<sup>14</sup>

BUT THE SAGES RULE etc. Shall we say that they<sup>15</sup> differ in regard to the law cited by Rab Judah in the name of Rab? For Rab Judah said in the name of Rab: Witnesses may not sign a deed unless they are aware who is to sign with them.<sup>16</sup> R. Meir thus disagreeing with the dictum of Rab Judah given in the name of Rab,<sup>17</sup> while the Rabbis accept it?<sup>18</sup> — No, all agree with Rab Judah's statement in Rab's name and none dispute that the [third judge] must have the consent of his colleagues; they only differ as to whether the consent of the litigants is necessary. R. Meir maintains that the consent of the litigants is also required, while the Rabbis hold, only that of the judges is required, but not that of the litigants.

The [above] text [states]: Rab Judah said in Rab's name: Witnesses may not sign a deed etc. It has been taught likewise: The fair minded<sup>19</sup> of the people in Jerusalem used to act thus: They would not sign a deed without knowing who would sign with them; they would not sit in judgment unless they knew who was to sit with them; and they would not sit at table without knowing their fellow diners.

#### EACH PARTY MAY OBJECT TO THE JUDGE CHOSEN BY THE OTHER.

Has then anyone the right to reject judges? — R. Johanan said: This refers to the Syrian courts.<sup>20</sup> But [you say that] Mumhin cannot be rejected? Surely since the last clause states, BUT THE SAGES SAY: WHEN IS THIS SO? ONLY IF THE OBJECTOR ADDUCES PROOF THAT THEY ARE EITHER KINSMEN OR [OTHERWISE] INELIGIBLE; BUT IF FIT OR RECOGNISED BY THE BETH DIN AS MUMHIN, THEY CANNOT BE DISQUALIFIED: does it not follow that R. Meir refers even to Mumhin! — It is meant thus: But if they are fit, they rank as Mumhin appointed by the Beth din, and so cannot be disqualified.

Come and hear: ‘The Rabbis said to R. Meir: It does not rest with him to reject a judge who is a Mumheh for the public’?<sup>21</sup> — Say [thus]: It does not rest with him to reject a judge whom the public has accepted as a Mumheh. It has been taught likewise: One may<sup>22</sup> go on rejecting judges until he undertakes [that the action shall be tried] before a Beth din of Mumhin:<sup>23</sup> this is the view of R. Meir.<sup>24</sup>

But witnesses [when not disqualified] are as Mumhin;<sup>25</sup> yet R. Meir said: EACH PARTY MAY REJECT THE WITNESSES PRODUCED BY THE OTHER! — Surely it has been stated regarding this: Resh Lakish said: Imagine a holy mouth [sc. R. Meir] uttering such a thing!<sup>26</sup> Read [therefore] ‘THE WITNESS’, [singular].<sup>27</sup> But for what purpose is a single witness [competent]? Shall we say, for the actual payment of money?<sup>28</sup> then his testimony is Biblically invalid! If for [the administration of] an oath, then his evidence is [legally] as trustworthy as that of two!<sup>29</sup> — In fact, he refers to the payment of money, but it [sc. R. Meir's ruling] arises only where both parties have voluntarily accepted his testimony as equivalent to that of two witnesses. Then what does he thereby teach: that he may retract? But we have already learnt this once:<sup>30</sup> If one says, I accept my father or thy father as trustworthy,<sup>31</sup> or I have confidence in three herdsmen,<sup>32</sup> R. Meir says, He may [subsequently] retract; but the Sages rule, He cannot.

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(1) V. Glos.



- (2) The Gemara discusses the conditions of such disqualification.
- (3) Which consists of three judges. By 'ONE' in the Mishnah, the text understands a court, according to which interpretation nine judges are necessary. So Rashi. This, however, is a very strained interpretation, particularly in view of the opening statement of the Mishnah: CIVIL ACTIONS ARE TO BE TRIED BY THREE. Tosaf. therefore states that the question is based on the assumption that the meaning of the Mishnah is this: Each litigant chooses a complete Beth din; and then the two courts jointly nominate a third court, and it is the third court that tries the case. Hence the question: Why such a clumsy proceeding: cannot the two litigants jointly select one court which shall try the action?
- (4) But it is not meant that the procedure must be so from the very outset.
- (5) Infra 31b in regard to a dispute as to place of trial.
- (6) [Tribunals set up by the Romans and in charge of Jewish judges whose decisions were based on precedent and common sense rather than Biblical or Rabbinic Law, cf. Buchler, Sepphoris, 21 ff.]
- (7) These cannot be disqualified by the debtor.
- (8) [R. Huna's court was at Sura, and R. Hisda had his school, according to Sherira, at Matha Mehasia on the outskirts of Sura.]
- (9) For, while it is just that the debtor shall not have the power of putting the creditor to great trouble in choice of locale, seeing that the debtor is under an obligation to the creditor, this objection does not hold good when the two courts are so close to each other.
- (10) I.e., each litigant chooses a Beth din.
- (11) Surely not!
- (12) Which implies that the actual procedure must be so from the beginning.
- (13) R. Jeremiah, supra 17b.
- (14) For both parties have confidence in the court.
- (15) R. Meir and the Sages.
- (16) I.e., who is the other witness. The reason is that the other witness may prove to be unfit, in which case both signatures are null, and the eligible signatory is thus put to shame.
- (17) I.e., he does not require the witnesses to know beforehand who will join them; and in the same way, it is unnecessary for the two judges to know beforehand whether the third will be a fit and proper person; therefore the third is selected by the litigants.
- (18) V. previous note; the reasoning is reversed.
- (19) נְקִי הַדַּעַת, [(a) 'the cautious' (Buchler); (b) 'the pious' (Muller); (c) 'the nobility' (Klein, S. מדעי היהדות I, 72 ff.)]
- (20) v. supra p. 130, n. 2.
- (21) From this it may be inferred that in R. Meir's opinion even Mumhin may be rejected.
- (22) But not a competent body, in which case R. Meir may agree with the Rabbis.
- (23) This translation follows an emended text. V. marginal gloss in curr. edd.
- (24) Hence it is evident that even R. Meir agrees that Mumhin cannot be rejected.
- (25) All are expert to attest what they have witnessed.
- (26) Surely it is absurd to suggest that a litigant having produced witnesses in his favour, his opponent can simply reject them.
- (27) I.e., each can reject only a single witness produced by the other: a single witness, of course, is not on a par with an expert Beth din.
- (28) I.e., the debtor is to be ordered to pay on his evidence.
- (29) If the plaintiff has one witness in his support, his testimony is so far admissible as to subject the defendant to an oath; and the defendant cannot reject his testimony, just as he could not reject the testimony of two witnesses.
- (30) Viz., in the next Mishnah.
- (31) To act as judges in a dispute, though normally relations of the litigants were ineligible. That the reference is to judges follows from the fact that three herdsmen are mentioned.
- (32) In those days holding the lowest rank in society.

## Talmud - Mas. Sanhedrin 23b

And thereon R. Dimi the son of R. Nahman the son of R. Joseph observed: This means, e.g., that he

accepted him as one [of the three judges]!<sup>1</sup> — Both are necessary. Had he stated only the law regarding the ‘fathers’ it might have been assumed that only there do the Rabbis<sup>2</sup> rule that he cannot retract, because ‘my father’ and ‘thy father’ are fit [to act as judges] in other cases; but where one witness is accepted as two, one might have thought that the Rabbis agreed with R. Meir, since he is unfit in general.<sup>3</sup> Whilst had the law been stated in this instance, I might have thought that only here does R. Meir rule thus; but in the other case, he agrees with the Rabbis.<sup>4</sup> Hence both are necessary. But since the first clause mentions, ‘JUDGE’ [singular], whilst the second reads, ‘WITNESSES’ [plural], it follows that it is to be taught literally?<sup>5</sup> — Said R. Eleazar: This is a case where he [the litigant] together with another come forward to disqualify them.<sup>6</sup> But is he empowered to do this, seeing that he is an interested party?<sup>7</sup> — R. Aha the son of R. Ika said: [Yes;] e.g., where he makes public the ground of his objection. What objection is meant? Shall we say, an objection based on a charge of robbery? But does that rest with him, seeing that he is an interested party? Hence it must be an objection on the grounds of family unfitness.<sup>8</sup> Now, R. Meir contends that they [sc. the litigant and his supporter] testify against the man's family,<sup>9</sup> whilst he is automatically disqualified; and the Rabbis hold that after all said and done, he is an interested party.

When R. Dimi came [from Palestine]<sup>10</sup> he said in R. Johanan's name: The controversy arises only where [the plaintiff said that he could produce] two pairs of witnesses. Now, R. Meir holds that the litigant is obliged to verify [his statements regarding his second set of witnesses];<sup>11</sup> while the Rabbis say that he is not so obliged.<sup>12</sup> But if only one pair of witnesses [are offered], all agree that they cannot be disqualified.

R. Ammi and R. Assi said in R. Dimi's presence: What if there is only one pair [of witnesses]? [You ask, what if] there is only one set? Have you not just said, ‘but if only one pair of witnesses [are offered] all agree that they cannot be disqualified’? But the question is, what if the second pair is found to consist of kinsfolk or to be [otherwise] ineligible?<sup>13</sup> — He answered them: The first witnesses have already testified.<sup>14</sup>

Others say that R. Ashi gave the above answer.

Shall we say that their [sc. R. Meir and the Rabbis'] dispute is the same as that of Rabbi and R. Simeon b. Gamaliel? For it has been taught: If one comes to be judged on the strength of a deed and hazakah;<sup>15</sup> Rabbi said: The case must be determined by a deed.<sup>16</sup> Rabban Simeon b. Gamaliel ruled: It is determined by hazakah [alone]. But we raised this question thereon: By hazakah [only], and not by deed?<sup>17</sup> But rather say thus: Even by hazakah [alone]. And it is an established fact that their dispute is whether the defendant is obliged to verify [his statement]!<sup>18</sup> — No, according to the view of Rabban Simeon b. Gamaliel, none [i.e. neither R. Meir nor the Rabbis] differ here;<sup>19</sup> they only differ on the basis of Rabbi's opinion. Thus, R. Meir agrees with Rabbi. But the Rabbis can tell thee: Rabbi gives this ruling there only in the case of hazakah, which is valid proof<sup>20</sup> only in virtue of there having been a deed.<sup>21</sup> But here, since the legal standing of one pair is independent of the other, even Rabbi agrees that the claimant need not verify [his statements in full].

When Rabin came [from Palestine]<sup>22</sup> he said in R. Johanan's name: The first clause [of the Mishnah]

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(1) And since one of the three judges is ineligible by Biblical law, he may retract; so here, since one witness cannot impose payment by Biblical law, although he was accepted as trustworthy, he may retract. Consequently we were already informed of this. It may be asked, Why is R. Dimi's observation mentioned at all: does not the difficulty arise in any case? But without this dictum, it might be said that the litigant can retract in this case because there are two irregularities: (a) one only was permitted to try the suit; (b) even he was Biblically ineligible. But if there is only one irregularity, as in the case under discussion, where a single witness was accepted as the equivalent of two, it might be thought that the litigants cannot retract. Therefore R. Dimi's interpretation is adduced, to show that here too there was

only one fault, that one of the judges was a relative (Tosaf.).

(2) The Sages.

(3) To count as two.

(4) By the preceding argument inverted.

(5) Which overthrows Resh Lakish's interpretation, hence the original difficulty remains.

(6) And two have authority to reject; but actually the reference is to two witnesses.

(7) Hence, only one witness is left, and one has no power to overthrow the evidence of two.

(8) E.g., that he was the descendant of an unliberated slave whose testimony is inadmissible.

(9) And in this matter, the litigant is not an interested party.

(10) V. p. 393, n. 1.

(11) Therefore, the defendant is not regarded as an interested party when he testifies to the family unfitness of one of the first pair, since the plaintiff is bound to adduce the second set in any case, who are themselves sufficient. Should the plaintiff be unable to adduce a second set, he is the cause of his own loss.

(12) Consequently, notwithstanding his first assertion, he can insist on basing his claims on the first pair of witnesses only, and so the defendant becomes an interested party in seeking to disqualify one of these witnesses. — Tosaf. and one interpretation of Rashi. Rashi, however, reverses the reading and gives another explanation.

(13) Can we say, since the second pair has thus been rendered ineligible, the defendant is retrospectively discovered to have been an interested party in his testimony disqualifying the first pair, since the second is no longer available, and therefore his evidence in respect to the first is now inadmissible? Or, on the other hand, it may be argued that when the defendant gave his evidence he was a disinterested party, and consequently it still holds good.

(14) I.e., the testimony of the defendant in respect to the first, having been accepted, stands good.

(15) A claim based on undisturbed possession during a legally fixed period — three years. This means, if one's ownership of land is challenged, and he asserts that he can prove it both by a deed of sale, which he has in his possession, and also by hazakah.

(16) And if he failed to produce it, hazakah would not determine ownership. Though hazakah is usually accepted as proof, it is not accepted here, since the defendant asserted that he had the deed of conveyance in his possession.

(17) Surely it cannot be maintained that if a deed of sale is produced, three years of undisturbed possession must also be proved!

(18) Thus: Rabbi maintains that the whole statement must be verified, and therefore the deed is necessary; whilst R. S. b. G. holds that it need not be verified, just as though he had never made it, and therefore hazakah alone is sufficient (v. B.B. 169b-170a). Rabbi will accordingly agree with R. Meir, and R. S. b. G. with the Rabbis.

(19) For it is obviously impossible to reconcile R. Meir with R. S. b. G.

(20) Lit., 'which comes'.

(21) Three years undisturbed possession proves ownership only when the defendant pleads that he bought the land, was given a deed, but lost it. Therefore, since the defendant asserted in the first place that he could produce the deed, evidence of undisturbed possession is not enough.

(22) V. p. 390, n. 1 .

## Talmud - Mas. Sanhedrin 24a

refers to invalid witnesses, but competent judges: hence, since<sup>1</sup> the witnesses are invalidated, the judges too are disqualified.<sup>2</sup> While the latter clause deals with invalid judges and competent witnesses; therefore, since the judges are disqualified, the witnesses too are rejected. Raba objected: As for arguing<sup>2</sup> that since the witnesses are [undisputably] disqualified, so are the judges too: that is correct, seeing that another bench of judges is available [to try the case]. But [can one argue], since the judges are disqualified, so are the witnesses too, seeing that no other witnesses may be available? — This holds good only when another set of witnesses is available. Then what if no other set of witnesses is available; [will you say that] here too [viz., according to Rabin] the witnesses cannot be disqualified? But his view is then identical with that of R. Dimi!<sup>3</sup> — They differ in respect to Miggo;<sup>4</sup> one master [Rabin] accepts the reasoning of Miggo; while the other [R. Dimi] rejects it.<sup>5</sup>

The above text reads: 'Resh Lakish said: "Imagine a holy mouth [sc. R. Meir] uttering such a

thing!" Read therefore [in the Mishnah], "The witness" [singular].’ Surely this is not so! For ‘Ulla said: One who saw Resh Lakish in the Beth-Hamidrash [engaged in debate] would think that he was uprooting mountains and grinding them against each other!<sup>6</sup> — Rabina said: But did not he who saw R. Meir in the Beth-Hamidrash feel that he was uprooting yet greater mountains and grinding them against each other?<sup>7</sup> — He means this:<sup>8</sup> Come and see how they [the Palestinians] esteem one another!<sup>9</sup> Another instance; Rabbi sat and said: It is forbidden to store away the cold [water].<sup>10</sup> But R. Ishmael son of R. Jose remarked in his presence; My father permitted it. Then the Zaken<sup>11</sup> has already decided the matter,<sup>12</sup> replied Rabbi. [Thereupon] R. Papa said: Come and see how much they respected each other, for were R. Jose alive, he would have sat submissively before Rabbi, for as we have seen, R. Ishmael son of R. Jose, who was a worthy successor of his forefathers,<sup>13</sup> sat submissively before him,<sup>14</sup> yet he [Rabbi] said of him, ‘The Zaken has already decided.’

R. Oshaia said: What is the meaning of the verse, And I took unto me the two staves; the one I called No'am [graciousness] and the other I called ‘hoblim’<sup>15</sup> [binders]?<sup>16</sup> — ‘No'am’ refers to the scholars of Palestine, who treat each other graciously [man'imim] when engaged in halachic debates; ‘hoblim’, to the scholars of Babylon, who injure each other's feelings [mehablim] when discussing halachah.<sup>17</sup>

[It is written]: Then said he, These are the two anointed ones etc.<sup>18</sup> [This is preceded by:] And two olive trees by it.<sup>19</sup> R. Isaac said: ‘yizhar’ designates the scholars of Palestine, who are affable to each other when engaged in halachic debates, like olive oil [which is soothing]; [whilst] and two olive trees stand by it, symbolise the scholars of Babylon, who are as bitter to each other in halachic discussions as olive trees.<sup>20</sup>

Then lifted I up mine eyes and saw, and behold there came forth two women and the wind was in their wings; for they had wings like the wings of a stork. And they lifted up the measure between the earth and the heaven. Then said I to the angel that spoke with me, ‘Whither do these bear the measure?’ And he said unto me, ‘To build her a house in the land of Shinar.’<sup>21</sup> R. Johanan said on the authority of R. Simeon b. Johai: These [the ‘two women’] symbolise hypocrisy and arrogance, which made their home<sup>22</sup> in Babylon. But was Babylon really the home of haughtiness; did not the master say, Ten kabs<sup>23</sup> of arrogance came down into the world, of which Elam<sup>24</sup> took nine and the rest of the world one? — Yes, originally it descended to Babylon, but it travelled to Elam. This can also be inferred from the phrase, to build her<sup>25</sup> a house in the land of Shinar. This proves it.

But a Master said that the symptom of pride is poverty, and did not poverty descend upon Babylon? — By ‘poverty’,<sup>26</sup> the dearth of learning<sup>27</sup> is meant, for it is written, We have a little sister and she has no breasts;<sup>28</sup> whereon R. Johanan observed: This is a symbol of Elam, which was privileged to study, but not to teach.<sup>29</sup>

What does [the name] Babel connote?<sup>30</sup> — R. Johanan answered: [That the study of] Scripture, Mishnah and Talmud was intermingled [therein].<sup>31</sup>

He hath made me to dwell in dark places like those that have been long dead.<sup>32</sup> This, said R. Jeremiah, refers to the Babylonian Talmud.<sup>33</sup>

MISHNAH. IF ONE [OF THE CONTENDING PARTIES] SAYS TO THE OTHER: I ACCEPT MY FATHER OR THY FATHER AS TRUSTWORTHY,<sup>34</sup> OR, I HAVE CONFIDENCE IN THREE COWHERDS,<sup>35</sup> R. MEIR SAYS, HE MAY [SUBSEQUENTLY] RETRACT; BUT THE SAGES RULE, HE CANNOT. IF A MAN WAS UNDER THE OBLIGATION OF AN OATH TO HIS NEIGHBOUR, AND THE LATTER SAID TO HIM ‘VOW TO ME BY THE LIFE OF THY HEAD,’<sup>36</sup> R. MEIR HOLDS, HE MAY RETRACT; BUT THE SAGES MAINTAIN, HE CANNOT.<sup>37</sup>

GEMARA. R. Dimi the son of R. Nahman the son of R. Joseph said: [The Mishnah refers to a case] e.g., where he [the litigant] accepted him [sc. one of those mentioned] as one [of the three judges required].<sup>38</sup>

Rab Judah said in Samuel's name: The controversy [of R. Meir and the Rabbis<sup>39</sup> over a case] is only [where the plaintiff says]: 'My claim against thee be remitted' [if the judges so decide]; but [if the defendant says], 'I will pay thy claim' [should it be so decided], all [even the Rabbis] agree that he may retract.<sup>40</sup> R. Johanan said: They differ over the latter case.

The scholars propounded [the following problem]: [Does R. Johanan mean that] they differ only over the latter case, but that in the former, all [even R. Meir] agree that he cannot retract; or does he hold that they differ with respect to both cases? — Come and hear! For Raba said: They differ [only] in respect of, 'I will pay thee;' but in the case of, 'It be remitted to thee,' all [even R. Meir] agree that he cannot retract. Now, if you say [that R. Johanan maintains], Their difference is only in the case of, 'I will pay thee'; but in the case of, 'It be remitted to thee,' all agree that he cannot retract, it is correct: then Raba's opinion coincides with that of R. Johanan. But should you say, their dispute applies to both, with whom does Raba agree?<sup>41</sup> — Raba [on the latter hypotheses] states an independent view.<sup>42</sup>

R. Aha b. Tahlifa objected to Raba's view: IF ONE WAS UNDER THE OBLIGATION OF AN OATH TO HIS NEIGHBOUR, AND THE LATTER SAID TO HIM, 'VOW TO ME BY THE LIFE OF THY HEAD;' R. MEIR HOLDS HE MAY RETRACT; BUT THE SAGES MAINTAIN, HE CANNOT.

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(1) מִיגּוֹ, Miggo. A Talmudical rule by which an action is declared valid because part of it is indisputably legitimate. In this case, the rule is accepted by R. Meir but not by the Rabbis.

(2) I.e., the litigant proved his opponent's witnesses invalid, but was unable to do so likewise in the case of the proposed judges. Yet in virtue of the first, he can object to his opponent's choice of judges too.

(3) Who said above that where there is only one set of witnesses available, all agree that they cannot be rejected.

(4) V. p. 135, n. 7.

(5) The dispute is whether this reasoning is acceptable in general, though in the actual case under discussion there may possibly be no difference. Thus, Rabin holds that miggo is generally accepted, and here too, whilst R. Dimi rejects this reasoning here and elsewhere; therefore, it is only because R. Meir maintains that a litigant must substantiate his whole statement that his opponent is able to disqualify his witnesses, as explained above, and this is irrespective of whether the judges have been proved incompetent or not.

(6) So ingenious a mind did he have. How then could he be so modest as to refer to R. Meir as 'a holy mouth', thus implying that the latter's learning and skill was far above his own? — 'Mountain' is used figuratively for the problems overcome by dialectical ingenuity.

(7) Hence, notwithstanding Resh Lakish's dialectic skill, R. Meir was his superior.

(8) This is an answer to Rabina's observation. In fact, the previous remark was not an objection, but a comment.

(9) Able as he was, Resh Lakish did appreciate R. Meir, as the above quotation shows.

(10) In cool sand, to preserve its coolness for the Sabbath, though the measure in general is directed against the storing of food in such a way that it grows warmer. Cf. Shab. 51a.

(11) R. Jose; Zaken, lit., 'elder' = scholar, sage.

(12) I.e., the law must remain as he has ruled.

(13) I.e., he took his father's place.

(14) As a disciple.

(15) Also 'injuries'.

(16) Zech. XI, 7

(17) Discussions were carried on far more energetically in the Babylonian academies than in the Palestinian, and in fact, there is considerably more controversy in the Babylonian than in the Jerusalem Talmud.

- (18) Lit., 'The sons of 'yizhar' (clear oil).' Ibid. IV, 14.
- (19) Ibid. 3.
- (20) The wood of which is bitter to the taste.
- (21) Zech. V, 9-11.
- (22) Lit., 'descended into'.
- (23) A measure.
- (24) The country named after the eldest son of Shem. (Gen. X, 22.) It lay along Shushan and the river Ulai. Cf. Dan. VIII, 2, and had Babylonia on the West.
- (25) Only one of the vices, thus proving that the other did not settle there permanently.
- (26) As a symptom of pride.
- (27) Lit., 'the Torah'.
- (28) Cant. VIII, 8.
- (29) I.e., its learning had remained stagnant. [On the all-pervading ignorance of the Law among the Jews of Elam (Hozea, Khuzistan), v. Pes. 50b-51a.]
- (30) מִבְּרַב; Babylonia. Based on the popular etymology of the word from מִבְּרַב 'to mix', 'confound', cf. Gen. XI, 9.
- (31) This may either mean that all three were studied; or preferably, as explained by R. Tam a.l., that the Babylonian Talmud itself is a compound of all three.
- (32) Lam. III, 6.
- (33) Which is profound and dark to the unversed. Cf. Hag. 10a. The word 'Talmud' refers to both the mode of study and the actual content of that study, and either or both may be referred to here.
- (34) A father is disqualified to act as judge: v. infra 27b.
- (35) Considered to be the lowest class in society.
- (36) Such is not the formula of a judicial oath, which is sworn in the name of God. Here both the swearing, i.e., 'I swear', and the Divine name are absent.
- (37) And demand a proper oath.
- (38) Though there are two others eligible, R. Meir still holds that he may retract (Rashi). Tosaf. explains more plausibly: Only then do the Sages rule that he cannot retract. If, however, he had accepted one of these as the equivalent of a complete court, even the Sages admit that he can subsequently retract. V. supra p. 132, n. 11.
- (39) The Sages.
- (40) Less authority is required to rule that one retains what is already in his possession, since possession itself affords a presumption of ownership, than to transfer money from one to another. Hence, only in the former case do the Rabbis rule that an undertaking to abide by the decision of an unqualified judge is binding, but not in the latter.
- (41) For it coincides neither with that of Samuel nor with that of R. Johanan.
- (42) I.e., he is not bound to agree either with Samuel or R. Johanan. Hence the question remains unanswered.

## Talmud - Mas. Sanhedrin 24b

Now surely, this refers to those who swear and do not pay,<sup>1</sup> and hence is analogous to, 'It be remitted thee'?<sup>2</sup> — No; this refers to those who swear and receive their claim,<sup>3</sup> so that it is analogous to 'I will pay thee'.

But if so, has this not already been taught in the first clause [of the Mishnah]?<sup>4</sup> — It [the Mishnah] teaches the case where he [sc. the defendant] makes the irregular procedure depend on the judgment of others,<sup>5</sup> and also where he makes it depend on his [sc. the plaintiff's] action. And both are necessary. For had it taught only the case where he [the defendant] makes it depend on the judgment of others, [we might have assumed that] in this case alone does R. Meir hold that he can retract since he might not definitely have decided to abide by their decision, but [inwardly] argued, 'Who can say that they will give judgment in the other's favour?' Whereas, if he makes it depend on his [sc. the plaintiff's] action, I might think that he [R. Meir] agrees with the Rabbis [that he cannot retract].<sup>6</sup> Again, had he [the Tanna] stated the latter case alone, we might have assumed, only there do the Rabbis rule thus; but in the former case, we might think<sup>7</sup> that they agree with R. Meir. Hence both are necessary.

Resh Lakish said: The dispute [between R. Meir and the Rabbis] is [over a case where the litigant retracts] before the rendering of the legal decision:<sup>8</sup> but once the decision has been given, all [even R. Meir] agree that he cannot retract. While R. Johanan said: They differ [where one retracts] after the decision is rendered.

The scholars propounded [the following problem:] [Does this mean that] the dispute is [only where the litigant retracts] after the promulgation of the decision; but before, all [even the Rabbis] agree that he can retract; or do they differ in both instances? — Come and hear! For Raba said: If one accepted a kinsman or a man [otherwise] ineligible [as judge or witness], he may retract before the promulgation of the decision; but not after. Now, if you understand [R. Johanan to mean] that the dispute refers only to the time after the decision; but that prior thereto, all agree that he may retract, it is correct: then Raba's statement agrees with R. Johanan's, and is based on the view of the Rabbis. But should you say, The controversy holds good in both cases, who is Raba's authority?<sup>9</sup> Hence it surely follows that the dispute arises only after the decision has been given. This proves it.

R. Nahman son of R. Hisda<sup>10</sup> sent a question to R. Nahman b. Jacob: Will our Master please inform us, Is the dispute before or after the verdict, and with whom does the halachah rest? — He sent back word: The dispute arises after the promulgation of the decision, and the halachah agrees with the Sages. R. Ashi said: This was the question he sent: — Do they differ in the case of 'I will pay thee,' or in respect to 'It be remitted to thee', and with whom does the halachah rest? To which he replied: The dispute refers to, 'I will pay thee;' and the halachah rests with the Sages. Thus they taught in Sura. But in Pumbeditha they taught as follows: R. Hanina b. Shelamiah said: A message was sent from the school of Rab<sup>11</sup> to Samuel, saying: Will our Master please inform us, [If one of the parties pledged himself] by Kinyan<sup>12</sup> [not to retract], what [if he seeks to retract] before the promulgation of the decision? — He returned word, saying: After Kinyan, nothing [can be done to repudiate the transaction].

**MISHNAH. AND THESE ARE INELIGIBLE [TO BE WITNESSES OR JUDGES]: A GAMBLER WITH DICE,<sup>13</sup> A USURER, A PIGEON-TRAINER,<sup>14</sup> AND TRADERS [IN THE PRODUCE] OF THE SABBATICAL YEAR.<sup>15</sup> R. SIMEON SAID: AT FIRST THEY CALLED THEM 'GATHERERS OF [THE PRODUCE OF] THE SABBATICAL YEAR.' BUT WHEN THE OPPRESSORS<sup>16</sup> GREW IN NUMBER, THEY CHANGED THEIR NAME TO TRADERS IN THE SABBATICAL PRODUCE.'<sup>17</sup> R. JUDAH SAID: WHEN IS THIS SO? — IF THEY HAVE NO OTHER OCCUPATION BUT THIS. BUT IF THEY HAVE OTHER MEANS OF LIVELIHOOD, THEY ARE ELIGIBLE.**

**GEMARA.** What [wrong] does the dice player do? — Rammi b. Hama said: [He is disqualified] because it [sc. gambling] is an Asmakta,<sup>18</sup> and Asmakta is not legally binding.<sup>19</sup>

R. Shesheth said: Such cases do not come under the category of Asmakta;<sup>20</sup> but the reason is that they [sc. dice players] are not concerned with the general welfare.<sup>21</sup> Wherein do they differ? — If he [the gambler] acquired another trade.<sup>22</sup> We learnt:<sup>23</sup> **R. JUDAH SAID: WHEN IS THIS SO? — IF THEY HAVE NO OTHER OCCUPATION BUT THIS. BUT IF THEY HAVE OTHER MEANS OF LIVELIHOOD, THEY ARE ELIGIBLE.** This proves that the ruling of the Mishnah is for the sake of the welfare, of humanity, which refutes Rami b. Hama.<sup>24</sup> And should you answer, The Rabbis dispute R. Judah's opinion:<sup>25</sup> did not R. Joshua b. Levi say, Wherever R. Judah observes,

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(1) I.e., who meet the claim against them simply by an oath, since Biblical oaths were imposed on the defendant. Cf Shebu. 44b.

(2) I.e., the plaintiff agrees to abandon his claim as the result of an irregular procedure, whether in the choice of judges or in the form of the oath. This shows that they differ also in respect of 'It be remitted to thee'.

- (3) E.g., where a labourer claims his wages when due, or where the defendant is legally incapable of taking an oath, e.g., if he is known to have committed perjury on a previous occasion. Cf. *ibid*.
- (4) According to the explanation thereof by Raba.
- (5) By accepting the judgment of people ineligible as judges.
- (6) For he must have felt certain that the plaintiff would take up his challenge.
- (7) By inverting the preceding argument.
- (8) V. p. 24.
- (9) In this case, it would only be R. Meir, in the opinion of Resh Lakish, who rules thus. But Raba could not abandon the majority ruling of the Rabbis and follow R. Meir. Nor can it be answered that Raba had an independent view of the circumstances in which they differ, as above, since his statement is not made regarding the Mishnah.
- (10) Or R. Isaac, according to another version.
- (11) Be Rab. For another possible meaning, v. p. 89.
- (12) Kinyan, lit., 'acquisition', is a formal act whereby one definitely pledges himself. V. Glos.
- (13) Heb. **קוביא**, Gr. K \*\* dice-playing, a popular game of antiquity. The term was applied by the Rabbis indiscriminately to any form of gambling. Cf. Shab. 149b.
- (14) Lit., 'pigeon flyers'. The exact meaning of 'pigeon-flyer' is discussed in the Gemara. The disqualification of these is based upon Ex. XXIII, 1: Put not thine hand with the wicked to be an unrighteous witness. In this case, though they cannot be considered actual robbers, since they do not appropriate their gain by violence, the Rabbis nevertheless held such gain a form of robbery.
- (15) The Sages interpret Lev. XXV, 6: The Sabbath of the land shall be for food to you, to mean, 'for food' and not for 'commerce'. Cf. Bek. 12b. The transgressors of this enactment, because they showed so passionate a greed for gain, were not regarded as trustworthy to judge or testify.
- (16) Government officials who spared no means of extorting heavy taxation from the people. As a result, even the Sabbatical year produce had to be given in payment.
- (17) The meaning of this is discussed in the Gemara.
- (18) **אסמכתא** 'speculation', from **סמך**, 'to rely,' 'to support', is a term in civil law denoting a contract wherein each party promises to pay, on fulfilment of a certain condition which he expects will not be fulfilled. It is not binding according to some teachers, because the obligation has not been assumed with serious intent, since each hopes that his promise will be nullified by the non-realization of the condition. Gambling, as in this case, is an excellent example, for in it, A promises B to forfeit a certain object or amount on the realization of a condition which he hopes and expects will not occur.
- (19) I.e., does not create an actual obligation. Hence, the receiver is regarded as having taken illegal possession, and so is akin to a robber.
- (20) His definition of Asmakta is illustrated in B.B. 168a: If, for instance, A paid a fraction of his debt on a note to B, and told him to deposit the note with C, adding that if he did not pay the note by a certain date, C should return the note to B who would then collect the amount in full; and if on the due date A did not pay, R. Judah says that B may collect only the amount which was not paid, and not its full value, because A's promise is not valid, seeing that at the time he made it, he assumed that failure to pay would not occur. But in the case under consideration, where it is a game of chance, the odds in either case are equal, and A's intent to pay must be taken seriously. Consequently, the gain cannot be considered as a form of robbery.
- (21) I.e., they do not contribute to the stability of civilised society.
- (22) When, according to R. Shesheth, he should not be disqualified.
- (23) [So Ms., M. introducing a refutation of Rami b. Hama. Cur. edd. read, 'and we learnt'.]
- (24) Since he holds that the reason for their disqualification is Asmakta, irrespective of whether they have another trade or not.
- (25) In which case his argument agrees with that of the Rabbis, representing the anonymous opinion cited first in the Mishnah.

## Talmud - Mas. Sanhedrin 25a

'When is this so,'<sup>1</sup> or 'In what case,'<sup>2</sup> he merely aims at explaining the words of the Sages? [Whilst] R. Johanan said: 'When etc.' is explanatory, but 'In what case' indicates disagreement. Thus all



agree that 'When etc. indicates explanation.<sup>3</sup> — Do you oppose one amora<sup>4</sup> to another?<sup>5</sup> One Master [Rami b. Hama] holds that they [the Rabbis and R. Judah] differ; the other [R. Joshua b. Levi] holds that they do not.<sup>6</sup> But do they really not differ? Has it not been taught:<sup>7</sup> Whether he has another occupation or not, he is disqualified?<sup>8</sup> — That is the view of R. Judah, stated on the authority of R. Tarfon. For it has been taught: R. Judah said on the authority of R. Tarfon: In truth, neither of them is a nazir, because a vow of neziruth<sup>9</sup> must be free from doubt.<sup>10</sup>

A LENDER ON INTEREST . . . Raba said: A borrower on interest is unfit to act as witness. But have we not learnt: A LENDER [malweh] ON INTEREST [is disqualified]? — [It means] a loan [milweh]<sup>11</sup> on interest [disqualifies the parties to the transaction].

Two witnesses testified against Bar Binithus. One said, 'He lent money on interest in my presence. ' The other said, 'He lent me money on interest.' [In consequence,] Raba disqualified Bar Binithus [from acting as witness etc.]. But did not Raba himself rule: A borrower on interest is unfit to act as witness? Consequently he<sup>12</sup> is a transgressor, and the Torah said: Do not accept the wicked as witness?<sup>13</sup> — Raba<sup>14</sup> here acted in accordance with another principle of his. For Raba said: Every man is a relative in respect to himself, and no man can incriminate himself.<sup>15</sup>

A certain slaughterer was found to have passed a terefal<sup>16</sup> [as fit for food], so R. Nahman disqualified<sup>17</sup> and dismissed him. Thereupon he went and let his hair and nails grow.<sup>18</sup> Then R. Nahman thought of reinstating him, but Raba said to him: Perhaps he is only pretending [repentance]. What then is his remedy? — The course suggested by R. Iddi b. Abin, who said: He who is suspected of passing terefoth cannot be rehabilitated unless he leaves for a place where he is unknown and finds an opportunity of returning a lost article of considerable value, or of condemning as terefah meat of considerable value, belonging to himself.<sup>19</sup>

AND PIGEON TRAINERS: What are PIGEON TRAINERS? — Here<sup>20</sup> it has been interpreted, [of one who says to another], 'If your pigeon passes mine [you win].'<sup>21</sup> R. Hama b. Oshaia said: It means an Ara.<sup>22</sup> On what ground does he who interprets [the phrase to mean] 'pigeon-racer' disagree with him who interprets it as Ara? — His answer is that the conduct of an Ara [is regarded as robbery] merely from the standpoint of neighbourliness.<sup>23</sup> And he who interprets it as 'Ara', why does he not accept this view [sc. 'if thy pigeon etc.]? — His answer is, in that case it is identical with a dice player. And the former?<sup>24</sup> — He [the Tanna of the Mishnah] deals with a case where he relies on his own capabilities. [i.e., dice-playing] and a case where he relies on the capabilities of his pigeon. And both are necessary. For had he dealt only with the case where a man relies upon himself, [I might have supposed that] only there was his promise without serious intent, since he thinks,

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(1) אִימְתִי

(2) בְּמַה דְּבָרִים אֲמֹרִים

(3) So that R. Judah does not differ from the Rabbis. Hence they too hold that the reason for disqualification is not 'Asmakta', but for 'the sake of the welfare of humanity'.

(4) Lit., 'man'.

(5) R. Joshua b. Levi and Rami b. Hama, who have equal authority.

(6) And that R. Judah's statement is merely explanatory.

(7) 'Er. 82a.

(8) And presumably this is the view of the Rabbis, thus proving that they do differ from R. Judah.

(9) For nazir and neziruth, v. Glos.

(10) Lit., 'applies only to distinct utterance.' This refers to the following: A and B were sitting by the road-side, and a man passed them. Whereupon A said to B: If the man who has passed is a Nazir, as I maintain he is, then I too will take the vow of neziruth; and B said that he for his part would take the vow if he were not. R. Tarfon ruled that the vow is not binding even upon him whose view was subsequently found to be correct, for the vow was based on a doubtful matter,

whereas neziruth requires a distinct and explicit pledge. (V. Nazir 34a). R. Judah himself may thus, notwithstanding his statement in the Mishnah, which is only explanatory of the view of the Rabbis, concur in R. Tarfon's view. With respect to the actual reasoning of the Talmud, Rashi states: This proves that in R. Tarfon's opinion, an undertaking dependent on an unknown circumstance is not binding, and therefore the same applies to gambling, each gambler undertaking to pay his opponents without knowing the latter's strength, and therefore the gambler is akin to a robber, as explained on p. 143, n. 2, whether gambling, is his sole occupation or not.

(11) מלוה may be read either מלוה (lender) or מלוה (loan).

(12) The witness who testified that he had borrowed money from Bar Binithus on interest.

(13) Ex. XXIII 1: this is not an exact quotation, but the general implication of the text. How, then, could the evidence of the latter be accepted?

(14) Its accepting the witness's evidence against Bar Binithus.

(15) Cf. supra 9b. Consequently, his evidence is valid only with regard to the accused but not with regard to himself.

(16) V. Glos.

(17) From acting as slaughterer. According to another version he excommunicated him. Cf. Alfasi a.l.; Kesef Mishneh on Maim. Yad, Talmud Torah, VI, 14.

(18) As a sign of penitence.

(19) So exhibiting his staunch observance of the law, even in the face of loss.

(20) In Babylon.

(21) A pigeon-racer.

(22) Or Ada, a fowler, one who puts up decoy-birds to attract other birds from another's dove-cote. [Ara is connected by Ginzberg, L., with the Assyrian aru, denoting by 'gin', 'snare'; v. Krauss, S., Sanhedrin-Makkot, p. 124.]

(23) Lit., 'ways of peace', but not its law, since birds may, and often do change their homes of their own will. According to strict law, these birds are considered as semi-wild, and therefore ownerless. Yet it is robbery on account of 'the ways of peace'.

(24) How does he answer this objection?

## Talmud - Mas. Sanhedrin 25b

'I feel certain that I know more [than my opponent], [and so I am sure to win]; but where he relies on his pigeon's ability, I should say [that the gain is] not [illegal].<sup>1</sup> Again, had the Mishnah dealt only with a case where he relies on his pigeon's ability. [I might have assumed that only then was the gain illegal], as he might have thought: 'Surely winning the race depends on the use of the rattle,<sup>2</sup> and I am the more skilled in its use;' but where he depends on his own abilities, I might have said that [the gain is] not [illegal].<sup>3</sup> Hence both are necessary.

An objection is raised: Dice-players include the following: Those who play with checkers,<sup>4</sup> and not only with checkers, but even with nut-shells and pomegranate peel.<sup>5</sup> And when are they considered to have repented?<sup>6</sup> When they break up their checkers and undergo a complete reformation, so much so, that they will not play even as a pastime.<sup>7</sup> A usurer: this includes both lender and borrower.<sup>8</sup> And when are they judged to have repented? When they tear up their bills and undergo a complete reformation, that they will not lend [on interest] even to a Gentile. Pigeon trainers: that is those who race pigeons,<sup>9</sup> and not only pigeons, but even cattle, beasts, or other birds. When may they be reinstated? When they break up their pegmas<sup>10</sup> and undergo a complete reformation, so that they will not practise their vice even in the wilderness.<sup>11</sup> Sabbatical traders are those who trade in the produce of the Sabbatical year. They cannot be rehabilitated until another Sabbatical year comes round and they desist from trading.<sup>12</sup> Whereon R. Nehemia said: They [the Rabbis] did not mean a mere verbal repentance, but a reformation that involves monetary reparation. How so? He must declare, 'I, so and so, have amassed two hundred zuz by trading in Sabbatical produce, and behold, here they are made over to the poor as a gift.<sup>13</sup> At any rate, cattle too are mentioned.<sup>14</sup> Now, on the view that it means pigeon racing, it is correct, for racing of beasts, is also possible. But if it means 'an Ara', are cattle suited to this [viz. to decoy other beasts]? — Yes, in the case of the wild ox,<sup>15</sup> on the view that this is a species of cattle. For we have learnt:<sup>16</sup> A wild ox is a

species of cattle; R. Jose said: It is a wild animal.<sup>17</sup>

A Tanna taught: [To those enumerated in the Mishnah] were added robbers and those who compel a sale.<sup>18</sup> But are not robbers [disqualified] by Biblical law?<sup>19</sup> — [Yes, but] it [the addition] was necessary in respect of one who appropriates the finds of a deaf-mute, an imbecile, or a minor.<sup>20</sup> At first it was thought that this was of infrequent occurrence,<sup>21</sup> or [that such appropriation was robbery only] judged by neighbourliness in general:<sup>22</sup> but when it was seen that after all it was someone else's property<sup>23</sup> that they seized,<sup>24</sup> the Rabbis disqualified them.

‘Those who compel a sale:’ At first they thought, They do, in fact, pay money, and their pressure is incidental.<sup>25</sup> But when they observed that they deliberately seized the goods,<sup>26</sup> they made this decree against them.

A Tanna taught: They further added to the list, herdsmen,<sup>27</sup> tax collectors and publicans.<sup>28</sup>

‘Herdsmen’: At first they thought that it was a question of mere chance,<sup>29</sup> but when it was observed that they drove them there intentionally, they made the decree against them.

‘Tax collectors and publicans:’ At first they thought that they collected no more than the legally imposed tax. But when it was seen that they overcharged, they were disqualified.

Raba said: The ‘herdsmen’ whom they [the Rabbis] refer to, include the herdsmen of both large and small cattle, [i.e both cowherds and shepherds]. But did Raba actually say so? Did he not say: Shepherds are disqualified only in Palestine, but elsewhere they are eligible; while cowherds are qualified even in Palestine?<sup>30</sup> — That applies to breeders.<sup>31</sup> Logic too supports this. For we learnt: [If one says,] I HAVE CONFIDENCE IN THREE COWHERDS etc. [they are acceptable].<sup>32</sup> Surely [that implies that they are normally ineligible] for witnesses? — No: for judges.<sup>33</sup> This is also evident from the expression: THREE COWHERDS; for if it means, qualified as witnesses, why three? What then: it refers to judges? Then why particularly cowherds; the same applies to any court of three men unversed in law?<sup>34</sup> — He [the Tanna] means this: Even such as these, who are rarely to be found in populous areas.<sup>35</sup>

Rab Judah said: A herdsman in general<sup>36</sup> is ineligible, while a tax collector in general is eligible.<sup>37</sup>

R. Zera's father acted as tax collector for thirteen years. When the Resh Nahara<sup>38</sup> used to come to a town, if he [R. Zera's father] saw the scholars [of the city] he would advise them, Come my people, enter thou into thy chambers.<sup>39</sup> And when he saw the other inhabitants of the town he would say to them: The Resh Nahara is coming to the city, and now he will slaughter the father in the presence of the son, and the son in the presence of the father;<sup>40</sup>

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(1) Since he made the promise notwithstanding the doubtfulness of the issue.

(2) By which the race is started and the pigeon spurred on.

(3) As the promise might have been made with serious intent.

(4) פּפּפּים (\*\* = pebble), polished blocks or stones.

(5) These latter were probably employed as a temporary means for gambling when proper dice were not obtainable.

(6) And thus become qualified again to be witnesses and judges.

(7) Lit., ‘for nothing’.

(8) V. p. 144, n. 9.

(9) So the Aruch. Rashi, however, translates: Those who train pigeons to fight with each other — probably a form of cock-fighting.

(10) A fixture made of boards; a wooden contrivance that opened and shut itself, [a trap (R. Han.), or a rattle to spur on the pigeons (Rashi).]

- (11) Where there is no one to see or pay. According to the view that 'pigeon trainer' means an ara, the meaning would be: 'Even in the place far from civilisation, they would not put up their pegmas' (Rashi).
- (12) E.g., leave their fields free to the poor.
- (13) V. Tosef. Sanh. V.
- (14) Parallel with pigeons, as being trained for racing.
- (15) It would appear that these were caught, domesticated, and then used to decoy beasts, also semi-domesticated and possessing owners, on perhaps similar lines to elephant hunting and taming.
- (16) Kil. VIII, 6.
- (17) Cattle and wild animals must not be mated with one another.
- (18) Against the desire of the owner, even though they pay fairly.
- (19) On the basis of Ex. XXIII, 1.
- (20) Under the age of thirteen for males, and twelve for females.
- (21) Which did not call for a specific legal provision.
- (22) But not by Biblical law, because these have no legal powers of acquisition or possession, and therefore, Biblically speaking, their finds do not belong to them. Nevertheless, it is obvious that to enforce this in practice would lead to strife and a feeling of grievance, and hence the Rabbis conferred upon them the power of effecting possession. Thus, since such appropriation was not robbery in the Biblical sense, it was thought unnecessary to impose disqualification on its account.
- (23) Though only by Rabbinical law, still, the ruling of the Rabbis was fully binding.
- (24) And that it was greed for money that tempted them to transgress the laws.
- (25) Yet perhaps the owners were willing to sell all the same.
- (26) Without the owners' agreement to the sale.
- (27) Because they allowed cattle to graze on other people's lands. This law applies only to graziers of their own cattle, but not to hired herdsmen, for it is taken for granted that a man does not trespass unless material benefit accrues to him. Cf. B.M. 5b.
- (28) Government lessees who collected customs duties, market tolls and similar special imposts, thus helping the Romans to exact the heavy taxes imposed upon the Jews. Hence these men were classed with robbers.
- (29) That their cattle grazed upon other people's land.
- (30) V. B.K. 79b and discussion in Gemara.
- (31) Who stable their cattle. Thus only shepherds are disqualified, since sheep cannot be kept tethered.
- (32) Supra 24a. From which it follows that they are usually disqualified.
- (33) Who must be persons learned in the law.
- (34) Who are normally ineligible to act as judges.
- (35) And so have little experience of ordinary human affairs; yet they are eligible by mutual agreement.
- (36) I.e., of whom it is not known whether he trespasses or not. V. p. 148, n. 5.
- (37) Unless it is definitely known that he is making exorbitant demands in taxation.
- (38) ריש נהרא lit., 'head of the river' — chief of the district bordered by a river or canal.
- (39) Isa. XXVI, 20; i.e., hide, so as to avoid giving the impression that the town was largely populated, lest it be heavily taxed.
- (40) I.e., will collect heavy taxes.

## **Talmud - Mas. Sanhedrin 26a**

whereupon they all hid themselves. When the officer arrived [and rebuked him for failing in his duty,] he would say: Of whom shall I make the demand?<sup>1</sup>

Before he died, he said: Take the thirteen ma'ahs<sup>2</sup> that are tied in my sheets and return them to so and so, for I took them from him [by way of tax] and have had no need for them.

R. SIMEON SAID, AT FIRST . . . GATHERERS OF THE PRODUCE OF THE SABBATICAL YEAR. What does he mean? — Rab Judah said: This; at first they [the Rabbis] ruled that gatherers of the Sabbatical produce<sup>3</sup> are eligible, but traders in it are not. But when they saw that large

numbers offered money to the poor,<sup>4</sup> who then went, gathered the produce and brought it to them, they revised the law and enacted that both [gatherers and traders] are ineligible. The sons of Rehabah<sup>5</sup> objected to this: Does this mean, WHEN THE OPPRESSORS GREW IN NUMBER? It should then have been worded: When the traders grew in number! But we may explain it thus: At first they ruled that both [even gatherers] were ineligible. But when THE OPPRESSORS GREW IN NUMBER, viz., the [collectors of] Arnona<sup>6</sup> (judging by R. Jannai's proclamation, 'Go and sow your seed [even] in the Sabbatical year, because of the [collectors of] Arnona,')<sup>7</sup> they revised the law and enacted that only traders were disqualified but not gatherers.<sup>8</sup> R. Hiyya b. Zarnuki and R. Simeon b. Jehozadak once went to Assia<sup>9</sup> to intercalate the year.<sup>10</sup> They were met by Resh Lakish, who joined them, saying, 'I will come and see their procedure.'<sup>11</sup> On the way, he saw a man ploughing, and remarked to them, 'That man who is ploughing is a priest.'<sup>12</sup> But they replied, 'Can he not say: I am an imperial servant<sup>13</sup> on the estate?' Further on he saw a man pruning his vineyard, and again observed, 'That pruner is a priest.' 'But', they demurred, 'he might say: I need [the twigs] to make a bale<sup>14</sup> ['akkel] for the wine-press, [a legitimate purpose].' 'The heart knows whether it is for 'akkel' or 'akalkaloth [perverseness]', he retorted.<sup>15</sup> — Now, which remark did he make first? Shall we say, his first remark was the one first recorded: then for the other too they could have suggested [the same excuse], 'I am an imperial servant on the estate.' Hence the latter remark must have come first: and only subsequently did he make the other observation. Why was each assumed to be a priest? — Because they [the priests] are suspected of breaking the Sabbatical laws, as it has been taught; If a se'ah of Terumah<sup>16</sup> [accidentally] fall into a hundred se'ahs of Sabbatical produce, it [the Terumah] is neutralised.<sup>17</sup> In case of a lesser quantity [of Sabbatical produce], the whole must be left to rot.<sup>18</sup> Now, we raised the question, Why must it be left to rot? Why not let it be sold to a priest at a price of Terumah<sup>19</sup> less the value of the one se'ah!<sup>20</sup> To which R. Hiyya replied on the authority of 'Ulla: This fact<sup>21</sup> proves that the priests were suspected of violating the laws of the Sabbatical year.<sup>22</sup>

[To resume the narrative.] They said:<sup>23</sup> He is a troublesome person, and so, on reaching their destination, they ascended to the upper chamber,<sup>24</sup> and removed the ladder.<sup>25</sup> Thereupon he [Resh Lakish] went before R. Johanan and asked: Are people suspected of trespassing Sabbatical laws<sup>26</sup> qualified to intercalate the year? But on second thoughts he said: This presents no difficulty, for there is a similar case of three cowherds,<sup>27</sup> upon whose calculations the Rabbis relied. Subsequently, however, he said: There is no comparison between the two cases; there it was the Rabbis who eventually decided<sup>28</sup> and declared the year intercalated,<sup>29</sup> whereas here, it is a confederacy of wicked men,<sup>30</sup> such as may not be counted [on the intercalary board]. R. Johanan replied: That is a misfortune.<sup>31</sup>

When they<sup>32</sup> came before R. Johanan, they complained: He described us as cowherds, and you made no objection whatever.<sup>33</sup> R. Johanan answered: Even had he called you shepherds,<sup>34</sup> what could I have said?

What is [the reference to] 'a confederacy of wicked men'? — [It is as follows:] Shebna<sup>35</sup> expounded [the law] before thirteen myriads,<sup>36</sup> whereas Hezekiah expounded it only before eleven. When Sennacherib<sup>37</sup> came and besieged Jerusalem, Shebna wrote a note, which he shot on an arrow [into the enemy's camp, declaring]: Shebna and his followers are willing to conclude peace; Hezekiah and his followers are not. Thus it is written, For lo, the wicked bend the bow, they make ready their arrow upon the string.<sup>38</sup> So Hezekiah was afraid, and said: Perhaps, Heaven forbid, the mind of the Holy One, blessed be He, is with the majority; and since they wish to surrender, we must do likewise! Thereupon the Prophet came and reassured him: Say ye not a confederacy, concerning all of whom this people do say, A confederacy;<sup>39</sup> it is a confederacy of the wicked, and as such cannot be counted [for the purpose of a decision].

[Later, when] Shebna went to hew out for himself a sepulchre among the sepulchres of the house of David, the Prophet came and said to him: What hast thou here and whom hast thou here that thou

hast hewn here a sepulchre? Behold, the Lord will hurl thee down as a man is hurled.<sup>40</sup> Rab observed: Exile is a greater hardship for men than for women.<sup>41</sup>

Yea, He will surely cover thee<sup>42</sup> R. Jose son of R. Hanina said: This teaches that he was stricken with leprosy: here it is written, surely cover; and elsewhere [in reference to a leper] it is said, And he shall cover his upper lip.<sup>43</sup>

He will violently roll and toss thee like a ball into a large country.<sup>44</sup> It has been taught : He [Shebna] sought the shame of his master's house: therefore his own glory was turned to shame.<sup>45</sup> [For] when he went out [on his way to surrender to Sennacherib], Gabriel came and shut the city gate in the face of his servants

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- (1) [The demand here was not for the regular poll-tax, but in respect of a special imposition, v. Obermeyer, op. cit. 237.]
- (2) Small coins, one ma'ah = 1/2 a silver dinar.
- (3) It was permissible to gather Sabbatical produce and keep it as long as the same kind was available for the beasts of the field too. But when that was consumed, private possession was forbidden, and the produce had to be removed from the house and deposited in the fields, where it would be free to all. Now, in the case under discussion, it might have been possible for the gatherers to consume all they had gathered before the 'time of removal', in which case they committed no transgression; therefore they were not disqualified. [Yad Ramah adds 'even if they happened to sell any of the hoard'.]
- (4) The poor could gather from all fields irrespective of the 'time of removal' (cf. Sheb. IX, 8; Nahmanides on Lev. XXV, 7), but only for their personal use. Thus, these wealthy men were disqualified because they virtually bribed the poor to trade therein. According to this, the Mishnah must be explained thus: At first, these were only regarded as gatherers (from the poor), and therefore eligible. But subsequently, when owing to the increase of oppressors (q.v. Mishnah), the practice of making gifts to the poor grew apace, the donors were classed as traders, not merely gatherers, and therefore disqualified (Rashi). [According to Yad Ramah it was the poor who were declared disqualified, as traffickers in Sabbatical produce.]
- (5) [Efo and Abimi, v. supra 17b.]
- (6) An adaptation of annona, the annual income of natural products. Hence taxes paid in kind.
- (7) The observance of the Sabbatical year in post-Temple times was merely Rabbinical and therefore R. Jannai felt justified in abrogating it in the face of dire necessity (Rashi). [The privilege which the Jews enjoyed since the days of Caesar exempting them from taxes in the Sabbatical year (v. Josephus, Ant. XIV, 10, 5-6) was abrogated in the year 261 C.E. V. Graetz IV, 213, and Auerbach, M., Jahrb. d. jud. liter. Gesel. V, 155-188].
- (8) Accordingly, the Mishnah is thus to be interpreted: AT FIRST . . . GATHERERS etc. i.e., even gatherers were classed amongst the ineligible; BUT . . . TRADERS, i.e., only the latter were so designated, but not the former.
- (9) Tosaf. regards it as a district outside Palestine and, since it was thus not qualified as a place for the intercalation of a year (cf. supra 11b), suggests that they must have gone there only for the purpose of calculating. (V. Yeb. 164). It is, however, probably Essa, east of the lake Tiberias, Neub. p. 38. 'Weinstein maintains that it is identical with Callirhoe and its surroundings on the east of the Jordan, near the Dead Sea (Jast.). [Halevy, Doroth, Ie, 787, suggests that Assia was specially chosen for the Intercalation as it was considered a safe place owing to its hot springs which attracted many visitors from far and wide, and the arrival of the Rabbis would not rouse the suspicion of the Romans.]
- (10) From the context it appears that the incident must have happened in a Sabbatical year. But no intercalation could take place in such a year, (v. supra 12a) hence, as has been said, Tosaf. suggests that they must have gone there only for the purpose of making the necessary calculations. But even a Sabbatical year may be intercalated in an emergency. Cf. Yad, Kid. Hahodesh, 4, 16.
- (11) V. supra 11a with reference to Samuel the Small.
- (12) The reason for this statement is given below.
- (13) Heb. אַגְּוֹסְטָנוֹס or אַגְּוֹסְטָנוֹס (Augustanus, Augustanius), a servant in a colonia Augustana (Jast.); an imperial servant, and therefore engaged in permissible labour. [Krauss, Lehnwörter, derives it from \*\*, 'a farmer-tenant.']
- (14) 'A bale of loose texture containing the olive pulp to be pressed' (Jast.).
- (15) The root of both words being 'bend' or 'twist' — i.e. either woven, or crooked.
- (16) V. Glos.

- (17) So that the whole may be eaten by a non-priest. In the case of other forbidden objects, a quantity of permitted food in a ratio of 60-1, is necessary for neutralisation (v. Hul. 98a); but in the case of Terumah, a hundred fold is necessary. Cf. Ter. IV, 7.
- (18) I.e., no one may make use of it. Tosef. Ter. VI.
- (19) Which is lower than that of ordinary produce, owing to the small demand for it, as only priests may consume it.
- (20) Which in any case belonged to the priest. Sabbatical produce may be sold on condition that both the produce itself, and the money paid for it, be consumed before the 'time of removal'.
- (21) That it may not be sold to a priest.
- (22) By benefiting from the produce after the 'time of removal'. This suspicion arose because they claimed that just as Terumah and other consecrated objects were permitted to them, though not to other Israelites, so should Sabbatical produce.
- (23) R. Hiyya b. Zarnuki and R. Simeon b. Jehozadak, on observing that he was ready to find fault.
- (24) Lit., 'roof'. Cf. supra 11a, where it is stated that intercalators met in an upper chamber.
- (25) So as to prevent him from following them.
- (26) Basing this allegation on the ground of their having tried to justify the actions of those mentioned by him as trespassers.
- (27) Who offered information to the Rabbis. V. supra 18b.
- (28) Lit., 'took a majority vote'.
- (29) Notwithstanding the fact that they were aided by the observations of the cowherds, the decision was taken by the Rabbis themselves.
- (30) I.e., the actual Board consists of such.
- (31) I.e., your attack on them is distressing. He thus reproached him for his intolerance.
- (32) R. Hiyya b. Zarnuki and R. Simeon b. Jehozadak.
- (33) Probably they were not aware of his more serious slander.
- (34) Which is a still lower rank: v supra 25b.
- (35) Chamberlain of the Palace of King Hezekiah (Isa. XXII, 15).
- (36) 'Great men', according to others.
- (37) King of Assyria, 705-681 B.C.E. Invaded Judah in the fourteenth year of Hezekiah's reign).
- (38) That they may shoot in darkness against the upright heart i.e., Hezekiah. Ps. XI, 2.
- (39) Isa. VIII, 12.
- (40) Isa. XXII, 16: i.e., will carry thee away with the captivity of a mighty man.
- (41) Deducing this from the verse quoted, 'hurl' referring to exile. Through exile a man loses the sphere of his livelihood, but a woman can assure hers by marriage.
- (42) E. V. 'wind thee round and round' Ibid.
- (43) Lev. XIII, 45.
- (44) Isa. XXII, 18.
- (45) Cf. end of verse 18, Thou shame of thy Lord's house.

## **Talmud - Mas. Sanhedrin 26b**

[who were following him].’ On being asked, ‘Where are your followers’ he answered, ‘They have deserted me.’ ‘Then you were merely ridiculing us’ they (the Assyrians) exclaimed. So they bored holes through his heels, tied him to the tails of their horses, and dragged him over thorns and thistles.

R. Eliezer said: Shebna was a Sybarite. Here it is written, Get thee unto ha-soken [the steward];<sup>1</sup> and elsewhere it is written, And she [the Shunamite] became a sokeneth [companion] unto him.<sup>2</sup>

When the foundations [ha-shathoth] are destroyed, what hath the righteous wrought?<sup>3</sup> Rab Judah and R. ‘Ena [both explained the verse]. One interpreted it thus: If Hezekiah and his followers had been destroyed [by the plot of Shebna], what would the Righteous [sc. God] have achieved?<sup>4</sup> The other: If the Temple had been destroyed, what would the Righteous have achieved?<sup>5</sup> ‘Ulla interpreted it: Had the designs of that wicked man [Shebna] not been frustrated, how would the

righteous [Hezekiah] have been rewarded?<sup>6</sup>

Now, according to the [last] explanation, viz., Had the designs of the wicked man [etc.], it is well: hence it is written, When ha-shathoth are destroyed.<sup>7</sup> The explanation which refers it to the Temple is likewise [acceptable]. For we learnt:<sup>8</sup> A stone lay there [beneath the Ark] ever since the time of the Early Prophets and it was called 'shethiyah'.<sup>9</sup> But as for its interpretation as referring to Hezekiah and his party: where do we find the righteous designated as 'foundations'? — In the verse, For the pillars of the earth are the Lord's and He hath set [wa-yasheth] the world upon them.<sup>10</sup> Alternatively [it may be deduced] from the following, Wonderful is His counsel and great his Tushiyah [wisdom].<sup>11</sup>

R. Hanin said: Why is the Torah called Tushiyah? — Because it weakens the strength of man [through constant study].<sup>12</sup> Another interpretation: Tushiyah because it was given to Moses in secret, on account of Satan.<sup>13</sup> Or again, because it is composed of words, which are immaterial, upon which the world is [nevertheless] founded.<sup>14</sup>

'Ulla said: Anxiety<sup>15</sup> [adversely] affects [one's] learning,<sup>16</sup> for it is written, He abolisheth the thoughts of the skilled [i.e., scholars], lest their hands perform nothing substantial.<sup>17</sup> Rabbah said: [But] if they study it [the Torah] for its own sake, it [anxiety] has no [adverse] effect, as it is written, There are many thoughts in man's heart, but the counsel of the Lord, that shall stand:<sup>18</sup> counsel in which there is the word of God [i.e., study of the Torah] will stand for ever [under all circumstances].

R. JUDAH SAID: WHEN etc. R. Abbahu said in R. Eleazar's name: The halachah rests with R. Judah. R. Abbahu also said in R. Eleazar's name: All [those] enumerated in the Mishnah as ineligible must be proclaimed at the Beth din [as such]. As for a shepherd, R. Aha and Rabina differ therein: one maintains that proclamation must be made; the other holds that it is unnecessary.<sup>19</sup>

Now, on the view that it is not required, it is correct: hence the dictum of Rab Judah in Rab's name, viz., a shepherd in general is incompetent.<sup>20</sup> But according to the view that a proclamation is necessary, what is meant by 'a shepherd in general is incompetent'?<sup>21</sup> — That in general<sup>22</sup> he is proclaimed so.

A certain deed of gift was witnessed by two robbers. Now, R. Papa b. Samuel wished to declare it valid, since their [the robbers'] ineligibility as witnesses had not been publicly announced. But Raba said to him: Granted that proclamation is required in the case of persons declared only by the Rabbis as robbers;<sup>23</sup> must those defined as such by Biblical law also be proclaimed?<sup>24</sup>

(Mnemonic: Dabar, wa-Arayoth, Ganab).<sup>25</sup>

R. Nahman said: Those who accept charity from Gentiles<sup>26</sup> are incompetent as witnesses;<sup>27</sup> provided, however, that they accept it publicly, but not if they accept it in private. And even if publicly [accepted], the law is applicable only if, when it was possible for them to obtain it privately they yet degraded themselves by open acceptance. But where [private receipt] is impossible, it [public acceptance] is vitally necessary.<sup>28</sup>

R. Nahman said: One who is suspected of adultery is [nevertheless] eligible as a witness. Said R. Shesheth: Answer me,<sup>29</sup> Master; forty stripes on his shoulders,<sup>30</sup> and yet [you say] he is eligible!<sup>31</sup> Raba observed: Even R. Nahman admits that he is incompetent to testify in matrimonial matters. Rabina — others state R. Papa — said: That is only where his evidence is to free her;<sup>32</sup> but if it is to bind her,<sup>33</sup> there is no objection [to him]. But is this not obvious?<sup>34</sup> — I might think that he would prefer this,<sup>35</sup> even as it is written, Stolen waters are sweet,<sup>36</sup> therefore he teaches us that as long as



she is in her present [unmarried] state, she is even more within his reach.<sup>37</sup>

R. Nahman said further: One who steals [produce from the fields] in Nisan, and [fruit from the orchards] in Tishri<sup>38</sup> is not regarded as a thief<sup>39</sup>. But this is only in case of a metayer,<sup>40</sup> where the quantity is small and the produce is ripe<sup>41</sup> [and no longer needs tending].

One of R. Zebid's farm-labourers' stole a kab of barley, and another a cluster of unripe dates. So he disqualified them [from acting as witnesses].

Certain grave diggers buried a corpse on the first day festival 'Azereth<sup>42</sup> so R. Papa excommunicated them, and disqualified them as witnesses.<sup>43</sup> R. Huna the son of R. Joshua, however, removed their disqualification; whereupon R. Papa protested: 'But surely, they are wicked men!' — 'They might have thought that they were doing a good deed!' 'But did I not excommunicate them?'<sup>44</sup> — They might have thought that the Rabbis thereby effected expiation for them.<sup>45</sup>

It has been stated:

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(1) Isa. XXII, 15.

(2) I Kings I, 4. A play on the different meanings of the verb **סָבַח**, to serve, to administer, to associate, or to be a companion of one (of the opposite sex).

(3) Ps. XI, 3.

(4) Where is the fulfilment of the promise to him?

(5) Where is God's miraculous power? people would ask.

(6) He translates: For the designs (of the wicked) shall be overthrown; (otherwise) what would the Righteous have achieved?

(7) From the verb **שִׁית** 'to set' — set one's thoughts. Cf. Ex. VII, 23. In some editions there follows, 'as it is written, And David laid (wa-yasheth) those words on his heart.' This verse, however, appears nowhere in Scripture, and Rashi here quotes Ex. VII, 23, but not this phrase. Hence Maharsha a.l. deletes it as an erroneous interpolation.

(8) Yoma 53b.

(9) **שְׂתִיָּה**, i.e., foundation stone. 'Ha-shathoth' therefore, may refer to the foundations of the Temple.

(10) I Sam. II, 8. And the righteous are considered the foundations of the world. Cf. Prov. X, 25: But the righteous are the foundation of the universe. (This verse could not be quoted, as a different word is used there.)

(11) Isa. XXVIII, 29. Referring to the Torah, upon the teachings of which the world was established. **תוֹשִׁיָּה** is here connected with **שִׁתָּה**.

(12) Connecting **תוֹשִׁיָּה** with **כַּתְשֵׁת**, to weaken.

(13) Satan was purposely kept in ignorance of the giving of the law, since he had opposed its being delivered into Moses's hands, on the ground that forty days later the Israelites would violate it by worshipping the golden calf. Cf. Tosaf. Shab. 89a quoting Midrash.

(14) Tohu-shuthath, indicated by the syllables composing Tushiyah **תו** — **תוהו** void, **שִׁת** — **שִׁת** foundation.

(15) Lit., 'thought' — about one's livelihood etc.

(16) Lit., 'words of the Torah'.

(17) Job V, 12; i.e., he frees them from thoughtful anxiety (by providing them with food), for otherwise they could not progress in their studies. Both Rashi and Tosaf. offer additional interpretations.

(18) Prov. XIX, 21.

(19) For if he had trespassed in other persons' fields, it would be known.

(20) Cf. B.M. 5b.

(21) Once a proclamation is made, he ceases to be 'a shepherd in general' and becomes an individualized person.

(22) Even if there are no witnesses that he has led his flocks into other people's fields.

(23) Such as those enumerated in the Mishnah.

(24) Surely not! hence the deed is invalid. A robber, according to Biblical law, is one who, without judicial sanction, has seized the movable property of another by force or intimidation. Cf. B.K. 79b.

(25) On mnemonics v. p. 21, n. 5. The phrase reads: A Thing, and Incest, Theft.

- (26) Lit., 'Those who eat of a thing unnamed (other).' **דבר אחר** is the colloquial term for pork; the whole expression is metaphorical, and is meant as translated in the text. (V. Rashi and Tosaf.).
- (27) For such an action is regarded as a profanation of 'The Name', and he who performs it is regarded as wicked.
- (28) Lit., 'it is a matter of life'. Cf. Yoma 82a, 'Nothing stands in the way of saving life'.
- (29) So Rashi. Jast.: 'Be slow', 'beg pardon'.
- (30) I.e., even though he is liable to flagellation.
- (31) Surely not! Though by Biblical law punishment could not be imposed without evidence and warning, it was nevertheless meted out on the ground of strong suspicion. Cf. Kid. 81a where Rab said: We impose the punishment of lashes even on the ground of an evil report alone, as it is written, For it is no good report which I hear (I Sam. II, 24).
- (32) E.g., when he testifies to the death of her husband or that she was divorced from him. His purpose is then quite obvious, and therefore his evidence is suspect.
- (33) Lit., 'to bring her into' (the married state).
- (34) Since no selfish interests can animate him.
- (35) I.e., to keep her in a forbidden state to him, for then her occasional company would be more pleasurable.
- (36) Prov. IX, 17.
- (37) And that this factor is bound to outweigh the other; therefore his evidence is admissible.
- (38) Its these months cereals and fruits ripen respectively.
- (39) In respect of bearing witness.
- (40) Who works for a certain share in the produce.
- (41) Lit., 'its work is completed.'
- (42) **עצרת** solemn assembly. The Talmudic name for the Feast of Weeks. (Cf. Lev. XXIII, 9 ff). Burial is forbidden on the first day of a Festival. Cf. Bez. 6a top.
- (43) Since they violated the law for the sake of gain. It should be observed that this is the main test of eligibility.
- (44) That should have indicated to them that their action was not right; yet they repeated their action.
- (45) For the desecration of the day, though their act in itself was meritorious.

## Talmud - Mas. Sanhedrin 27a

A witness who was proved a Zomem:<sup>1</sup> Abaye ruled, His disqualification is retrospective;<sup>2</sup> Raba maintained, He is disqualified only for the future.<sup>3</sup> Abaye makes the disqualification retrospective: he was a wicked man from the time of testifying [falsely], and the Torah says: Do not accept the wicked as witness.<sup>4</sup> Raba holds that he is disqualified prospectively [only]: now, the entire law of a falsified witness is anomalous; for [it is two against two, then] why accept the evidence of one pair rather than that of the other? Therefore it can take effect only from the time that this anomalous procedure is employed. Some say that Raba really agrees with Abaye; yet why does he rule [that the incompetence is] prospective? — Because of the purchaser's loss.<sup>5</sup> Wherein do they [the two views on Raba's ruling] differ? — A difference arises where two have testified against one,<sup>6</sup> or where he was disqualified on the grounds of robbery.<sup>7</sup> And R. Jeremiah of Difti related that R. Papi ruled in a certain case in accordance with Raba's view; while Mar son of R. Ashi said: The law rests with Abaye. And, [concludes the Talmud], the law rests with Abaye in Y'AL KGM.<sup>8</sup>

As for a Muma<sup>9</sup> who eats nebelah<sup>10</sup> merely to satisfy his greed,<sup>11</sup> all agree that he is disqualified.<sup>12</sup> If his purpose is provocative;<sup>13</sup> Abaye said, He is ineligible; Raba ruled, He is eligible. Abaye said: He is ineligible, because he is classed with the wicked, and the Torah said: Do not accept the wicked as witness.<sup>14</sup> Raba ruled: He is eligible, because he must have been wicked for the sake of gain [hamas].<sup>15</sup>

An objection is raised: Do not accept the wicked as witness; [this means,] Do not accept a despoiler<sup>16</sup> as witness; e.g., robbers, and those who have trespassed by [false] oaths.<sup>17</sup> Surely this refers to both a vain oath<sup>18</sup> and an oath concerning money matters?<sup>19</sup> — No; in both cases,<sup>20</sup> oaths concerning money matters are alluded to; then why state 'oaths' [plural]? — [To indicate] oaths in general.<sup>21</sup>

An objection is raised: Do not accept the wicked as witness; [this means,] Do not accept a despoiler as witness, e.g., robbers and usurers.<sup>22</sup> This refutation of Abaye's view is unanswerable.

Shall we say that their difference is identical with that of Tannaim? [For it has been taught:]<sup>23</sup> A witness proved a Zomem is unfit [to testify] in all Biblical matters: this is R. Meir's view. R. Jose said: That is only if he has been proved a Zomem in capital cases;<sup>24</sup> but if in monetary cases, his evidence is valid in capital charges. Shall we affirm, Abaye agrees with R. Meir, and Raba with R. Jose? 'Abaye agrees with R. Meir,' who maintains that we impose [disqualification] in respect of major cases as a result of a minor transgression.<sup>25</sup> 'And Raba<sup>26</sup> with R. Jose,' who says, We impose [disqualification] in respect of minor matters<sup>27</sup> as a result of a major transgression,<sup>28</sup> but not the reverse! — No! On R. Jose's opinion, there is no dispute at all.<sup>29</sup> They differ only on the basis of R. Meir's opinion. Abaye certainly agrees with R. Meir. But Raba [may argue]: So far R. Meir gives his ruling only in the case of a Zomem in a monetary case, who is evil in the sight of God and man. But in this case, since he is evil in the sight of God alone,<sup>30</sup> even R. Meir does not disqualify him. And the law rests with Abaye. But has he not been refuted? — That [Baraita which refuted him] represents the opinion of R. Jose.<sup>31</sup> Granted; yet even so, [wherever] R. Meir and R. Jose [are in dispute], the halachah rests with R. Jose!<sup>32</sup> — In the other case it is different, for the Tanna has taught R. Meir's view anonymously.<sup>33</sup> And where does this occur? — [As we find] in the case of Bar Hama, who committed murder. The Resh Galutha<sup>34</sup> said to R. Abba b. Jacob:<sup>35</sup> Go and investigate the matter, if he is definitely the murderer, dim his eyes.<sup>36</sup> Two witnesses thereafter appeared and testified to his definite guilt; but he [Bar Hama] produced two other witnesses, who gave evidence against one of the accusing witnesses. One deposed: In my presence this witness stole a kab of barley; the other testified: In my presence he stole

(1) V. Glos. This refers to a case where a period elapsed between his giving of evidence and being proved a Zomem.

(2) I.e., from the time he began to give his evidence in court, and all the evidence he has given in the intervening period becomes invalidated.

(3) I.e., from the time when he is proved a Zomem.

(4) An interpretation of Ex. XXIII, 1.

(5) If purchasers have transacted business through documents signed by the Zomemim, having been unaware of their disqualification, they would become involved in considerable loss, should their evidence be declared invalid.

(6) Rashi: two pairs against one pair, each of the former refuting the testimony of a single member of the latter; in this case there is no anomaly, hence disqualification is retrospective. Tosaf.: there are two witnesses refuting one, leaving the other unaffected. The reason based on the injury to purchasers, on both interpretations, however, is still valid.

(7) Here again the argument that it is an anomalous procedure no longer holds good. It should be observed that, strictly speaking, the term Zomem is inapplicable in that case, but it is here used rather loosely in the sense of a witness proved to have been ineligible. Tosaf. however, gives this explanation: A and B attested a certain act, claiming that they had witnessed it together, whereupon C and D declared A a Zomem, but leaving the testimony of B unaffected. Now, in point of fact, since A and B jointly testified, they both (including B), deny the allegation of C and D, and therefore it is an anomaly that credence is given to the latter pair. Here, however, B too was proved to be incompetent, though on other grounds, viz., robbery; therefore it is no anomaly that the testimony of C and D against A should be accepted.

(8) י"ע"ל קג"ם. Six decisions scattered throughout the Babylonian Talmud in which Abaye differs from Raba, and where the law rests with the former. Y'AL KGM is composed of six initial letters of words which indicate various legal terms, YOD (י) 'אוש'י, 'abandonment of lost article,' B.M. 21b. 'AYIN (ע) 'עד זומם', referred to here. LAMED (ל) 'קידושין שלא נמסרו לביאה', 'Er. 15a. KOF (ק) 'לחי העומד מאלין', 'Betrothal which cannot result in actual cohabitation,' Kid. 51a. GIMEL (ג) 'גילוי דעת בגיטין', 'The act of revealing one's attitude indirectly in regard to a Get,' Git. 34a. MEM (מ) 'מומר', A Pervert, in the following discussion.

(9) מומר (from מור convert, exchange), hence a pervert; an apostate; an open opponent of the Jewish law; a non-conformist. The word Mumar is also employed by the Talmud to designate one who transgresses a Biblical command in general.

- (10) **נבילה** carrion, an animal that died a natural death or which was not slaughtered according to ritual law.
- (11) I.e., his greed for money, because it is cheaper.
- (12) Because he is classed with the wicked, who commit their misdeeds for gain.
- (13) I.e., to defy, and show his contempt for, the law.
- (14) Cf. Ex. XXIII, 1.
- (15) **זומם**, 'violence', 'plunder'. Cf. Ex. XXIII, 1, 'to be a witness of violence' (E.V. 'unrighteous witness'). I.e., such as a robber; whereas in this case his action is prompted by other motives.
- (16) One who violates another's rights to satisfy his own greed.
- (17) I.e., perjurers.
- (18) E.g., an oath that a pillar of stone is made of stone, which is a needless oath.
- (19) As follows from the plural, oaths. Hence the motive for his evil act need not be lust for money, in contradistinction to Raba's opinion.
- (20) Actually, only one case is mentioned, viz., oaths. But the phrase is used on the questioner's hypothesis (v. n. 6), and the answer proceeds to demolish that assumption.
- (21) I.e., such as are made in litigation.
- (22) Hence his wickedness must, to disqualify him, have been prompted by gain for money only, in contradistinction to the opinion of Abaye.
- (23) Tosef. Mak. I.
- (24) For, having been found dishonest in grave matters, his evidence is all the more suspect in matters less grave.
- (25) And the case under discussion is similar: that of a provocative Mumar only; nevertheless, he is declared incompetent to testify in a civil suit, though false evidence in such a case is evil both in the sight of God and man, and hence constitutes a greater transgression.
- (26) Who maintains that the evidence of a man who transgressed a ritual law (an evil in the sight of God alone) need not be doubted in a civil case.
- (27) E.g., is the case of a Zomem in monetary cases.
- (28) E.g., in the case of a Zomem in capital cases.
- (29) Abaye can certainly not agree with R. Jose, for he can in no wise hold that a Zomem in civil cases is eligible in capital cases.
- (30) Such as is involved in the open defiance of the ritual law by eating Nebelah.
- (31) In accordance with the preceding argument (cf. n. 3). Abaye, however, rules as does R. Meir.
- (32) Cf. 'Er. 46b. This is a general rule.
- (33) It is a general principle that if an individual view is stated anonymously, as though it were a general opinion, the halachah rests with it.
- (34) Exilarch.
- (35) [Read with Ms. M., R. Aha b. Jacob, v. D.S. a.l.]
- (36) Perhaps, 'blind him,' 'put out his eyes.' Capital punishment was abolished four decades before the fall of Jerusalem (cf. infra 41a). Others, however, interpret it of Kenas, i.e., confiscation of property.

## Talmud - Mas. Sanhedrin 27b

the handle of a burtya.<sup>1</sup> Then [R. Abba] said to the [defendant]: What is thy intention: [to disqualify this man] in accordance with the opinion of R. Meir?<sup>2</sup> But wherever R. Jose is at variance with R. Meir, the halachah rests with R. Jose; and R. Jose ruled: One [a witness] who was proved a Zomem in a civil suit is competent [to testify] in capital charges. Said R. Papi: That [the rule] is only where the Tanna has not stated R. Meir's view anonymously. Here, however, he has. Whence do we infer this?<sup>3</sup> Shall we say, from what we learnt? 'Whoever is competent to try capital cases, is also competent to try civil suits'<sup>4</sup> Now, whose opinion is this? Shall we say, R. Jose's? But what of a witness proved a Zomem in monetary cases, who, even though incompetent in civil suits, is nevertheless eligible in capital charges? Hence it must surely express the opinion of R. Meir.<sup>5</sup> But why so? Perhaps it [the Mishnah] refers to those who are disqualified on account of [defective] family descent?<sup>6</sup> For should you not agree, what of the latter clause of the Mishnah, viz., One may be competent to try monetary cases, but incompetent for capital cases? Now, why is he incompetent:

because he was proved a Zomem in a capital charge? Is he then competent to adjudicate a monetary case? But all agree that he is ineligible! Hence it must refer to disqualification through [some defect of] family descent.<sup>7</sup> Similarly, here too [the first clause of the Mishnah] it must refer to this type of disqualification!<sup>8</sup> — But this is where the Tanna stated it anonymously, for we learnt:<sup>9</sup> These are ineligible [to be witnesses or judges]: a gambler with dice, usurers, pigeon trainers, traders in Sabbatical produce, and slaves. This is the general rule: For all testimony for which a woman is ineligible, they too are ineligible.<sup>10</sup> Now, whose opinion is this? Shall we assume, R. Jose's? But there is the case of testimony in capital charges, for which a woman is not eligible, whilst they are!<sup>11</sup> Hence it must surely express the opinion of R. Meir.<sup>12</sup> Thereupon Bar Hama arose and kissed his [R. Papi's] feet, and undertook to pay his poll-tax for him for the rest of his life.<sup>13</sup>

MISHNAH. NOW, THE FOLLOWING ARE REGARDED AS RELATIONS;<sup>14</sup> A BROTHER,<sup>15</sup> FATHER'S BROTHER, MOTHER'S BROTHER, SISTER'S HUSBAND, THE HUSBAND OF ONE'S PATERNAL OR MATERNAL AUNT, A STEP-FATHER, FATHER-IN-LAW, AND BROTHER-IN-LAW [ON THE SIDE OF ONE'S WIFE]; ALL THESE WITH THEIR SONS AND SONS-IN-LAW; AND ONE'S STEPSON HIMSELF.<sup>16</sup>

R. JOSE SAID: THIS IS [THE TEXT OF] R. AKIBA'S MISHNAH,<sup>17</sup> BUT THE FIRST MISHNAH<sup>18</sup> [READS]: AN UNCLE AND HIS SON<sup>19</sup>, AND WHOEVER IS ELIGIBLE TO BE ONE'S HEIR.<sup>20</sup> AND ALL WHO WERE RELATED AT THAT MOMENT.<sup>21</sup> IF ONE HAD BEEN RELATED, BUT SUBSEQUENTLY CEASED TO BE SO,<sup>22</sup> HE IS ELIGIBLE. R. JUDAH HOLDS; EVEN IF ONE'S DAUGHTER HAS DIED, BUT HE [THE SON-IN-LAW] HAS HAD CHILDREN BY HER, HE STILL RANKS AS A KINSMAN.

FURTHER, A FRIEND OR AN ENEMY [IS INELIGIBLE]. BY 'FRIEND' ONE'S GROOMSMAN<sup>23</sup> IS MEANT; BY 'ENEMY', ANY MAN WHO, BY REASON OF ENMITY, HAS NOT SPOKEN TO ONE FOR THREE DAYS, IS UNDERSTOOD. TO THIS THE RABBIS REPLIED: ISRAELITES, AS A RULE, ARE NOT TO BE SUSPECTED ON SUCH GROUNDS.<sup>24</sup>

GEMARA. Whence is this law derived? — From what our Rabbis taught: The fathers shall not be put to death for [on account of] the children.<sup>25</sup> What does this teach? Is it that fathers shall not be executed for sins committed by their children and vice versa? But is it not already explicitly stated, Every man shall be put to death for his own sin?<sup>26</sup> Hence, Fathers shall not be put to death on account of children, must mean, fathers shall not be put to death on the testimony of their sons and similarly, and sons shall not be put to death on account of fathers, means, nor sons on the testimony of their fathers.

[To revert to the text.] Are not children then to be put to death for the sins committed by their parents? Is it not written, Visiting the iniquities of the fathers upon the children?<sup>27</sup> — There the reference is to children who follow their parents' footsteps.<sup>28</sup> As it has been taught: And also in the iniquities of their parents shall they pine away with them,<sup>29</sup> [i.e.,] if they hold fast to the evil doings of their fathers. Thou sayest thus: Yet perhaps it is not so, but true even if they do not hold fast to their [evil] doings?<sup>30</sup> When Scripture states, Every man shall be put to death for his own sin,<sup>31</sup> [it must refer to those who do not hold fast to their fathers' ways. Then how shall we interpret, And also in the iniquities of their fathers shall they pine away with them?]<sup>32</sup> — As referring to those who continue in the ways of their fathers.<sup>33</sup> But do they [really] not [suffer for the sins committed by others]? Is it not written, And they shall stumble one upon another,<sup>34</sup> meaning, One [will stumble] through the sin of the other, which teaches that all are held responsible for one another?<sup>35</sup> — There the reference is to such as had the power to restrain [their fellowmen from evil] but did not.

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(1) בורטיא; a corruption of verutum — a spit; spear; javelin.

(2) That the evidence of a Zomem in monetary cases is also doubted in capital cases.

- (3) For it is nowhere explicitly taught.
- (4) Nid. 49b.
- (5) According to whom the evidence of one proved a Zomem in monetary cases is also unacceptable in capital charges.
- (6) The family tree of judges in capital cases must be without defect. V. infra 36b.
- (7) In which instance they may be competent in monetary, through incompetent in capital, cases.
- (8) And so, in reality, it may express the opinion of R. Jose.
- (9) Supra 24b; R. H. 22a.
- (10) 'Ed. II, 7.
- (11) In accordance with his ruling that one whose wickedness has been prompted by monetary gain is not disqualified from testifying in capital cases.
- (12) This then is the anonymous Mishnah taught in accordance with R. Meir. Hence the evidence of evil-doers by reason of their monetary greed is invalid in capital charges; hence one of the witnesses against Bar Hama was disqualified.
- (13) In recognition of his successful defence of his case.
- (14) Of any of the parties, and so incompetent to act as judge or witness, according to an earlier Mishnah.
- (15) The editio princeps of the Mishnah adds (and begins with) ONE'S FATHER.
- (16) I.e., he alone, and not his children etc.
- (17) V. n. 7.
- (18) A collection of Halachoth the compilation of which began, according to Gaonic accounts, as early as Hillel and Shammai. When owing to political disorders many Halachoth of the Mishnah had been forgotten and their words had become a subject of controversy, the one Mishnah developed into many. This multiplication of Mishnahs occurred during the period of the later Beth Hillel and Beth Shammai. In order to avert the danger which threatened its uniformity a synod was convened in Jabneh to examine differences and to consider revision. But as the mass of material grew and with it the need for a methodical arrangement, R. Akiba undertook the task of sifting the material and editing it systematically in various sections (Sedarim) and treatises (Massekoth). J.E. vol. VIII, p. 610.
- (19) **אביו** is the brother of one's father.
- (20) Cf. B.B. 108a. These words belong, according to Rashi, to the First Mishnah; according to Maimonides and Bertinoro, to the Mishnah of R. Akiba.
- (21) When the incident which they wished to attest occurred, though they are no longer so at the time they wish to testify in court.
- (22) Lit., 'became estranged', e.g., a son-in-law whose wife, the litigant's daughter, had died, or had been divorced before the incident occurred.
- (23) 'Best man' at marriage. Generally an intimate friend of one's youth, v. B.B. (Sonc. ed.) p. 618, n. 10.
- (24) I.e., they are not suspected of giving false evidence through friendship or enmity; hence they are competent to testify. Nevertheless, they cannot act as judges, because it is difficult for them to be unbiassed and impartial.
- (25) Deut. XXIV, 16. Fathers and sons are unnecessarily in the plural. The Rabbis deduce from this that the text refers to fathers who are brothers, whose relationship is next to that of father and son, so that not only the kinship between one another but also that between one and the son of the other debars from giving evidence. The following kinsmen are thus derived from the text: Father, son, brother and nephew. V. infra.
- (26) Deut. XXIV, 16, cf. Lev. XXVI, 39.
- (27) Ex. XXXIV, 7.
- (28) Lit., 'who hold in their hands the deeds of their parents'.
- (29) Lev. XXVI, 39.
- (30) I.e., that they are still held accountable for their fathers' iniquities.
- (31) Deut. XXIV, 16.
- (32) Lev. XXVI, 39. The passage in brackets is a marginal addition to the text.
- (33) Cf. Ber. 7a.
- (34) Lev. XXVI, 37, lit., 'upon his brother'. The prefix **ב** in **בְּאָדָמוֹ** is here taken in the sense of 'because of'.
- (35) Shewing that the iniquities of one may be borne by the other.

## Talmud - Mas. Sanhedrin 28a

We have thus found that 'fathers'<sup>1</sup> [cannot testify] for the sons [of each other], and vice versa; and

all the more, 'fathers' [cannot testify] in respect of each other.<sup>2</sup> But whence is derived [the inadmissibility of] 'sons' [to give evidence] in respect of 'sons'?<sup>3</sup> — If so [sc. that such evidence is admissible], the text should have read, The fathers shall not be put to death on account of [the evidence of] a son.<sup>4</sup> Why 'sons'?<sup>5</sup> [To teach] that they too [are ineligible] in respect of each other. Thus we have found that 'sons' [are inadmissible] for each other. Whence do we know their inadmissibility [as joint witnesses] concerning others?<sup>6</sup> — Said Rami b. Hama: It is deduced by logic. For it has been taught: Witnesses cannot be declared Zomemim<sup>7</sup> until both are proved Zomemim.<sup>8</sup> Now, should you think that kinsmen<sup>9</sup> are eligible [to testify in cases] concerning strangers, a witness declared a Zomemim<sup>10</sup> might suffer death because of his brother's evidence [which supported his own].<sup>11</sup> Raba demurred: But according to your argument, what of that which we learnt: If three brothers are [separately] supported by another witness,<sup>12</sup> they count as three separate sets of witnesses. But they count as one set in respect of being proved Zomemim.<sup>13</sup> It thus results that the perjured witness must pay money on account of the evidence given by his brother?<sup>14</sup> Hence [it must be assumed that the penalty for] false testimony is brought about through outsiders;<sup>15</sup> so here too, [the penalty for] false testimony comes about through strangers!<sup>16</sup> — But if so,<sup>17</sup> the text should have read: and a son on account of fathers, or, and they on account of the fathers. Why and sons? — To show that 'sons'<sup>18</sup> [are not eligible] in respect of strangers.

We have thus deduced [the exclusion of] paternal relations. Whence do we know [the same] of maternal relations? — Scripture says, 'fathers' twice.<sup>19</sup> Since [the repetition] is unnecessary in respect to paternal relations, we may refer it to maternal relations.<sup>20</sup> Now, we have thus learnt [the exclusion of relatives' evidence] for condemnation.<sup>21</sup> Whence do we know [the same] of acquittal? — Scripture states, they shall be put to death, twice. Since that [the repetition] is unnecessary in respect of condemnation, refer it to acquittal. Again, we have learnt [the exclusion of relatives] in capital cases. Whence is the same known of civil suits? — Scripture says, Ye shall have one manner of law,<sup>22</sup> meaning that the law must be administered similarly in all cases.

Rab said:<sup>23</sup> My paternal uncle, his son and his son-in-law may not bear testimony for me;<sup>24</sup> nor may I, my son nor my son-in-law testify for him. But why so? Does not this involve relationships of the third and the first degrees?<sup>25</sup> whereas we learnt that a relative of the second degree<sup>26</sup> [may not testify] for a relative of the second degree; and also that one of the second degree cannot testify for one of the first;<sup>27</sup> but not that a relative of the third degree may not bear testimony for one of the first? — What is meant by HIS SON-IN-LAW, stated in the Mishnah, is the son-in-law of his [the uncle's] son.<sup>28</sup> But should he not include [instead] his [the uncle's] grandson?<sup>29</sup> — He [the Tanna] teaches us incidentally that the husband bears the same relationships as his wife.<sup>30</sup> But what of that which R. Hiyya taught: [The Mishnah enumerates] eight chief relations<sup>31</sup> who make up the number of twenty-four.<sup>32</sup> But these [on the assumption that a son-in-law of the uncle's son ranks as a relative of the third degree] amount to thirty-two!<sup>33</sup> — But in fact, SON-IN-LAW is literally meant.<sup>34</sup> Why then does he [Rab] designate him the son-in-law of his [the uncle's] son?<sup>35</sup> — Because since his relationship comes from without,<sup>36</sup> he is regarded as one degree further removed.<sup>37</sup> If so, it is a case of the third degree vis a vis the second<sup>38</sup> [which is forbidden], whereas Rab allowed [the testimony of] the second degree to the third!<sup>39</sup> — But Rab agrees with R. Eleazar.<sup>40</sup> For it has been taught: R. Eleazar said: Just as my paternal uncle, his son and son-in-law may not testify for me so the son of my paternal uncle, his son and son-in-law may not testify for me. But still, that includes relatives of the third and the second degrees,<sup>41</sup> whereas Rab permitted the testimony of such relatives!<sup>42</sup> — Rab agrees with R. Eleazar in one point,<sup>43</sup> but differs from him in another.<sup>44</sup>

What is Rab's reason? — Scripture states, Fathers shall not be put to death for sons ['al banim]; and sons . . . :<sup>45</sup> this [the 'and'] teaches the inclusion of another generation [as ineligible to testify]. And R. Eleazar?<sup>46</sup> — Scripture states, 'al banim,<sup>47</sup> implying that the fathers' disqualification is carried over to the sons.<sup>48</sup>

R. Nahman said: My mother-in-law's brother, his son, and my mother-in-law's sister's son, may not testify for me. The Tanna [of the Mishnah] supports this: A SISTER'S HUSBAND; THE HUSBAND OF ONE'S PATERNAL OR MATERNAL AUNT, . . . ALL THESE WITH THEIR SONS AND SONS-IN-LAW [ARE INELIGIBLE AS WITNESSES].<sup>49</sup>

R. Ashi said: While we were with 'Ulla,<sup>50</sup> the question was raised by us: What of one's father-in-law's brother, the father-in-law's brother's son, and the father-in-law's sister's son? — He answered us: We learnt this: A BROTHER, FATHER'S BROTHER, AND MOTHER'S BROTHER . . . ALL THESE WITH THEIR SONS AND SONS-IN-LAW [ARE INELIGIBLE].<sup>51</sup>

It once happened that Rab went to buy

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(1) I.e., who are brothers.

(2) As the exclusion of 'sons' is due only to the kinship of their fathers.

(3) I.e., first cousins. Cf. Mishnah, PATERNAL UNCLE'S SON.

(4) I.e., on the evidence of any brother's son.

(5) In the plural.

(6) I.e., that witnesses who are related to each other may not join in giving evidence in a case concerning strangers.

(7) In the sense that they are punished with the penalty they sought to impose, v. Deut. XIX, 19.

(8) Mak. 5b, cf. Tosef. VI. But otherwise, though their evidence may be dismissed, no penalty is imposed upon the false witness.

(9) Lit., 'sons'.

(10) In a murder case.

(11) For had no one else supported him, he could not, according to the above ruling, have been declared a Zomem. Consequently he would incur the death penalty through his kinsman's testimony.

(12) E.g., in support of a claim to the title of land; v. next note.

(13) V. B.B. 56b. Proof of three years' undisturbed possession of land is sufficient to establish a claim to it (cf. B.B. 28a). The case under consideration is one where each of three brothers testified to one year only, while the other witness who joined them attested possession for the three consecutive years. Thus the evidence of the three sets taken together was adequate proof for establishing the possessor's claim. When, however, collusion is discovered, the three pairs of witnesses are considered as one set, since the evidence of all was necessary before the claim could be established. Therefore no penalty is imposed unless they are all proved Zomemim.

(14) Who would have helped to establish the claim had it not been refuted.

(15) So that it is not the brothers who cause the infliction of punishment.

(16) Hence the difficulty remains; — whence do we know that two kinsmen are inadmissible as witnesses in cases of other persons?

(17) That such evidence is admissible.

(18) I.e., relatives.

(19) The verse might have been written, Fathers shall not be put to death for sons nor they for them.

(20) V. p. 368, n. 7, on this mode of exegesis.

(21) Of which the text explicitly speaks.

(22) Lev. XXIV, 22.

(23) To understand Rab's statement and the others that follow it is necessary to give some explanation of affinity and consanguinity in Talmudic law. Relationships between persons are divided into two categories: (a) relationships between persons governed by the ties of consanguinity, i.e., persons of the same blood either lineally or collaterally; (b) relationships through marriage, i.e., affinity. And on the principle that man and wife are considered as one, the relatives of the one are related to those of the other by affinity. Again, the rules by which kinsfolk are excluded from bearing testimony for or against each other affect only certain degrees of relationship, e.g., relatives in the first degree, such as father and son, or brothers may not testify for or against each other; relatives in the second degree may not testify for or against those of the first degree. e.g., a nephew for his uncle; relatives in the second degree may not testify for or against each other, e.g., first cousins. On the other hand, relatives in the third degree may testify for or against relatives in the first, e.g., a grand-nephew in respect of an uncle (according to Raba in B.B. 128a, in opposition to Rab's opinion here);



and relatives in the third degree may testify for or against relatives in the second degree, e.g., first cousins for second cousins (Rab agrees with this opinion, but not R. Eleazar.) It should be noted that the ineligibility is mutual.

(24) Cf Mishnah. In all these passages, 'for someone' means in a case where that person is a litigant, whether the evidence be in his favour or not.

(25) Rab's son is a grand-nephew' of Rab's uncle; hence, Rab's son is a relative of the third degree to Rab's uncle, who is of the first degree in relation to Rab's father. (N.B. 'First,' 'Second', and 'Third' almost correspond to generations, but not quite, since a father vis a vis his son ranks as first to first.)

(26) I.e., a first cousin.

(27) E. g., his uncle.

(28) The Mishnah is therefore to be explained thus: ALL THESE (which includes an uncle) WITH THEIR SONS AND THEIR (sc. THE SONS') SONS-IN-LAW. Hence this teaches the inadmissibility of relatives of the third degree.

(29) 'Which is a more direct way of stating a third degree of relationship.

(30) Just as the daughter of his uncle's son is a relation of the third degree, so is her husband.

(31) There are actually nine chiefs enumerated, apart from the step-son who is counted by himself. This point will be raised later on; v. infra 28b.

(32) Since each is counted together with his son and son-in-law.

(33) Eight fathers, eight sons, eight grandsons, and eight sons-in-law of the sons.

(34) The uncle's, not the uncle's son's.

(35) [Thus Rashi, in accordance with the reading in our texts which seems to assume that the answer given above, 'What is meant by HIS SON-IN-LAW is the son-in-law of his son still stands as representing the view of Rab. This assumption is however hardly justified. Yad Ramah's text did not seem to contain the words, 'Why then . . . of his son', which certainly makes the reading smoother.]

(36) I.e., through marriage.

(37) Hence, he ranks as a third degree relation, and thus justifies Rab's ruling.

(38) A man and his uncle's son-in-law are in the relationship of the second to the third degree. Thus: If A and B are brothers, then C, A's son, and B are second and first degrees; C and D, B's sons, are two seconds; therefore C and E, B's sons-in-law, rank as second and third (since a son-in-law, according to the last answer, is one degree further removed than a son).

(39) In that he said: I, my son and my son-in-law (a relative of the third degree) may not bear testimony against my uncle; from which it may be inferred that Rab's son (third degree) may bear testimony against the uncle's son (second degree).

(40) In truth, he does not regard the son-in-law as a relative of the third degree, and so the Mishnah does, in fact, contradict him, as explained above. His view, however, is based on R. Eleazar.

(41) C and F (B's grandson) are second and third degrees.

(42) As stated above, v. n. 1.

(43) In that he disqualifies the evidence of a relative of the third degree for a relative of the first.

(44) That of disqualifying a relative of the third degree for one of the second degree.

(45) וְ-בָנִים Deut. XXIV, 16.

(46) Why does he rule that even second and third degrees are inadmissible?

(47) עַל בָּנִים, 'upon', or 'for sons'. עַל means upon or for

(48) I.e., all who are disqualified in respect of the fathers, are likewise disqualified in respect of the sons. Therefore, just as the first and third are ineligible (for R. Eleazar accepts Rab's exegesis of 'and'), so are the second (i.e., the son of the first) and the third disqualified.

(49) To his sister's son-in-law he is his mother-in-law's brother, to his paternal aunt's son-in-law he is his mother-in-law's brother's son, and to his maternal aunt's son-in-law he is his mother-in-law's sister's son.

(50) [Read with Ms. M. Rab 'Ulla.]

(51) To his brother's son-in-law he is his father-in-law's brother; to his father's brother's son-in-law he is his father-in-law's brother's son; and to his maternal uncle's son-in-law he is his father-in-law's sister's son.

## Talmud - Mas. Sanhedrin 28b

parchment,<sup>1</sup> and they<sup>2</sup> asked him<sup>3</sup> whether a man may testify for his step-son's wife.<sup>4</sup> [Rab

answered:] In Sura they say that a husband is as his wife;<sup>5</sup> in Pumbeditha, that the wife is as her husband,<sup>6</sup> For R. Huna said in Rab [Nahman]'s<sup>7</sup> name: Whence do we know that a woman is as her husband? — From the verse: The nakedness of thy father's brother thou shalt not uncover; thou shalt not approach to his wife, she is thine aunt.<sup>8</sup> But is she not actually thy uncle's wife?<sup>9</sup> Hence we infer that a woman is as her husband.<sup>10</sup>

AND A STEP-FATHER, HE, HIS SON AND SON-IN-LAW. HIS SON! But that is his brother!<sup>11</sup> — R. Jeremiah said: This is only added to indicate [the exclusion of] a brother's brother.<sup>12</sup> R. Hisda declared a brother's brother eligible. Said the Rabbis to him: Are you unaware of R. Jeremiah's dictum? — 'I have not heard it,' he answered, that is to say, 'I do not accept it.'<sup>13</sup> If so, [the difficulty remains,] he [i.e., his step-father's son] is HIS BROTHER! — He [the Tanna] enumerates both a paternal and a maternal brother.

R. Hisda said: The fathers of the bride and bridegroom may testify for each other; their inter-relationship is no more than that of a lid to a barrel.<sup>14</sup>

Rabbah b. Bar Hana said: One may testify for his betrothed wife.<sup>15</sup> Rabina remarked: That is only where his evidence is to her disadvantage;<sup>16</sup> but if it is to her advantage, he is not to be believed.<sup>17</sup> But [in reality] that is not so: it makes no difference whether his evidence is to her advantage or disadvantage; in neither case is he to be believed. [For] on what [do you base] your opinion [that you do not regard him as a relative]? On R. Hiyya b. Ammi's dictum stated on the authority of 'Ulla, viz.: When the betrothed wife [of a Priest dies], he is not obliged to mourn as an Onen<sup>18</sup> nor may he defile himself.<sup>19</sup> Similarly, she is not bound to mourn as an Oneneth<sup>20</sup> [if he dies] nor to defile herself.<sup>21</sup> If she dies, he does not inherit from her;<sup>22</sup> but if he dies, she receives her Kethubah!<sup>23</sup> But there, the Divine law has made it all<sup>24</sup> depend on the fact that she is 'she'ero' [his wife],<sup>25</sup> a designation which cannot be applied to a betrothed wife.<sup>26</sup> Whereas here [the evidence of a relative is inadmissible] because of mental affinity; and such mental affinity does exist here [in the case of a betrothed woman and her groom].<sup>27</sup>

ONE'S STEP-SON HIMSELF. Our Rabbis taught: A step-son himself. R. Jose said: A brother-in-law.<sup>28</sup> Another [Baraita] has been taught: A brother-in-law himself. R. Judah said: A step-son. What does this mean? Shall we assume it to mean as follows: A step-son himself, and the same applies to a brother-in-law; whereas R. Jose reversed this: A brother-in-law himself, and the same applies to a step-son?<sup>29</sup> If so, when our Mishnah states: A BROTHER-IN-LAW, HIS SON AND SON-IN-LAW, whose view is this? It is neither R. Judah's nor R. Jose's!<sup>30</sup> But [again] if this is its meaning: A step-son himself; while as for a brother-in-law, [the exclusion extends to] his son and son-in-law; whereas R. Jose reversed this: A brother-in-law himself; while as for a step-son, [the exclusion extends to] his son and son-in-law too: in that case, what R. Hiyya taught, viz., that the Mishnah enumerates eight chief relations which [together with the sons and sons-in-law] involve twenty-four in all,<sup>31</sup> is neither the opinion of R. Judah nor that of R. Jose! —<sup>32</sup> Hence this must be the meaning: A step-son himself; but as for a brother-in-law, his son and son-in-law too [are included]; whereas R. Jose ruled: A brother-in-law himself, and a fortiori his step-son. The Mishnah<sup>33</sup> therefore agrees with R. Judah; while [the view expressed in] the Baraita<sup>34</sup> is R. Jose's.<sup>35</sup>

Rab Judah said in the name of Samuel; The halachah rests with R. Jose.<sup>36</sup>

A certain deed of gift had been attested by two brothers-in-law. Now, R. Joseph thought to declare it valid, since Rab Judah said in Samuel's name: The halachah rests with R. Jose. But Abaye said to him: How do we know that [he referred to] the ruling of R. Jose as stated in the Mishnah which permits the evidence of a brother-in-law: perhaps he meant the ruling of R. Jose in the Baraita, which disqualifies a brother-in-law? — One cannot think so, for Samuel said:<sup>37</sup> 'E.g., I and Phinehas, who are brothers and brothers-in-law (are inadmissible);'<sup>38</sup> hence others who are only

brothers-in-law are admissible.<sup>39</sup> But [Abaye retorted] may it not be that Samuel, in saying, 'e.g., I and Phinehas,' meant only to illustrate the term 'brothers-in-law'?<sup>40</sup> Thereupon [R. Joseph] said to him:<sup>41</sup> Go and establish your title through those who witnessed the delivery,<sup>42</sup> in accordance with R. Eleazar.<sup>43</sup> But did not R. Abba say: Even R. Eleazar agrees that a deed bearing its own disqualification<sup>44</sup> is invalid? — Thereupon R. Joseph said to him: Go your way; they do not permit me to give you possession.

R. JUDAH SAID etc. R. Tanhum said in the name of R. Tabla in the name of R. Beruna in Rab's name: The halachah rests with R. Judah. Raba said in R. Nahman's name: The halachah is not in agreement with R. Judah. Rabbah b. Bar Hana said likewise in R. Johanan's name: The halachah does not rest with R. Judah. Some refer this dictum of Rabbah b. Bar Hana to the following: R. Jose the Galilean gave the following exposition: And thou shalt come unto the Priests, the Levites, and unto the judge that shall be in those days.<sup>45</sup> Is it then conceivable that, one could go to a judge who does not exist in his lifetime? But the text refers to a judge who was formerly a relative but who subsequently ceased to be one.<sup>46</sup> [Whereon] Rabba b. Bar Hana said: The halachah rests with R. Jose the Galilean.

#### The sons of Mar 'Ukba's father-in-law who

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- (1) Cf. J. Sanh. 17a, where it is related that Rab went to buy skins for R. Hiyya the Great, his uncle (cf. supra 5a) who needed them for parchment on which to write scrolls of the Torah. V. also Keth. 103b, how far R. Hiyya distinguished himself in the promotion of learning.
- (2) Some scholars.
- (3) In J. loc. cit. Rab heard R. Johanan raise the question.
- (4) In a case where her personal estate is involved.
- (5) This answer is here irrelevant; probably it was given in answer to the question whether one may testify for or against his step-daughter's husband. Cf. J. Sanh. *ibid*.
- (6) Hence the evidence is inadmissible.
- (7) Some versions rightly omit the word in brackets.
- (8) Lev. XVIII, 14.
- (9) The term aunt is usually applied to a father's sister.
- (10) Which justifies her being referred to as an avuncular relative, *dodah* (the word translated 'aunt') being the feminine of *dod* (uncle).
- (11) Who has already been mentioned.
- (12) I.e., the son of his step-father by another wife; though he is not related to him at all, but only through his brother.
- (13) I.e., he holds that one who is related neither by blood nor by marriage, but merely through an intermediary brother, is not excluded.
- (14) Which is not fastened thereto, but merely lies upon it. I.e., they have a neighbourly but not an intimate relationship.
- (15) V. p. 34 n. 3.
- (16) Lit., 'to draw away from her.'
- (17) Though he is not a relation yet, nevertheless, he is not believed, since what is to her advantage will be to his too, when the marriage is completed.
- (18) **אונן**. One deeply grieved. Designation given to a mourner during the time between death and burial, when he is not permitted to eat consecrated things. Cf. Deut. XXVI, 14.
- (19) According to the exegesis of Lev. XXI, 2, a Priest is obliged to defile himself for his wife. Yeb. 22b. Here, however, there is no obligation, and hence he is forbidden too.
- (20) **אוננת** fem. of **אונן**.
- (21) This latter law is only incidentally stated since even a wife by marriage, or even the daughter of a Priest, has no restriction imposed upon her as regards contact with the dead. Cf. Sot. 23b.
- (22) Whilst a husband inherits from the wife. Cf. B.B. 111b.
- (23) Provided he has written her one. Hence, since he may not defile himself for her, it proves that there is no real relationship between them.

- (24) The compulsory defilement and inheritance.
- (25) שֵׁאֵרָו. E.V., 'his kin that is near unto him,' Lev. XXI, 2.
- (26) The root meaning of שֵׁאֵר is 'flesh relationship,' and hence excludes a betrothed wife. Cf. Mek. on Ex. XXI, 10: שֵׁאֵרָה means marital duty
- (27) Therefore his evidence might be biased. '
- (28) The husband of the wife's sister.
- (29) Thus differing, not in the application of the law, but in expression. On this hypothesis, the difference lies in which is to be regarded as fundamental and which as derivative.
- (30) Both agreeing that only a brother-in-law himself is excluded.
- (31) V. supra 28a.
- (32) For according to both of them there will be nine chief relations. According to R. Judah, the brother-in-law is included in the list; according to R. Jose there is to be added, the step-son.
- (33) That the exclusion of one's brother-in-law is extended to his son and son-in-law.
- (34) That there are eight chief relations, involving twenty-four in all.
- (35) Who does not extend the exclusion of a brother-in-law to his son and son-in-law too. However, it must not be taken that R. Jose differs from the Mishnah to the extent of admitting a brother-in-law's son, since he has already been excluded by the ruling: 'The husband of his mother's sister,' which, in other words, means that one may not give evidence for or against his sister-in-law's son, with which ruling he is in agreement, since he supports the view in the Baraita, that there are twenty-four relations in all, and the above-named is included in that number. He differs however from the Mishnah in that he admits the evidence of one's brother or sister-in-law's son-in-law, since the ruling in the Mishnah, 'one's mother's sister's husband', is not irreconcilable with this opinion. The Mishnah excludes only a mother's sister's husband, not a mother-in-law's sister's husband. V. Rashi and Tosaf. a.l.
- (36) Here the reference is assumed to be to R. Jose, in the Mishnah, who excludes only such relations as are eligible to be heirs, which brothers-in-law are not.
- (37) In illustration of a brother-in-law who is disqualified.
- (38) They must have married two sisters.
- (39) In accordance with R. Jose in the Mishnah.
- (40) And so the fact that they were also brothers was immaterial. Hence brothers-in-law are ineligible as witnesses, so that the deed was invalid.
- (41) The man who had produced the contract.
- (42) Of the deed of gift to you,
- (43) That it is the witnesses who saw the delivery of the document who establish its validity. In fact, according to R. Eleazar, a document unsigned by witnesses is also valid. Cf. Git. 3b.
- (44) I.e., which is signed by incompetent witnesses.
- (45) Deut. XVII, 9.
- (46) I.e., at the time the litigation is brought before him. Such a judge is eligible.

## Talmud - Mas. Sanhedrin 29a

had ceased to be relatives of his,<sup>1</sup> came before him [Mar 'Ukba] for trial. But the latter said to them: I am ineligible to try your suit. They answered: What is your opinion; is it as R. Judah's [in the Mishnah]? We can produce a letter from 'the West'<sup>2</sup> that the halachah does not rest with R. Judah! He retorted: Am I then stuck to you by a kab of wax?<sup>3</sup> I told you that I was disqualified from acting as your judge only because [I knew] that you do not accept court decisions.<sup>4</sup>

BY 'FRIEND' ONE'S GROOMSMAN IS MEANT. How long [is he regarded as such]? — R. Abba said in R. Jeremiah's name in Rab's name: The whole seven days of the [marriage] feast.<sup>5</sup> The Rabbis said on Raba's authority: After the very first day [he is no longer regarded as such].

BY 'ENEMY', ANY MAN etc. Our Rabbis taught; And he was not an enemy;<sup>6</sup> then he may give evidence. Again, neither sought his harm;<sup>7</sup> then he may be his judge.<sup>8</sup> Here we find [the exclusion of] an enemy. Whence is deduced [the exclusion of] a friend? — Read [these texts] thus: And he was

not his enemy, nor his friend, — then he may give evidence, neither sought his harm, nor his good, — then he may be his judge. Is then ‘his friend’ actually stated?<sup>9</sup> — But it is a matter of logic. Why is an enemy [excluded]? Because of his disaffection.<sup>10</sup> Then a friend too [is ineligible] because of his friendly inclination.<sup>11</sup> Now, how do the Rabbis<sup>12</sup> interpret this text, And he was not his enemy, neither sought his harm?<sup>13</sup> — One [expression] intimates [his unfitness to be] a judge;<sup>14</sup> the other they interpret as has been taught: R. Jose son of R. Judah said, And he was not his enemy, neither sought his harm; from this we deduce that two scholars who hate each other may not sit together as judges.

MISHNAH. HOW ARE THE WITNESSES EXAMINED? — THEY ARE BROUGHT INTO A ROOM,<sup>15</sup> AND AWE IS INSTILLED INTO THEM.<sup>16</sup> THEN THEY ARE SENT OUT,<sup>17</sup> SAVE FOR THE OLDEST [WITNESS] TO WHOM THEY [THE JUDGES] SAY, TELL US, HOW DOST THOU KNOW THAT SO AND SO OWES [MONEY] TO SO AND SO? IF HE ANSWERS: HE PERSONALLY TOLD ME: ‘I OWE HIM [THE MONEY],’ OR, ‘SO AND SO TOLD ME THAT HE OWES HIM,’ HIS STATEMENT IS WORTHLESS,<sup>18</sup> UNLESS HE DECLARES, ‘IN OUR PRESENCE,<sup>19</sup> HE ADMITTED TO HIM THAT HE OWES HIM TWO HUNDRED ZUZ.’<sup>20</sup> AFTER THAT THE SECOND WITNESS IS ADMITTED AND SIMILARLY EXAMINED. IF THEIR STATEMENTS TALLY, THEY [THE JUDGES] PROCEED TO DISCUSS THE CASE. SHOULD TWO FIND HIM NOT LIABLE AND ONE LIABLE, HE IS DECLARED NOT LIABLE; TWO LIABLE, AND ONE NOT LIABLE, HE IS DECLARED LIABLE; ONE LIABLE, AND ONE NOT LIABLE, OR TWO EITHER NOT LIABLE OR LIABLE, WHILE THE THIRD IS UNDECIDED,<sup>21</sup> THE NUMBER OF JUDGES IS INCREASED.

WHEN THE VERDICT IS ARRIVED AT,<sup>22</sup> THEY<sup>23</sup> ARE READMITTED, AND THE SENIOR JUDGE SAYS: SO AND SO, THOU ART NOT LIABLE; OR, SO AND SO, THOU ART LIABLE.

AND WHENCE DO WE KNOW THAT HE [ONE OF THE JUDGES] WHEN LEAVING, MUST NOT SAY, ‘I WAS FOR ACQUITTAL WHILST MY COLLEAGUES WERE FOR CONVICTION, BUT WHAT COULD I DO, SEEING THAT THEY WERE IN THE MAJORITY?’ — OF SUCH A ONE IS IT WRITTEN: THOU SHALT NOT GO ABOUT AS A TALEBEARER AMONG THY PEOPLE,<sup>24</sup> AND AGAIN, HE THAT GOETH ABOUT AS A TALEBEARER REVEALETH SECRETS.<sup>25</sup>

GEMARA. How are they<sup>26</sup> cautioned? Rab Judah said: We admonish them thus: As vapours and wind without rain, so is he that boasteth himself of a false gift.<sup>27</sup> Raba remarked: They might say [inwardly]: Though a famine last seven years it does not pass the artisan's gate.<sup>28</sup> But, said Raba, this is what is said to them: As a maul and a sword and a sharp arrow, so is a man that beareth false witness against his neighbour.<sup>29</sup> R. Ashi demurred: They might say: Though a plague last seven years, no one dies before his time! But, said R. Ashi, Nathan b. Mar Zutra told me, We warn them thus: False witnesses are despised [even] by their own employers, as it is written, And set two men, base fellows, before him, and let them bear witness against him, saying, Thou didst curse God and the King.<sup>30</sup>

IF HE ANSWERS, HE [PERSONALLY] TOLD ME: I OWE HIM [THE MONEY];’ OR, ‘SO AND SO TOLD ME THAT HE OWES HIM,’ HIS STATEMENT IS WORTHLESS, UNLESS HE DECLARES, ‘IN OUR PRESENCE HE ADMITTED THAT HE OWES HIM TWO HUNDRED ZUZ. This<sup>31</sup> supports Rab Judah. For Rab Judah said in Rab's name: One must definitely instruct them [those who witness a transaction]: Ye are my witnesses.<sup>32</sup> It has been stated, likewise: R. Hiyya b. Abba said in R. Johanan's name. [If A says to B,] ‘You owe me a maneh’,<sup>33</sup> and B admits it; and if he demands it from him the following day, and B answers, ‘I was only jesting with you,’<sup>34</sup> he is not liable.<sup>35</sup> So also it has been taught: [If A says to B,] ‘You owe me a maneh’; and B answers, ‘Yes, it is so;’ but on the following day, when the former demands it, the latter replies. ‘I was but jesting

with you,' he is not liable. Moreover, if he hid witnesses behind a fence and said to him: 'You owe me a maneh', and B answered, 'Yes;' and A added, 'Are you willing to make this admission in the presence of so and so?' And he replied: 'I am afraid to do so, lest you compel me to go to court;' and if on the following day, on his [A's] demanding it from him, B retorts; 'I was only jesting with you', he is not liable. But we do not plead [thus] on behalf of a Mesith.<sup>36</sup> 'Mesith? Who mentioned him?'<sup>37</sup> — The text is defective, and should read thus: If he himself did not plead [this],<sup>38</sup> we do not plead it for him. But in capital charges, even if he himself does not plead,<sup>39</sup> we plead on his behalf. Yet no such plea is made on behalf of a Mesith. Wherein does a Mesith differ? — R. Hama b. Hanina said: I heard it said in a lecture<sup>40</sup> by R. Hiyya b. Abba: A Mesith is different, because the Divine Law states, Neither shall thine eyes pity him; neither shalt thou conceal him.<sup>41</sup>

R. Samuel b. Nahman said in R. Jonathan's name: Whence do we know that we do not plead on behalf of a Mesith? — From the [story of] the ancient serpent.<sup>42</sup> For R. Simlai said: The serpent had many pleas to put forward but did not do so. Then why did not the Holy One, blessed be He, plead on its behalf? — Because it offered none itself. What could it have said [to justify itself]? — 'When the words of the teacher and those of the pupil [are contradictory], whose words should be hearkened to; surely the teacher's!'<sup>43</sup>

Hezekiah said: Whence do we know that he who adds [to the word of God] subtracts [from it]? — From the verse, God hath said, Ye shall not eat of it neither shall ye touch it.<sup>44</sup>

R. Mesharshia said: [We derive it] from the following verse: Ammathayim [two cubits] and a half shall be his length.<sup>45</sup> R. Ashi said: From this: 'Ashte-'esreh [eleven] curtains.<sup>46</sup>

Abaye said: The above ruling<sup>47</sup> holds good only if he says: 'I was only joking with you'; but if he pleads:

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- (1) Owing to the death of their sister, the wife of Mar 'Ukba.
  - (2) Palestine.
  - (3) [Do you mean that my ties with you are indissoluble, and that this accounts for my refusal to act as your judge? (Yad Ramah.)]
  - (4) [Presuming too much on my relationship with you (Yad Ramah).] And not for the reason that I was unaware that the halachah does not rest with R. Judah.
  - (5) Cf. Rashi on Gen. XXIX, 27, Yalkut, LXX, on Judges XIV.
  - (6) Num. XXXV, 23. This verse is understood to refer to the witnesses in a case of murder, not to the accused. As regards the murderer it is written, That the man slayer that slayeth his neighbour and hated him not in the past may flee thither. Deut. IV, 42.
  - (7) Num. XXXV, 23.
  - (8) Because immediately after this it is written, And the Congregation shall judge.
  - (9) Surely it is inadmissible to deduce a law by adding to the text!
  - (10) Lit., 'alienation of his mind.'
  - (11) Lit., 'the proximity of his mind.'
  - (12) In the Mishnah who do not disqualify a man on such grounds.
  - (13) Ibid.
  - (14) In which case they agree with R. Judah
  - (15) Most edd. omit 'a room'.
  - (16) Lit., 'Frightened,' — to tell the truth.
  - (17) That is the reading of Alfasi and Asheri. (also J.) and seems to be supported by the discussion in the Gemara (v. infra, p. 185., n 5). But our text reads: THEN ALL THE PEOPLE ARE . . .
  - (18) Lit., 'He has said nothing.'
  - (19) I.e., in the presence of himself and another person.
  - (20) I.e., intending, by so doing, to recognise us officially as witnesses.

- (21) Lit., 'Says, I do not know.'
- (22) Lit., 'when the matter is finished.'
- (23) The Talmud discusses to whom 'THEY' refers.
- (24) Lev. XIX, 16. In other versions this verse is omitted. Cf. J. and Maim. Yad, Sanh. XXII.
- (25) Prov. XI, 13.
- (26) The witnesses.
- (27) Prov. XXV, 14. I.e., just as abundant and seasonable rain is promised as a reward for faithfully keeping the commandments, so the iniquity of the people is the cause of the withholding of the rain, cf. Ta'an. 7b Thus the witnesses are warned that, by their false evidence, they may cause drought.
- (28) I.e., the warning may prove ineffective, for hunger need not be feared by those who have learned a trade.
- (29) Prov. XXV, 18, i.e., their misdemeanor might cause a plague to come upon the world.
- (30) I Kings XXI, 10. regarding Naboth. The contention is proved from the fact that the witnesses are called base fellows by Jezebel, their own employer.
- (31) The fact that they must declare, IN OUR PRESENCE, which implies that he explicitly appointed them for the purpose.
- (32) Otherwise their testimony cannot be accepted.
- (33) A hundred zuz.
- (34) Because I knew you asked a thing which never happened.
- (35) Alfasi and Asheri omit the bracketed passage, and substitute: And he must instruct (them), 'Ye are my witnesses.'
- (36) **מוסית**, an inciter to idolatry; v. Glos.
- (37) I.e., it has no bearing on the discussion.
- (38) That he was only jesting with him.
- (39) Circumstances that would help to prove his innocence.
- (40) **פרקא**, the lecture held on the Sabbath before Festivals, Rashi, B.B. 22a. V. Zunz, GV 349, n.g.]
- (41) Deut. XIII, 9; this refers to a Mesith.
- (42) In the Garden of Eden. Cf. Gen. III.
- (43) So Eve, evens though seduced by me, should have obeyed the command of God.
- (44) Gen. III, 3. Eve added to God's words by telling the serpent that she was not even permitted to touch the tree. The serpent then pushed her into contact with the tree and told her: See, just as death did not ensue from the touch, so it will not follow from eating of it. V. Rashi a.l.
- (45) Ex. XXV, 17. If **אמתים** be decapitated it will read **מתים (מאתים)** two hundred. Thus by adding the **ס** the number will be reduced to two.
- (46) Ex. XXVI, 7. By taking away the **ע** from **עשתי עשרה** (11), it reads **שתי עשרה** (12).
- (47) That where witnesses were not present by special appointment he might plead that he was joking.

## Talmud - Mas. Sanhedrin 29b

'The whole thing never happened,'<sup>1</sup> he is adjudged a confirmed liar.<sup>2</sup> R. Papa the son of R. Aha b. Adda said to him: Thus we say on the authority of Rab; People do not remember aimless words.<sup>3</sup>

A man once hid witnesses against his neighbour behind the curtains of his bed, and said to him: 'You owe me a maneh'. 'Yes', he replied. 'May all present, whether awake or asleep be witnesses against you? he asked<sup>4</sup> 'No', was the reply. R. Kahanah [before whom the trial was brought] observed; Surely he answered, No!<sup>5</sup>

A man hid witnesses against his neighbour in a grave, and then said to him: 'you owe me a maneh. 'Yes' he answered. 'Shall the living and the dead be witnesses against you?' 'No', he retorted. Said R. Simeon [b. Lakish]: Surely he answered, No!<sup>6</sup>

Rabina, or some say R. Papa, said: We may infer from the above, that the dictum of Rab Judah in Rab's name, viz., One must definitely instruct them: 'You are my witnesses,' holds good no matter whether the debtor says it, or the creditor says it while the debtor remains silent. For it<sup>7</sup> is only

because the debtor said, 'no'.<sup>8</sup> but had he kept silent, it would indeed have been so.<sup>9</sup>

A certain man was nicknamed, 'A kab-ful of indebtedness.' [On hearing the name,] he exclaimed: 'To whom do I owe anything but to so and so and so and so?' Thereupon they summoned him before R. Nahman. Said he: A man is wont to disclaim abundance [of wealth].<sup>10</sup>

A certain man was nicknamed, 'The mouse lying on the denarii.'<sup>11</sup> Before he died, he declared: 'I owe money to so and so and to so and so.' After his death they summoned his heirs before R. Ishmael son of R. Jose. Said he to them:<sup>12</sup> The dictum, 'A man is wont to disclaim abundance [of wealth],' holds good only in life, but not in death.<sup>13</sup> They paid half, and were summoned for the other half, before R. Hiyya. Said he to them: Just as one is wont to disclaim his own abundance [of wealth], so he is likely to disclaim it for his children.<sup>14</sup> Thereupon they [the plaintiffs] asked: 'Shall we return [the half we have already received]?' R. Hiyya replied: The Zaken<sup>15</sup> has already given his ruling.<sup>16</sup>

If a man admitted [a claim] in the presence of two witnesses, and they confirmed this by Kinyan,<sup>17</sup> they may indite [a note],<sup>18</sup> if not, they may not do so.<sup>19</sup> [If he admitted] it in the presence of three, and they made no Kinyan: Rab [Ammi]<sup>20</sup> said, They may write a note;<sup>21</sup> R. Assi ruled, They may not. There was a case once where Rab took into consideration R. Assi's ruling.

R. Adda b. Ahabah said: Sometimes a deed of acknowledgment<sup>22</sup> may be drawn up; sometimes it may not. If they [the witnesses] merely happened to be assembled [when he made the admission,] it may not be drawn up; but if he [the debtor] called them together, it is to be drawn up. Raba said: Even then it may not be indited, unless he definitely told them, 'Be you my judges.'<sup>23</sup> Mar son of R. Ashi said: Even then, it may not be drawn up, unless the [necessary] meeting place is fixed and he [the debtor] is summoned to appear before the court.<sup>24</sup>

If a man admitted a claim of movable property, and they [the witnesses] secured a formal title from him, they may record it; but not otherwise. But what if it concerned real estate, and they secured no formal title? — Amemar said: They may not record it. Mar Zutra said: They may. The law is that a deed is to be drawn up.<sup>25</sup>

Rabina once happened to be at Damharia,<sup>26</sup> and R. Dimi son of R. Huna of that town asked him: What of movable property which is still intact [i.e., in the possession of the debtor]? — He answered: It ranks as real estate.<sup>27</sup> R. Ashi, however, ruled: Since it still needs collection, it is not so.

A certain deed of [debt] acknowledgment did not contain the phrase: 'He said unto us, Write it, attest it and give it to him [the creditor].'<sup>28</sup> Abaye and Raba both said: This case comes under the ruling of Resh Lakish, who said: We may take it for granted that witnesses will not sign a document unless he [the vendor] has attained his majority.<sup>29</sup> R. Papi — others say, R. Huna the son of R. Joshua — objected: Can there be anything which we [the judges] do not know, and yet the clerks of the court know?<sup>30</sup> But in fact when the clerks of Abaye's court were questioned, they were found to know this law, and similarly the clerks of Raba's court.<sup>31</sup>

A certain deed of acknowledgment contained the phrase; 'A memorial of judicial proceedings,'<sup>32</sup>

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(1) That he never admitted liability, notwithstanding that there are witnesses who testify to the contrary.

(2) So that not even an oath can free him.

(3) I.e., what one says in jest is not remembered. His total denial therefore does not weaken his case.

(4) Probably the plaintiff knew that the defendant would refuse to admit the debt in the presence of witnesses, but he thought that he might assent if he believed that all were asleep. (Rashi.)

(5) And so refused to admit his debt in the presence of witnesses. Hence he is not liable.



- (6) Therefore he acquitted him.
- (7) The ruling in the above-mentioned cases, where the debtor is acquitted.
- (8) When requested to authorise those present to be witnesses.
- (9) I.e., his admission in liability in the first place would be valid
- (10) Therefore he probably spoke of non-existent debts so as to disclaim wealth. Consequently he is not liable.
- (11) I.e., a miser. [Mice often drag away into their holes glittering object such as coins, rings, etc. V. Lewysohn, Zoologie, p. 106.]
- (12) The heirs.
- (13) Hence the claim against the heirs is established.
- (14) So that his declaration before death might have been fictitious.
- (15) The elder R. Ishmael, son of R. Jose. v. supra p. 137, n. 1.
- (16) So that I cannot reverse the decision with regard to the amount already paid.
- (17) V. p. 142, n. 2.
- (18) Of the debt, even if not explicitly instructed by the debtor.
- (19) Unless directly requested, for though the debtor expressly appointed them as witnesses, he may prefer an oral debt to a written bond, since the former can be collected only out of property in his possession, but not out of real estate sold subsequent to the incurring of the debt, whereas the latter can be so collected.
- (20) Some versions correctly omit the name in brackets.
- (21) Since in this case they are given the authority of a Beth din to convert an oral debt into a written one.
- (22) אודיתא, Of debt, made before three witnesses and without Kinyan.
- (23) I.e., he conferred upon them the powers of a court.
- (24) I.e., this improvised court must observe the usual formalities of a court, sitting in a place previously determined, and summoning the debtor.
- (25) In the case of immovable property, as soon as the admission is made, the debt is considered as collected; consequently there is no reason why the debtor should prefer an oral debt to a written one; which latter, however, might well be preferred in the case of movable property.
- (26) [A town in the neighbourhood of Sura, v. Obermeyer, op. cit. p. 298.]
- (27) The law of which is stated above.
- (28) The question is whether the omission is proof that the contract was written without the debtor's request or not.
- (29) I.e., the age of twenty, v. B.B. 156a; the sale of a legacy before that is invalid, and it is taken for granted that witnesses are aware of this law. So also in this case, where the admission was made before two witnesses, and without Kinyan, the latter would know that they could not write a deed without the debtor's instructions; hence they must have been so instructed.
- (30) This law, that two witnesses must not record the admission without explicit instructions, is not even known to all judges. How then can it be assumed that they must have known it?
- (31) It was therefore shewn that this rule was known to clerks of the court, charged with the drafting of legal documents, and before whom they were generally attested.
- (32) Lit., 'A memorial of the words of so and so,' instead of, 'A memorial of testimony by witnesses.'

## Talmud - Mas. Sanhedrin 30a

and was entirely worded like a Court document,<sup>1</sup> but did not include [the usual phrase], 'We were in a session of three judges one of whom [subsequently] absented himself.'<sup>2</sup> Rabina thought to rule: This is covered by Resh Lakish's dictum;<sup>3</sup> but R. Nathan b. Ammi observed: It has been said on the authority of Raba: In all such cases a mistaken Beth din is to be suspected.<sup>4</sup> R. Nahman b. Isaac said: If 'Beth din' is mentioned anywhere in the document, no such [fear] is necessary.<sup>5</sup> But suppose it was a presumptuous Beth din: for Samuel said: If two tried a case, their decision stands, but they are called, 'A presumptuous Beth din!'<sup>6</sup> — No, for the document referred to<sup>7</sup> stated: 'The Beth din of Rabbana Ashi.'<sup>8</sup> But perhaps the Rabbis of Rabbana Ashi's academy agreed with Samuel?<sup>9</sup> — There was written therein, 'Rabbana Ashi told us [to write the document].'<sup>10</sup> '

Our Rabbis taught: If a man says to them:<sup>11</sup> 'I saw your father hiding money, [say,] in a strong

box, a chest, or a store-room, and he told me that it belonged to so and so, or that it was [for the redemption] of the second tithe:<sup>12</sup> if it [the hiding place] is in the house, his statement is valueless,<sup>13</sup> if in a field, his words stand. This is the general rule of the matter: Wherever he has access [to the hiding place] his statement stands;<sup>14</sup> but otherwise, it is of no value. If they [the heirs] saw their father hide money in a strong box, chest or store-room, saying, 'It belongs to so and so,' or 'It is for the payment of the second tithe': if it [his statement] was by way of giving directions, his words stand; but if it was in the nature of an evasion,<sup>15</sup> his statement is of no value. If one felt distressed over some money which his father had left him,<sup>16</sup> and the dispenser of dreams<sup>17</sup> appeared to him and named the sum, indicated the place, and specified its purpose, saying that it was [for the redemption] of the second tithe — such an incident once occurred, and they [the Rabbis on that occasion] said: Dreams have no importance for good or ill.<sup>18</sup>

IF TWO DECLARE HIM NOT LIABLE etc. How is it [the judgment] worded?<sup>19</sup> — R. Johanan said: [Thus; 'The defendant is] not liable.' Resh Lakish said: 'So and so [of the judges] acquit; so and so holds him liable.' R. Eleazar said: 'As a result of their [the judges'] discussion, [it is decided that] he is not liable.' Wherein do they [practically] differ? — As to whether he is to share in the payment of compensation, [in case of error,] together with the others.<sup>20</sup> On the view [that the verdict is to be worded]: 'He [the defendant] is not liable,'<sup>21</sup> he [the dissenting judge] must pay his share;<sup>22</sup> while on the view [that the wording should be]: 'So and so acquit, and so and so holds him liable,' he makes no restitution.<sup>23</sup> But even on the view [that the wording should be]: 'He is not liable,' he [the dissentient] might argue, 'Had you accepted my opinion, you too would not have to pay!<sup>24</sup> — But the difference arises concerning their liability to pay his share in addition to their own. According to the view [that the verdict is framed thus]: 'He is not liable,' they bear [the whole] liability;<sup>25</sup> but on the view [that it is worded]: 'So and so [of the judges] acquit, and so and so holds him liable,' they do not pay [the dissentient's share].<sup>26</sup> But even according to the opinion [that the wording should be]: 'He [the defendant] is not liable,' why should they pay [the whole amount]? They might surely argue:<sup>27</sup> Hadst thou not been with us, the trial would have had no result at all! — The difference must arise therefore with reference to, Thou shalt not go up and down as a talebearer among thy people.<sup>28</sup> R. Johanan says: [The verdict is to be framed thus:] He is not liable,' because of this injunction against talebearing.<sup>29</sup> Resh Lakish holds [that the wording must be]: 'So and so acquit; so and so holds him liable,' since [otherwise] it [the verdict] would appear a falsehood,<sup>30</sup> while R. Eleazar agrees with both; therefore it [the verdict] must be framed thus: 'After a decision by the judges, he was found not liable.'

WHEN THE VERDICT IS ARRIVED AT, etc. Whom [do they admit]? Shall we say, the litigants: but they are there already?<sup>31</sup> But [if it refers to] the witnesses: whose view is this? Assuredly it does not agree with R. Nathan, for it has been taught: The evidence of witnesses cannot be combined,<sup>32</sup> unless they simultaneously saw what they state in evidence. R. Joshua b. Korha said: Evidence is valid even if they witnessed it consecutively. Again, their evidence is not admissible by the court unless they both testify together. R. Nathan said; The court may hear the evidence of one witness one day, and when the other appears the next day, they may hear his evidence!<sup>33</sup> No. In reality, the litigants are meant, and this represents the view of R. Nehemiah. For it has been taught: R. Nehemiah said: This was the custom of the fair-minded<sup>34</sup> in Jerusalem; first the litigants were admitted and their statements heard; then the witnesses were admitted and their statements heard. Then they<sup>35</sup> were ordered out, and the matter was discussed. [And when the verdict was arrived at etc.]<sup>36</sup> But has it not been explicitly taught: When the deliberations come to an end, the witnesses are readmitted?<sup>37</sup> That certainly does not agree with R. Nathan.

The above text [reads]: 'The evidence of witnesses cannot be combined unless they simultaneously saw what they state in evidence. R. Joshua b. Korha said: It is valid even if they saw it consecutively.' Wherein do they differ? — If you wish, I might say, in the interpretation of a Biblical verse; alternatively, in a matter of logic. On the latter assumption, [the first Tanna argues,]

the [loan of the] maneh to which the one testifies, is not attested by the other, and vice versa.<sup>38</sup> Whereas the other [Tanna]<sup>39</sup> [argues that, after all,] both testify to a mina in general.<sup>40</sup> Alternatively, they differ in respect to a Biblical verse. For it is written, And he is a witness whether he has seen or known of it.<sup>41</sup> Now, it has been taught:<sup>42</sup> From the implications of the verse, A witness shall not rise up etc.,<sup>43</sup> do I not know that one is meant? Why then state 'one'.? — That it may establish the principle that wherever it says A witness, it implies two, unless one is specified by the verse.<sup>44</sup> And the Divine Law expressed it in the singular to teach that they must witness [the act in question] both together as one man.<sup>45</sup> And the other?<sup>46</sup> — He is a witness whether he hath seen or known of it,<sup>47</sup> teaches that in all circumstances [the evidence is admissible].<sup>48</sup>

'Again, their evidence is not admissible by the court unless they both testify together. R. Nathan said: The court may hear the evidence of one witness one day, and when the other witness appears the next day, they may hear his evidence.' Wherein do they differ? — Either in a matter of logic or in [the interpretation of] a Biblical text.

'Either in a matter of logic.' One Master argues: A single witness comes to impose an oath, but not to prove liability.<sup>49</sup> The other<sup>50</sup> argues: Even if they appear simultaneously, do they testify with one mouth?<sup>51</sup> But [nevertheless], their evidence is combined. So here too [where they come separately] their evidence may be combined.

'Or [in interpretation of] a Biblical text.' [And he is a witness whether he has seen or known of it;] If he do not utter it, then he shall bear his iniquity.<sup>52</sup>

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(1) Though it was signed only by two.

(2) Cf. Keth. 22a: If one of the three judges necessary for the authentication of a document died before signing it, the document should be so worded.

(3) V. supra, where Resh Lakish said that it may be taken for granted that an attested document has been legally drawn up. Hence the presence of three originally may be assumed.

(4) In this case where the phrase 'In a session of three judges' was omitted they might have thought that two judges sufficed for purposes of authentication.

(5) That two thought that they constitute a Beth din, for all know that the term 'Beth din' applies to three.

(6) V. supra 3a.

(7) By R. Nahman b. Isaac.

(8) The signatories belonged to his school, and they, no doubt, were aware that two cannot compose a Beth din. R. Ashi, the Babylonian Amora, is given here merely as an illustration because his was the principal court at the time when this passage was incorporated in the Gemara (cf. Rashi). 'Rabbana is a higher title than Rabbi, and is the Aramaic equivalent of Rabban', Chief Teacher (cf. Graetz, Geschichte, IV, 350ff). [According to Funk, Die Juden in Babylonien II, 103, however, the title Rabbana (the Great One) in Persia was reserved for Exilarchs, yet it was bestowed on R. Ashi owing to his unique position and the power he wielded, v. also I, 33.]

(9) That two could form a Beth din, though they did not care about Samuel's uncomplimentary designation.

(10) The court must therefore have been legally constituted, since he would not have asked two to form a Beth din.

(11) To heirs.

(12) V. p. 48, n. 4.

(13) Unless there is another witness to support his statement.

(14) Since he is then not under suspicion of having been prompted in his statement by some ulterior motive, e.g., the desire to serve someone's interests; for had he wished, he himself could have handed over the amount to whomever he wished.

(15) I.e., as though he purposely told them this, so that they might not use it, or that they might not realise his wealth and indulge in extravagance.

(16) And which he suspected to be tithe-money, but was unable to trace the amount.

(17) Or, 'The Master of Dreams', which merely represents the personification of the dream.

(18) Lit., 'neither raise nor lower'. Hence the money might be used for secular purposes. Cf. Tosef., M. Sh. V.

- (19) I.e., in a case of disagreement.
- (20) C. supra 6a; and infra 33a with reference to the liability of judges to compensate in cases of misjudgment.
- (21) Irrespective of whether there has been disagreement or not.
- (22) For without him, the remaining two could not have issued such a decree.
- (23) Since his opinion is explicitly stated in the verdict.
- (24) So that he himself should certainly bear no liability.
- (25) Since their view is finally adopted.
- (26) The opinion of the two judges was specified to show that the final decision was given by only two (Rashi).
- (27) With the third judge.
- (28) Lev. XIX, 16.
- (29) And stating the names of the dissenting judges is tantamount to talebearing
- (30) I.e., the protection of truth is more urgent than the avoidance of talebearing.
- (31) Nowhere in the Mishnah is it mentioned that they had to withdraw.
- (32) As is necessary for it to be valid.
- (33) Cf. Tosef. Sanh. V; B.B. 32a. Hence if it is the witnesses who are admitted after a decision has been arrived at, which implies the necessity of their joint appearance this interpretation of the law is not in accord with the view of R. Nathan as given.
- (34) [נקיי הדעת] v. supra p. 131, n. 3. Ms. M. אנשי ירושלים 'men of Jerusalem' whom Klein, S., loc. cit., regards as synonymous with [נקיי הדעת]
- (35) This is understood to refer to the witnesses.
- (36) [This seems to be quoted from the Mishnah and hence rightly omitted by Rashal. Ms. M. however, reads. 'when the verdict is arrived at they readmit the litigants' etc.]
- (37) Hence the necessity of their conjoint appearance.
- (38) E.g., if A claims a mina from B, and C testifies that he saw B receive a maneh from A on the first day of the month, while D testifies that he saw B receive a maneh on the second of the month, notwithstanding that both testify that A gave B a maneh, it is evident that they do not refer to the same transaction, and therefore there is only one witness for each alleged loan, and therefore the evidence is invalid.
- (39) I.e., R. Joshua b. Korha.
- (40) Hence the fact of the loan is proved, though one witness must have mistaken the date.
- (41) Lev. V, 1, referring to witnesses who were adjured by parties in a case to testify before the court in their favour.
- (42) Sot. 2b; 31b.
- (43) Deut. XIX, 15.
- (44) Therefore in the text above, And he is a witness, two are implied. Also, because the guilt-offering for the transgression of the oath imposed on the witnesses (שבועת העדות), referred to in the Biblical text, applies only to two witnesses and not to one. V. J. Sanh. III, 9; and Shebu. 31b.
- (45) Otherwise their testimony is invalid.
- (46) R. Joshua b. Korha: how does he interpret the verse?
- (47) Which appears superfluous, for a witness is supposed to see and know of things.
- (48) Whether the act was witnessed or the evidence given at the same time or not.
- (49) If the claimant produces one witness in his favour, an oath is imposed on the defendant, but he is not ordered to repay. (V. Shebu. 40a.) Hence, when witnesses testify separately, the evidence of neither proves liability, and therefore the two testimonies cannot be combined.
- (50) R. Nathan.
- (51) Surely not!
- (52) Lev. V, 1.

## Talmud - Mas. Sanhedrin 30b

Now, both agree with the Rabbis who disagree with R. Joshua b. Korha:<sup>1</sup> they differ as to whether the 'uttering' [of the testimony] is assimilated to the 'seeing' [of the fact attested]. One Master<sup>2</sup> maintains that 'uttering' is assimilated to 'seeing';<sup>3</sup> the other<sup>4</sup> holds that they are not assimilated.

R. Simeon b. Eliakim was anxious for R. Jose son of R. Hanina to be ordained, but an opportunity did not present itself.<sup>5</sup> One day, as he was sitting before R. Johanan, the latter asked them [the students]: ‘Does anyone know whether the halachah rests with R. Joshua b. Korha or not?’<sup>6</sup> R. Simeon b. Eliakim replied, ‘This man here [R. Jose son of R. Hanina] knows.’ ‘Let him then answer,’ said R. Johanan. Thereupon P. Simeon b. Eliakim said: ‘Let the Master first ordain him.’<sup>7</sup> So he ordained him and then asked: ‘My son, what tradition in the matter have you heard?’ — ‘I heard,’ replied R. Jose son of R. Hanina, ‘that R. Joshua b. Korha agreed with R. Nathan [that the evidence need not be given simultaneously].’<sup>8</sup> R. Johanan exclaimed: ‘Is that what I wanted? If R. Joshua b. Korha maintained that the essential witnessing [of the act need not have been simultaneous, is it necessary [to state this] in reference to the giving of evidence [in court]! However, he concluded, since you have ascended,<sup>9</sup> you need not descend.’<sup>10</sup> R. Zera said: We may infer from this that once a great man is ordained, he remains so.<sup>11</sup>

R. Hiyya b. Abin said in Rab's name: The halachah rests with R. Joshua b. Korha in respect to both immovable and movable property.<sup>12</sup> ‘Ulla said: The halachah rests with R. Joshua b. Korha only in respect to immovable,<sup>13</sup> but not movable property<sup>14</sup>. Said Abaye to him: [Your statement as to the] halachah, implies that they [the Rabbis] dispute [thereon]: but did not Raba say in R. Huna's name in Rab's name: The Sages agree with R. Joshua b. Korha in respect to testimony concerning real estate? Moreover, R. Idi b. Abin learned in Karna's compilation [of Halachoth] on Nezikin:<sup>15</sup> ‘The Sages agree with R. Joshua b. Korha in respect to [evidence regarding] firstborns,<sup>16</sup> real estate, Hazakah,<sup>17</sup> and [the symptoms of puberty] in males and females likewise’?<sup>18</sup> — Would you oppose man to man!<sup>19</sup> One Master [‘Ulla] holds that they differ: the other [R. Abba or R. Idi] holds that they do not.

What is meant by, ‘And [the symptoms of puberty] in males and females likewise’? Does it mean that one [witness] testified to [the appearance of] one hair on the part below [the genitals] and another to one hair on the part above? But that is both half of the necessary fact, and also half of the requisite testimony!<sup>20</sup> — But it means that one testified to two hairs on the part below, and the other to two hairs on the part above.

R. Joseph said: I state on the authority of ‘Ulla that the halachah is as R. Joshua b. Korha says, in respect to both movable and immovable property. Whilst the Rabbis who came from Mehuza state that R. Zera said in Rab's name: [This ruling holds good only] in the case of movable, but not immovable property. Rab<sup>21</sup> follows his own views. For he said: An admission after an admission,<sup>22</sup> or an admission after a loan,<sup>23</sup> may be combined.<sup>24</sup> But a loan after a loan,<sup>25</sup> or a loan after an admission cannot be combined.

R. Nahman b. Isaac, on meeting R. Huna the son of R. Joshua, asked him: Wherein does a loan after a loan differ, so that it [the testimony] is not [combined]: because the [loan of a] maneh witnessed by one is not the same as that witnessed by the other? Then the same applies to an admission after an admission: the [debt of a] maneh which he admitted in the presence of one witness may not be the same as that which he admitted before the other witness! — It means that he declared to the latter (witness): ‘Regarding the maneh which I have admitted in your presence, I have also made an admission in the presence of so and so.’ Yet even then, only the latter would know [this], but not the former? — He [subsequently] went again and said to the first witness: ‘The maneh which I admitted receiving in your presence, I also admitted receiving in the presence of so and so.’ Thereupon [R. Nahman] said to him [R. Huna the son of R. Joshua]: ‘May your mind be at ease as you have made mine.’ Said he, ‘Why at ease?’ Did not Raba — others say, R. Shesheth — hurl a hatchet at this [answer],<sup>26</sup> viz., surely it is then identical with the case of an admission after a loan.<sup>27</sup> Thereupon he [R. Nahman b. Isaac] said to him: ‘This proves what I heard about you folk, that you tear down palm trees and set them up again.’<sup>28</sup>

The Nehardeans said: [In all cases,] whether of admission after admission, admission after loan, loan after loan, or loan after admission, the testimonies are combined. With whom does this agree? — With R. Joshua b. Korha.

Rab Judah said: Testimony that is contradicted<sup>29</sup> under examination,<sup>30</sup> is valid in civil suits. Raba said: Logically, Rab Judah's ruling refers to such a case as where one witness says: 'I saw it paid] out of a black bag,' and the other says, 'Out of a white bag.' But if one declares, 'The money was old,'<sup>31</sup> and the other says, 'The money was new,'<sup>32</sup> their testimonies cannot be combined. But in criminal cases, are not testimonies combined where there are differences such as over the colour of a bag? Did not R. Hisda say: 'If one testifies that it [sc. the murder] was with a sword, and the other maintains, it was with a dagger, it is not valid<sup>33</sup> evidence; whereas if one affirms that the colour of his garments was black, and the other that it was white, their evidence is valid'?

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(1) I.e., they hold that the act must be witnessed by both witnesses simultaneously.

(2) The first Tanna.

(3) I.e., just as the act must be seen by both simultaneously, so also must it be attested simultaneously. He deduces this from the juxtaposition of the witnessing of the act and the giving evidence of it.

(4) R. Nathan.

(5) V. p. 65, n. 3.

(6) V. supra. R. Joshua b. Korha holds that the two witnesses need not observe the deed attested simultaneously.

(7) For only traditions reported by ordained scholars can be relied upon. Cf. Rashal a.l.

(8) From this answer, which has no bearing on the question, one might be led to conclude that R. Simeon b. Eliakim, though aware that R. Jose b. R. Hanina was incapable of providing the information desired by R. Johanan, nevertheless stated that he could give the information, in order to have him ordained. This cannot but appear as an unworthy ruse. A similar incident, however, is recorded in the Jerushalmi, though the names of the Sages figuring in the story are slightly different in order. There, the question is asked whether the halachah rests with R. Nathan, and the answer given there is more pertinent. This would seem to indicate that our text is in some confusion. [Cf. Weiss, Dor III, 90, n. 15]

(9) I.e., seeing that the degree of Rabbi has been conferred upon you.

(10) It will not be withdrawn. 'Ascended' and 'descended' are probably meant quite literally, the ordained scholars sitting on a higher bench than the unordained.

(11) So the text as emended in the marginal note. Our reading is: once a great man confers ordination, it stands.

(12) I.e., whether the alleged transaction referred to, e.g., the sale of land, or the granting of a monetary loan.

(13) Be-cause they must both be referring to the same transaction.

(14) Where each may be testifying with respect to a different object.

(15) A collection of Baraithoth compiled by Karna and his Beth din, of which only quotations are found here and there in Talmud. V. Weiss, Dor, vol iii, p. 164.

(16) Even after the destruction of the Temple a firstborn animal might not be employed for secular purposes unless it suffered from some physical blemish. To inflict such blemishes was strictly forbidden. In the case of animals belonging to Priests, two witnesses had to testify that their injuries were not man-inflicted, since Priests were under suspicion of exposing their firstborn animals to such defects in order that they might put them to domestic use. The testimony of one witness to one defect and of another to another defect on the same animal could be combined to declare the animal permissible for work. According to Tosaf., their difference concerns the testimony that one is a firstborn and so entitled to a double share of the patrimony.

(17) To prove a three years' undisturbed possession of an estate, where one witness testifies to the possession of the land for the first three years of the Sabbatical cycle, and another for the latter three years, their evidence is combined for the establishment of the possessor's claim, since each separately testifies in reference to the same estate.

(18) Where it is necessary to establish the majority of a person, from which point he or she is to be regarded as an adult and responsible for his actions to the laws of the Community. His or her majority begins from the time when two hairs appear in the region of the pubes. V. Nid. 52a. Hence from the reference given above it may be seen that the Rabbis agree with the view of R. Joshua b. Korha regarding the case of immovable property.

(19) R. Abba and R. Idi on the one hand, and 'Ulla on the other. They enjoyed equal status, so that the teaching of one cannot authoritatively refute that of the other. Nor does the fact that there are two against one make any difference.

(20) I.e., each witness does not individually testify to the complete fact necessary to establish puberty, but to half a fact. Moreover, that half fact (i.e., a single hair in a particular place) is attested by only half the necessary testimony — one witness instead of two. Whereas in the other cases under discussion each witness testifies to a whole fact, e.g., that A lent money to B.

(21) Who holds that successive evidence cannot be combined in the case of movable property.

(22) I.e., where one witness testifies that A admitted indebtedness to B on the first day of the month, and another testifies likewise, but refers it to the second day of the month.

(23) I.e., where one witness testifies to the transaction of a loan between A and B on the first day of the week, and another to A's admission of indebtedness to B on the second day.

(24) Since it is quite possible that both refer to the same loan

(25) I.e., where one witness testifies to the transaction of a loan between A and B on one day, and another testifies to the same on another day.

(26) I.e., disproved the opinion.

(27) For since it is necessary, according to this answer, that each witness shall know what the other has seen, it follows that an admission after a loan must be explained likewise, viz., he must have said to the latter witness: The maneh I have admitted receiving in your presence, I borrowed in the presence of so and so; and then he must have gone and said to the former witness: The maneh which I borrowed in your presence, I have admitted receiving before so and so. Why then did Rab need to state both laws?

(28) I.e., you remove difficulties merely to resurrect them!

(29) I.e., if the testimony of one witness contradicts that of the other.

(30) As to attendant circumstances, e.g., regarding the colour of the clothes worn etc., in which cases the agreement or disagreement is immaterial in reference to the law of declaring them Zomemim. V infra 40a.

(31) Lit., 'black' (with use).

(32) Lit., 'white'.

(33) Lit., 'certain', cf. Deut. XIII, 15.

## Talmud - Mas. Sanhedrin 31a

— Would you oppose man to man!<sup>1</sup>

The Nehardeans said: Even if one testified that it was an old maneh, and the other declares that it was new, we combine [their testimony]. With whom does this agree: with R. Joshua b. Korha?<sup>2</sup> But tell me! when did you learn that R. Joshua b. Korha ruled thus? Only where they are not contradictory:<sup>3</sup> Yet did he rule so even where they contradict each other? — But they [i.e., the Nehardeans] agree with the following Tanna: For it has been taught:<sup>4</sup> R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel<sup>5</sup> do not differ with respect to two sets of witnesses, [of which] one attests a debt of two hundred [zuz] and the other of one hundred [a maneh]: since one hundred is included in two hundred.<sup>6</sup> They differ only where there is but one set.<sup>7</sup> Beth Shammai say, Their testimony is sundered,<sup>8</sup> but Beth Hillel maintain, Two hundred include one hundred.<sup>9</sup>

If one witness attests [the loan of] a barrel of wine, and the other, of a barrel of oil: — such a case happened, and it was brought before R. Ammi, who ordered him [the defendant] to repay a barrel of wine out of [the value of] the barrel of oil.<sup>10</sup> In accordance with whom? With R. Simeon b. Eleazar [as above]! But might it not be said that R. Simeon b. Eleazar ruled so only [of a case such as the former,] where a hundred zuz is certainly included in two hundred.<sup>11</sup> Did he however rule thus in such a case as this?<sup>12</sup> — This holds good only in respect to the value thereof.<sup>13</sup>

If one deposes, It [e.g., the loan] was given in the upper storey, and the other declares, In the lower storey, — R. Hanina said: It happened that such a case was brought before Rabbi and he combined their evidence.

AND WHENCE DO WE KNOW etc. Our Rabbis taught: Whence do we know that when he goes

out he must not say: I was for acquittal, whilst my colleagues were for condemnation; but what could I do, seeing that they were in the majority? — Scripture states: Thou shalt not go up and down as a talebearer among thy people,<sup>14</sup> and further, He that goeth about talebearing revealeth secrets.<sup>15</sup>

It was rumoured of a certain disciple that he revealed a matter stated [as a secret] in the Beth ha-Midrash twenty-two years before. So R. Ammi expelled him from the Beth ha-Midrash saying: This man revealeth secrets. MISHNAH. WHENEVER HE<sup>16</sup> BRINGS PROOF, IT<sup>17</sup> CAN UPSET THE VERDICT. BUT IF THEY<sup>18</sup> HAVE TOLD HIM: ‘ALL THE PROOFS WHICH YOU MAY HAVE YOU MUST PRODUCE WITHIN THIRTY DAYS.’ IF HE DIES SO WITHIN THIRTY DAYS, IT UPSETS [THE DECISION]. AFTER THIRTY DAYS, IT DOES NOT. BUT RABBAN SIMEON B. GAMALIEL SAID: WHAT IS HE TO DO WHO DID NOT FIND [FAVOURABLE EVIDENCE] WITHIN THE THIRTY DAYS, BUT ONLY THEREAFTER?<sup>19</sup>

IF THEY<sup>18</sup> HAVE SAID TO HIM, ‘BRING WITNESSES,’ AND HE ANSWERED, ‘I HAVE NONE,’ OR, ‘BRING PROOF,’<sup>20</sup> AND HE REPLIED, ‘I HAVE NONE.’ YET SUBSEQUENTLY HE PRODUCED PROOF, OR FOUND WITNESSES, IT IS OF NO VALUE.<sup>21</sup> SAID RABBAN SIMEON B. GAMALIEL: WHAT IS HE TO DO WHO DID NOT KNOW THAT WITNESSES WERE AVAILABLE, BUT FOUND THEM AFTERWARDS; OR THAT THERE WAS PROOF, YET DISCOVERED IT LATER?<sup>22</sup>

IF ON SEEING THAT HE WAS ABOUT TO BE CONDEMNED HE SAID: ‘ADMIT SO AND SO TO TESTIFY IN MY FAVOUR,’ OR PRODUCED [DOCUMENTARY] PROOF FROM HIS FUNDA,<sup>23</sup> IT IS VALUELESS.<sup>24</sup>

GEMARA. Rabbah son of R. Huna said: The halachah rests with Rabban Simeon b. Gamaliel.<sup>25</sup> Rabbah son of R. Huna also said: The halachah does not rest with the Sages. But is this not obvious; since he says that the halachah rests with Rabban Simeon b. Gamaliel it automatically follows that the halachah is not as the Sages? — I might have thought that his ruling<sup>26</sup> holds good only at the outset;<sup>27</sup> but once it [i.e., the reverse] has been done,<sup>28</sup> it is correct: therefore he informs us<sup>29</sup> that even then, it [the decision] is reversed.

IF THEY SAID TO HIM: ‘BRING WITNESSES,’ ETC. . . . SAID RABBAN SIMEON B. GAMALIEL etc. — Rabbah son of R. Huna said in R. Johanan's name: The halachah rests with the Sages. Rabbah son of R. Huna also said in R. Johanan's name: The halachah does not rest with Rabban Simeon b. Gamaliel. But is this not obvious; since he said that the halachah rests with the Sages it follows automatically that the halachah does not rest with Rabban Simeon b. Gamaliel? What he teaches us is this: Only in this case is the halachah not as Rabban Simeon b. Gamaliel holds; whereas in all other cases,<sup>30</sup> the halachah rests with him. Thus he opposes the dictum of Rabbah b. Bar Hana in the name of R. Johanan, viz., Wherever Rabban Simeon b. Gamaliel's view is taught in our Mishnah, the halachah rests with him, except in [the following three cases]: ‘Areb,<sup>31</sup> Zidon<sup>32</sup> and ‘the latter proof’.<sup>33</sup>

A lad<sup>34</sup> was once summoned for a [civil] suit before R. Nahman. The latter asked him: ‘Have you any witnesses?’ He answered: ‘No.’ ‘Have you any [documentary] proof?’ ‘No,’ was the reply. Consequently, R. Nahman ruled him to be liable. As he went along weeping, some people heard him and said to him, ‘We know your father's affairs.’<sup>35</sup> Said R. Nahman: In such a case even the Rabbis<sup>36</sup> agree that the youth is not expected to know his father's affairs.<sup>37</sup> A certain woman<sup>38</sup> produced a note of a debt,<sup>39</sup> but said to him:<sup>40</sup> ‘I know that this bill was discharged.’ R. Nahman<sup>41</sup> believed her.<sup>42</sup> Said Raba to him: According to whose view [did you act]? According to Rabbi who said: [Ownership of] ‘letters’ is acquired through delivery?<sup>43</sup> This case is different, he replied, since she could have burnt it, had she desired.<sup>44</sup> Others say, R. Nahman did not believe her. Thereupon Raba objected: But had she desired,



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- (1) V. p. 189, n. 2.
- (2) V. p. 185. For here too, after all, both testify to the same fact, viz., the debt of a maneh.
- (3) Differing only in the matter of date.
- (4) B.B. 41b, Nazir 20a.
- (5) Who are at variance in the following case, viz., where of two sets of witnesses one testifies that A took upon himself the vow of neziruth for two years, and the other, for five years. The Shammaites maintain that since they differ, their evidence is invalid; the Hillelites say that, as both sets of witnesses testify for a period of not less than two years, the lesser period is considered proved.
- (6) So that the debt of a hundred zuz is witnessed to by both.
- (7) One witness testifying to a hundred, and the other to two hundred.
- (8) I.e., since one is obviously false, he is cut off from the other; hence there is no valid testimony at all.
- (9) So that there are two witnesses for a debt of a hundred. Hence the Nehardeans are supported by this view.
- (10) I.e., since the value of the latter is greater, he regarded the smaller debt as proved.
- (11) I.e., a hundred is actually part of two hundred.
- (12) Where they differ as to the substance.
- (13) I.e., the witnesses did not attest the indebtedness of the defendant in actual wine or oil, but his indebtedness for their value. Accordingly they differed in respect to the amount.
- (14) Lev. XIX, 16.
- (15) Prov. XI, 13.
- (16) The defendant (Rashi). According to the Codifiers, Tur and Caro, any of the litigants, v. H.M. XVI, 1.
- (17) The court (Rashi).
- (18) The judges. So Alfasi, Me'iri and others. The text reads **אמר לו** (He, the other litigant, said unto him). The version rendered seems the more acceptable.
- (19) I.e., even if he produces it after the stipulated period, the decision may be reversed.
- (20) Viz., documentary evidence.
- (21) Since he might forge a document or engage false witnesses.
- (22) I.e., both documentary proof and witnesses are valid.
- (23) Gr. \*\*. A moneybag or hollow belt for keeping money or documents.
- (24) Even according to Rabban Simeon b. Gamaliel; since he knew of it, and yet did not produce it, we fear that it is false.
- (25) In the first clause, where the litigant was asked to produce evidence within thirty days and did not say that he had none.
- (26) That the halachah rests with Rabban Simeon b. Gamaliel.
- (27) I.e., even if proof is brought after the prescribed time, it is to be accepted.
- (28) I.e., the court had rejected this evidence and given a verdict accordingly.
- (29) By his second statement that the halachah does not rest with the Sages.
- (30) Where Rabban Simeon b. Gamaliel is at variance with other Sages.
- (31) Surety. V. B.B. 173a.
- (32) Git. 74a.
- (33) I.e., the case, dealt with in our Mishnah, of evidence offered late, the case under discussion; thus Rabbah b. R. Huna maintains that the halachah does rest with Rabban Simeon b. Gamaliel in respect to 'Areb and Zidon.
- (34) I.e., minor.
- (35) And can testify in your favour.
- (36) Who oppose Rabban Simeon B. Gamaliel in the Mishnah.
- (37) Hence the decision can be reversed.
- (38) Who was a trustee, appointed by the creditor and debtor, of a bill of indebtedness.
- (39) Lit., 'A Shetar came forth from under her hand.'
- (40) The creditor.
- (41) Before whom the dispute was brought.
- (42) Notwithstanding the creditor's denial; for as long as they kept her their trustee, they vouched thereby for her truthfulness.

(43) I.e., if a creditor wishes to make over a debt, he can do so merely by handing the note — referred to here as a compilation of (alphabetical) letters — to the assignee. Hence in our case, the woman could have claimed ownership of the note, on the plea that it had been handed to her not as a trustee, but in transference of the debt. Consequently her statement that the bill was paid may be regarded as true by reason of a Miggo, v. Glos. Raba was not in favour of the opinion of Rabbi, as it opposes the view of the majority of the Sages that a Shetar cannot be legally assigned by mere delivery. V. B.B. 76a.

(44) Hence, without accepting Rabbi's ruling, there are still grounds for believing her.

### **Talmud - Mas. Sanhedrin 31b**

she could have burnt it! — Since it had been proved at Court,<sup>1</sup> we cannot say that she could have destroyed it had she desired.

Raba refuted R. Nahman: A witnessed receipt<sup>2</sup> must be authenticated by the signatories. If unwitnessed, but produced by a trustee, or if written on the note of indebtedness, under the signatures of the witnesses, it is also valid.<sup>3</sup> Hence we see that the trustee is believed! This refutation of R. Nahman remains unanswered.

When R. Dimi came [from Palestine] he said in R. Johanan's name: One may always adduce proof to upset [the decision unless he declares his arguments closed, and [immediately thereafter] says: Admit so and so to testify on my behalf.<sup>4</sup> But is not this selfcontradictory? First you say, 'Unless he declares his arguments closed,' — which agrees with the Rabbis<sup>5</sup>; then you say, 'and [immediately thereafter] says, Admit so and so to testify on my behalf' — which agrees with Rabban Simeon b. Gamaliel!<sup>6</sup> And should you answer, The whole agrees with Rabban Simeon b. Gamaliel, and that [the latter clause is] merely elucidatory [of the first] viz., What is meant by, 'Unless he declares his arguments closed'? That means he says, Admit so and so that he may give evidence for me:<sup>7</sup> but did not Rabbah b. Bar Hana say in R. Johanan's name: Wherever Rabban Simeon b. Gamaliel's view is taught in our Mishnah, the halachah rests with him, save in the cases of 'Areb, Zidon, and the 'latter proof'<sup>8</sup> — But when R. Samuel b. Judah came [from Palestine], he said in R. Johanan's name: One may always produce evidence to upset [a decision], unless he declares his case closed and they say unto him, 'Bring witnesses,' and he answers, 'I have no witnesses;' 'Bring proof,' and he replies, 'I have no proof.'<sup>9</sup> If, however, witnesses arrive from overseas, or if his father's despatch case<sup>10</sup> had been deposited with a stranger, he can produce the evidence and upset [the decision].

When R. Dimi came [from Palestine], he said in R. Johanan's name: If a man, known as a difficult adversary in court, [has a trial,]<sup>11</sup> and one of them<sup>12</sup> says: Let us be tried here; while the other says: Let us go to the place of Assembly,<sup>13</sup> he is compelled to go to the place of Assembly. R. Eleazar, however, said in his presence: Rabbi, if a man claims a maneh from his fellow, must he spend another maneh<sup>14</sup> on top of the first? Nay, he is compelled to attend the local court.<sup>15</sup> It has been stated likewise: R. Safra said [in R. Johanan's name]:<sup>16</sup> If two litigants are in obstinate disagreement with respect to [the venue of] a lawsuit, and one says: Let us be tried here; and the other says: Let us go to the place of Assembly;<sup>17</sup> he [the defendant] must attend the court in his<sup>18</sup> home town. And if it is necessary to consult [the Assembly], the matter is written down and forwarded to them. And if the litigant<sup>19</sup> says 'Write down the grounds on which you made your decision and give them to me,<sup>20</sup> they must write them down and give him the document.

The Yebamah<sup>21</sup> is bound to follow the Yabam [to his own town] that he may release her.<sup>22</sup> How far? — R. Ammi answered: Even from Tiberias to Sepphoris.<sup>23</sup> R. Kahana said: What verse proves it? — Then the elders of his city shall call him;<sup>24</sup> but not the elders of her city.

Amemar said: The law is that he is compelled to go to the place of the Assembly.<sup>25</sup> R. Ashi said to him: Did not R. Eleazar say, He is compelled to attend court in his [opponent's] town? — That is

only where the debtor demands it<sup>26</sup> of the creditor; but if the creditor [demands, it, the debtor must submit, for] The borrower is servant to the lender.<sup>27</sup>

A message was once sent<sup>28</sup> to Mar 'Ukba:<sup>29</sup> 'To him whose lustre is like that of the son of Bithia,<sup>30</sup> Peace be with thee. 'Ukban the Babylonian has complained to us, saying: "My brother Jeremiah has obstructed my way."<sup>31</sup> Speak therefore to him, and see that he meets us in Tiberias.' But is this not self-contradictory? First you say, 'Speak to him,' i.e., judge him;<sup>32</sup> and then you add, 'See that he meets us in Tiberias,' shewing [that they told him], Send him hither! — What they meant was: Speak to him and judge him;<sup>33</sup> if he accepts your decision, well and good; if not, see to it that he appears before us in Tiberias.<sup>34</sup>

R. Ashi says: This was a case of Kenas, and in Babylonia they could not try cases of Kenas.<sup>35</sup> But as for their sending him a message in such terms,<sup>36</sup> that was only to shew respect to Mar 'Ukba. [

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(1) Rashi: Its genuineness had been proved in Court. Tosaf. however points out that even then, it was still in her power to burn it. Therefore Tosaf. explains: It had been proved at court that she had it in her possession.

(2) **סִימָפוֹן**; Gr. \*\*, a kind of codicil, the precise significance of which is unknown.

(3) For the note is in the creditor's possession, and he would certainly not have permitted a false receipt to be written thereon.

(4) This implies, that, having stated that he has no more evidence in his favour, he then asks, (presumably because he sees the case going against him, as in the Mishnah,) that certain witnesses shall be heard on his behalf.

(5) Who hold that once he states that he has no more evidence, his case is closed, and new evidence cannot be offered even at a later date.

(6) For this implies that the evidence is not admissible only because he offered witnesses of whose existence he had known and who were available at the time. But if he subsequently produced new evidence, unknown to him when he made his declaration, it would be valid.

(7) I.e., only if he immediately thereafter offers fresh evidence is it not accepted, the court abiding by his previous statement that his case was closed.

(8) Thus proving that R. Johanan holds that once he has declared, 'I have no further proof,' he cannot produce any, much later.

(9) At which point his defence is regarded as closed.

(10) **דִּיסקִיא** Gr. \*\*; bisaccium, a bag with two pouches.

(11) [Thus Rashi. According to Yad Ramah render, 'He who constrains his neighbour to stand with him for trial.']

(12) The more influential man.

(13) The meeting place of scholars; the supreme Beth din in Jerusalem, according to Maim. Yad, San. XI, 6. For a full discussion of this and the following passage, v. Finkelstein, Jewish Self-Government in the Middle Ages, pp. 379 et seqq. (note C.). This was said with the hope that his opponent might be humbler out of respect for the Scholars (Rashi).

(14) In travelling expenses.

(15) The creditor's.

(16) Rashal deletes the bracketed passage. See, however, Finkelstein, loc. cit.

(17) Maintaining that he lacked confidence in the local court and feared an erroneous decision,

(18) The plaintiff's.

(19) Who declined to appear before the local court, v. Tosaf.

(20) So that he might ascertain the legality of their decision.

(21) **בְּמִהָה** fem. of **בֵּם** v. Glos.

(22) From the obligations of levirate marriage.

(23) Although the court in the former city was more eminent (Rashi). Actually, these two towns were near to each other.

(24) Deut. XXV, 8.

(25) Referring to a dispute between litigants regarding the place of trial.

(26) To go to the Assembly.

(27) Prov. XXII, 7.

(28) By the judicial court in Palestine.

- (29) He held the office of Ab-Beth-din in Kafri near by Nehardea, and was a contemporary of Samuel Yarhinai. v. Sabb. 55a; Rashi, Kidd. 44b.
- (30) Moses (Rashi). V. p. 102. [Or, 'like the Son of the House', an honorific title among the Persian nobility, Funk, op. cit., I, 33, n. 1.]
- (31) I.e., he treated me injuriously.
- (32) Hence, in Babylonia.
- (33) I.e., Judge you the case first.
- (34) Hence we see that even where the plaintiff desired the defendant to appear in another court, yet at the outset preference was given to the local court.
- (35) V. B.K. 84a.
- (36) Implying that they asked him to judge the case himself.

CHAPTER IV

MISHNAH. BOTH CIVIL AND CAPITAL CASES DEMAND INQUIRY AND EXAMINATION.<sup>1</sup> AS IT IS WRITTEN: YE SHALL HAVE ONE MANNER OF LAW.<sup>2</sup> WHAT IS THE DIFFERENCE BETWEEN CIVIL AND CAPITAL CASES? — CIVIL SUITS [ARE TRIED] BY THREE; CAPITAL CASES BY TWENTY-THREE<sup>3</sup> CIVIL SUITS MAY BE OPENED EITHER FOR ACQUITTAL OR CONDEMNATION; CAPITAL CHARGES MUST BE OPENED FOR ACQUITTAL, BUT NOT FOR CONDEMNATION.<sup>4</sup> CIVIL SUITS MAY BE DECIDED BY A MAJORITY OF ONE, EITHER FOR ACQUITTAL OR CONDEMNATION; WHEREAS CAPITAL CHARGES ARE DECIDED BY A MAJORITY OF ONE FOR ACQUITTAL, BUT [AT LEAST] TWO FOR CONDEMNATION.<sup>5</sup> IN MONETARY CASES THE DECISION MAY BE REVERSED<sup>6</sup> BOTH FOR A ACQUITTAL AND FOR CONDEMNATION; WHILST IN CAPITAL CHARGES THE VERDICT MAY BE REVERSED FOR ACQUITTAL ONLY, BUT NOT FOR CONDEMNATION; WHILST IN CAPITAL CHARGES THE VERDICT MAY BE REVERSED FOR ACQUITTAL ONLY, BUT NOT FOR CONDEMNATION. IN MONETARY CASES, ALL<sup>7</sup> MAY ARGUE FOR OR AGAINST THE DEFENDANT; WHILST IN CAPITAL CHARGES, ANYONE MAY ARGUE IN HIS FAVOUR, BUT NOT AGAINST HIM. IN CIVIL SUITS, HE WHO HAS ARGUED FOR CONDEMNATION, MAY<sup>8</sup> THEN ARGUE FOR ACQUITTAL, AND VICE VERSA; WHEREAS IN CAPITAL CHARGES, ONE WHO HAS ARGUED FOR CONDEMNATION MAY SUBSEQUENTLY ARGUE FOR ACQUITTAL, BUT NOT VICE VERSA.<sup>9</sup>

CIVIL SUITS ARE TRIED BY DAY, AND CONCLUDED AT NIGHT.<sup>10</sup> BUT CAPITAL CHARGES MUST BE TRIED BY DAY AND CONCLUDED BY DAY. CIVIL SUITS CAN BE CONCLUDED ON THE SAME DAY, WHETHER FOR ACQUITTAL OR CONDEMNATION; CAPITAL CHARGES MAY BE CONCLUDED ON THE SAME DAY WITH A FAVOURABLE VERDICT, BUT ONLY ON THE MORROW WITH AN UNFAVOURABLE VERDICT.<sup>11</sup> THEREFORE TRIALS ARE NOT HELD ON THE EVE OF A SABBATH OR FESTIVAL.<sup>12</sup> IN CIVIL SUITS.<sup>13</sup> AND IN CASES OF CLEANNES AND UNCLEANNES, WE BEGIN WITH [THE OPINION OF] THE MOST EMINENT [OF THE JUDGES]; WHEREAS IN CAPITAL CHARGES, WE COMMENCE WITH [THE OPINION OF] THOSE ON THE SIDE [BENCHES].

ALL ARE ELIGIBLE TO TRY CIVIL SUITS, BUT NOT ALL ARE ELIGIBLE TO TRY CAPITAL CHARGES, ONLY PRIESTS, LEVITES, AND ISRAELITES [LAYMEN] WITH WHOM PRIESTS CAN ENTER INTO MARRIAGE RELATIONSHIP.<sup>14</sup>

GEMARA. Do civil suits really need inquiry and examination? The following opposes it: If a bond is dated the first of Nisan in the Shemittah,<sup>15</sup> and witnesses came and said: 'How can ye testify to this bond: were ye not with us on that day in such and such a place?' the bond is valid, and its signatories remain competent [witnesses], for we presume that they might merely have postponed writing it.<sup>16</sup> Now if you should think that inquiry and examination are necessary, how 'presume that they might merely have postponed writing it?'<sup>17</sup> — But on your reasoning, one should object rather to the [following] Mishnah:<sup>18</sup> Ante-dated bonds<sup>19</sup> of indebtedness are invalid;<sup>20</sup> if post-dated, they are valid.<sup>21</sup> Now, if you should think that examination and inquiry are necessary, why are post-dated notes valid?<sup>22</sup> — This<sup>23</sup> is no difficulty, for a more powerful objection is raised,<sup>24</sup> viz., that even in the case of a bond dated the first of Nisan in the Sabbatical year, when people, as a rule, do not transact loans, and when, consequently, we cannot [plausibly] say that the writing [of the bond] might have been postponed, since no one would intentionally weaken the validity of his document:<sup>25</sup> yet since the annulment of debts is effectuated only at the expiration of the Sabbatical year, we declare the bond valid.<sup>26</sup> At all events, however, the difficulty<sup>27</sup> remains.

(Mnemonic: Harpash.<sup>28</sup>)

R. Hanina said: By Biblical law, both monetary and capital cases require inquiry and investigation, as it is written: One manner of judgment ye shall have.<sup>29</sup> Why then were civil suits exempted from this procedure? In order not to lock the door against borrowers.<sup>30</sup> But if so,

- (1) Heb. **דרישה והקירה**, i.e., examination of witnesses on the main points, e.g., amount (loaned), date and place.
- (2) Lev. XXIV, 22. I.e., both capital and monetary cases shall be alike. With regard to capital cases it is written; Then shalt thou inquire and make search (Deut. XIII, 15).
- (3) V. supra 2a; 23a.
- (4) The reference is to the judicial debate on the matter. In civil suits, the points in favour of condemnation may be put first; but in capital charges, the arguments for acquittal must be first marshalled, but v. Krauss, a.l. for another interpretation. But of course, it cannot refer to the actual opening of the case; the indictment and case for the prosecution must obviously be stated before there is a charge to answer.
- (5) V. supra 2a and infra 36b.
- (6) On errors being revealed.
- (7) Even the pupils, those seated behind the judges for the purpose of filling up vacancies. Cf. infra 37a.
- (8) On finding his arguments erroneous.
- (9) According to Rashi, this is deduced from Num. XXXV, 25, The Congregation shall deliver the manslayer, meaning that all the endeavours of the court should be directed towards deliverance. According to Maim., Yad, Sanh., X, 2, it is deduced from Ex. XXIII, 2, Neither shalt thou speak in a quarrel to incline etc. Probably he based his deduction on the Mekilta comment on the verse, where reference is made to the judges' duty to lean towards acquittal.
- (10) Where the deliberations have been protracted.
- (11) In case points in the accused's favour are discovered during the night.
- (12) Since should he be found guilty, the case cannot be concluded on the morrow, execution being forbidden on Sabbaths and Festivals. (From this it is seen that by 'concluding' the actual carrying out of the sentence is meant, not merely the promulgation of the verdict.) Moreover, it is against the law — except in the case of a rebellious Elder, v. infra 89a — to leave judgement in suspense. V. Maim., Yad, Sanh. XII, 4.
- (13) CIVIL SUITS is omitted in most Mishnaic versions.
- (14) I.e., of pure descent.
- (15) **שמיטה**; Sabbatical year. Though the regulations of the Sabbatical year include also the annulment of all monetary obligations, 'when the creditor is legally debarred from collecting his debt (v. Deut. XV, 2), yet in various exceptional cases the law of Shemittah did not operate, e.g., if a Prosbul (**פרוזבול**) had been written. This was a legal instrument executed and attested in Court whereby the lender retained the right to collect the debt at any time he thought fit (cf. Sheb. X, 4). Further shemittah does not affect a loan advanced on a pledge, or where the claim for collection had been made before the expiration of the Sabbatical year, in which cases loans are not annulled. V. 'Ar. 28b.
- (16) I.e., they might have witnessed the loan on an earlier date, but have postponed writing the bond until the first day of Nisan (Rashi). [According to Yad Ramah, render, 'they might have post-dated it.' We do not assume that it has been ante-dated (v. infra) as there is a presumption in favour of all duly attested documents, v. B.B. (Sonc. ed.) p. 748, n. 16.]
- (17) If such an assumption is permissible, examination as to date and placed is purposeless.
- (18) Rather than the Baraitha, since scholars are more conversant with the Mishnah than with Baraithoth.
- (19) I.e., bearing on the evidence of witnesses, of an earlier date than the actual loan.
- (20) As a rule the debtor's property is given as security for the loan, and in the case of default, the creditor may seize it if sold after the loan was incurred, but not before. Hence, if the note was ante-dated, sold property might be seized unlawfully. In order to prevent this, an ante-dated bond was declared altogether invalid, even from the date of transaction. Cf. B.M. 72a.
- (21) It appears that the creditor must have renounced his security for the period between the date of the loan and that appearing on the note.
- (22) Seeing that they might be mere forgeries? Hence, even if the loan itself is attested as having taken place, it should rank as only a verbal loan, which cannot be collected from property sold even after it was incurred.
- (23) I.e., the fact that the objection is raised on the ground of a Baraitha rather than of a Mishnah.

(24) In the Baraitha quoted.

(25) By dating it some time in the Sabbatical year, when the debt is threatened with annulment, and so inevitably arousing the suspicion of forgery.

(26) By assuming its writing has been postponed to the Sabbatical year. Thus, this assumption, since it is possible, is made in spite of its improbability, a loan in the Sabbatical year still being rare. How much more so is the assumption to be made in normal cases. Why then should the witnesses be examined on the date, since even if it is disproved, their testimony holds good?

(27) I.e., the fact that the Baraitha is contradictory to our Mishnah; v. preceding note.

(28) V. p. 21, n. 5. Here it stands for R. Hanina, Raba, R. Papa, and R. Ashi. the four Rabbis whose views are given here.

(29) Lev. XXIV, 22.

(30) V. supra 2b. The view expressed in our Mishnah was taught before this enactment; and the Baraitha and Mishnah in Sheb., after this enactment.

## Talmud - Mas. Sanhedrin 32b

when they [the judges] erred [in their verdict], they should not be liable! — Then thou wouldst most certainly lock the door against borrowers.<sup>1</sup>

Raba<sup>2</sup> said: Our Mishnah refers to a case of Kenas,<sup>3</sup> the other teachings<sup>4</sup> to the admission and transaction of loans.<sup>5</sup>

R. Papa said:<sup>6</sup> Both this and the other teachings deal with the admission and transaction of loans. In our Mishnah, however, the suit is [suspected of being] dishonest,<sup>7</sup> while in the other,<sup>8</sup> the claim is [i.e., appears] genuine. This agrees with Resh Lakish, for Resh Lakish opposed [two verses to each other]: It is written, In justice<sup>9</sup> shalt thou judge thy neighbour;<sup>10</sup> but elsewhere, Justice, justice shalt thou follow.<sup>11</sup> How so? — The latter refers to a suit suspected to be dishonest; the former, to an [apparently] genuine claim.

R. Ashi said: The [contradictory] teachings are reconciled as above;<sup>12</sup> but as for the [Scriptural] verses, one<sup>13</sup> refers to a decision based on strict law, the other to a compromise. As it has been taught: Justice, justice shalt thou follow; the first [mention of justice] refers to a decision based on strict law; the second, to a compromise. How so? — E.g., where two boats sailing on a river meet; if both attempt to pass simultaneously, both will sink,<sup>14</sup> whereas, if one makes way for the other, both can pass [without mishap]. Likewise, if two camels met each other while on the ascent to Beth-Horon;<sup>15</sup> if they both ascend [at the same time] both may tumble down [into the valley]; but if [they ascend] after each other, both can go up [safely]. How then should they act? If one is laden and the other unladen, the latter should give way to the former. If one is nearer [to its destination] than the other, the former should give way to the latter. If both are [equally] near or far [from their destination,] make a compromise between them, the one [which is to go forward] compensating the other [which has to give way].

Our Rabbis taught: Justice, justice shalt thou follow, means, Thou shalt follow an eminent Beth din, as for example, [follow] R. Eliezer [b. Hyrkanus] to Lydda.<sup>16</sup> or R. Johanan b. Zakkai to Beror Hail.<sup>17</sup> It has been taught: The noise of grindstones at Burni<sup>18</sup> [announced] a circumcision<sup>19</sup> [was being performed]; and the light of a candle [by day, and many candles by night] at Beror Hail, showed that a feast [was being celebrated] there.<sup>20</sup>

Our Rabbis taught: justice, justice shalt thou follow,' this means, Follow the scholars to their academies. e.g.. R. Eliezer to Lydda, R. Johanan b. Zakkai to Beror Hail,<sup>21</sup> R. Joshua to Peki'in,<sup>22</sup> Rabban Gamaliel [II] to Jabneh,<sup>23</sup> R. Akiba to Benai Berak,<sup>24</sup> R. Mathia to Rome,<sup>25</sup> R. Hanania b. Teradion to Sikni,<sup>26</sup> R. Jose [b. Halafta] to Sepphoris. R. Judah b. Bathyra to Nisibis,<sup>27</sup> R. Joshua<sup>28</sup>

to the Exile,<sup>29</sup> Rabbi to Beth She'arim,<sup>30</sup> or the Sages<sup>31</sup> to the chamber of hewn stones.<sup>32</sup>

CIVIL SUITS MAY BE OPENED EITHER FOR ACQUITTAL etc. What is said?<sup>33</sup> Rab Judah said: We speak thus to them:<sup>34</sup> Who can tell that it is as ye say?<sup>35</sup> 'Ulla objected: But do we not thereby shut their lip?<sup>36</sup> — Then let them be shut! Has it not been taught: R. Simeon b. Eliezer said: The witnesses are moved from place to place,<sup>37</sup> that they<sup>38</sup> may become confused, and withdraw [their evidence].<sup>39</sup> What comparison is there! In that case, they are automatically repelled, whereas here, we repel them by our own act!

But, said 'Ulla: We say thus: Have you [sc. the defendant] any witnesses to refute them?<sup>40</sup> Rabbah demurred: Can we then open the defence of one in a manner which involves the condemnation of another?<sup>41</sup> — But does this really involve his condemnation? Have we not learnt: Witnesses declared Zomemim are not executed unless the verdict has [already] been given!<sup>42</sup> — I mean this: Should the defendant remain silent until the verdict is given, and then produce witnesses and refute the others, it involves their condemnation?<sup>43</sup> — Therefore Rabbah said: We say to him: Have you any witnesses to contradict them?<sup>44</sup>

R. Kahana said: [We open the defence by saying,] From your words it appears that so and so is not guilty.<sup>45</sup> Abaye and Raba both say: We say to him: If you did not commit the murder, have no fear. R. Ashi says: [We begin thus:] Whoever knows anything in his [sc. the accused's] favour, let him come forward and state it. It has been taught in agreement with Abaye and Raba: Rabbi said, If no man have lain with thee and if thou hast not gone aside to uncleanness, etc.<sup>46</sup> ;

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(1) For notes v. supra 3a.

(2) Who holds that there is no difference between the teachings, and that they were all taught after the enactment referred to.

(3) E.g., the payment of the double restitution (v. Glos.), where the fear locking the door against borrowers has no ground.

(4) The Baraita and Mishnah in Sheb.

(5) And where refusal to lend might be a consequence of this enacting procedure.

(6) In reconciliation of the views of the two teachings.

(7) The judges find suspicious circumstances attending the claim; therefore full investigation is essential for the establishment of the truth.

(8) V. p. 202. n. 11.

(9) E.V. 'righteousness'.

(10) Lev. XIX, 15.

(11) Deut. XVI, 20. The repetition of 'justice' indicates the necessity' of stricter investigation than is implied by the single use of the word.

(12) As explained by R. Hanina, Raba and R. Papa.

(13) The Biblical emphasis on justice.

(14) Through collision.

(15) **בֵּית חוֹרוֹן** (lit., 'the house of the hollow'). There were two towns of this name, distinguished on account of their situation, as Beth Horon the Upper, and Beth Horon the Lower. They both lay on the southern border of Ephraim and close to the territory of Benjamin (cf. Josh. XVI, 3, 5; XVIII, 13, 14) Beth Horon the Upper stands on the summit of a conical hill, while a short distance west of this point, on a rocky eminence, stands Beth Horon the Lower. The deep valley between the two places may account for the name, 'The house of the hollow.' The road winds up the mountain in zig-zag line, and is in many places cut in the rock. It is rugged and difficult. (10) Lit., 'if one is near and the other is not near.'

(16) A city in Palestine, twelve miles from Jaffa on the road to Jerusalem. Was famous as a seat of Jewish scholarship after the destruction of the Temple.

(17) Seat of R. Johanan b. Zakkai's College. near Jabneh (Jastr.) [Klein, S.. **ידיעות המכון למדעי היהדות** I, 46, identifies it with the village Burer, west of Beth Gubrin (Eleutheropolis.)]



- (18) A place near Lydda. 'The noise of grinding' was an indication that some ingredients were being ground for the purpose of treating the circumcision wound.
- (19) **שבוע הבן** lit., 'the week of the son' (bis), v. B.B. (Sonc. ed.) p. 246. n. 8.
- (20) Bis: This was (a) during the time of Hadrian, the Emperor, who forbade the observance of the law and the rite of circumcision. Such were the signs by which Jews were invited to celebrate the solemn occasions [V. Graetz, Geschichte, IV, p. 158, who however regards these announcements as words of denunciation by the spies of the Roman Government on noticing these signs. Or (b) during the persecutions under Antiochus, Klein, op. cit., 40ff.]
- (21) [Where he spent the last years of his life, v. Derenbourg, MGWJ. 1893, 304.]
- (22) Or Beki'in, a small town in Palestine, between Jabneh and Lydda. A seat of a Talmudic School during the patriarchate of Gamaliel II.
- (23) A small town on the N.W. borders of Judea, identified with Jabneel of Naftali (Josh. XIX, 33). Seat of the celebrated school after the destruction of Jerusalem, which locality is replaced as the seat of the Sanhedrin. Scholars (Weiss, Graetz, Halevy) disagree as to the exact authority it possessed.
- (24) One of the cities of the tribe of Dan (Josh. XIX, 45) identified with the modern Benai Berak, a flourishing Jewish Colony.
- (25) [He left Palestine at the same time as Judah b. Bathyra and R. Hananiah, the nephew of R. Joshua b. Hananiah (v. infra) shortly before the Bar Kochba war, and making his way to Rome he there established a school, v. Bacher, AT., I, 380.]
- (26) **סכנין** or Sogana (v. Josephus, Vita 51). North of Jotapata in Galilee.
- (27) Nisibis, city in North-eastern Mesopotamia, in the ancient province of Migdona.
- (28) Read: Haninah (nephew of R. Joshua) about whose journey to Babylon. v. Ber. 63a. V. marginal note.
- (29) [He established a school in Nehar Pekod, west of Nehardea, v. Bacher, op. cit. 389.]
- (30) A city identified with El Shajerah, south of Sepphoris. (Neubauer, Geographie, p. 200.) One of the stations the Sanhedrin were destined to pass in its ten exiles during the period 30-170 C.E. V. R.H. 31b; Keth. 103b.
- (31) The Great Sanhedrin (Rashi).
- (32) **לשכת הגזית**, the chamber of hewn stones in the inner court of the Temple which was the home of the Great Sanhedrin. [On the refutation of Schurer's view that it was the chamber 'close to the Xystus' on the western border of the Temple Mount, v. Krauss, J.E., XII, 576.]
- (33) In opening the case for the defence.
- (34) Sc. the witnesses for prosecution.
- (35) I.e., perhaps your evidence is false
- (36) I.e., discourage them from giving further evidence.
- (37) Rashi: When they came to give evidence, the Court would decline to hear it in that place, but appoint another and at the second place, they found some reason for moving to a third and so on.
- (38) Lit., 'their minds'.
- (39) Tosef. Sanh. IX.
- (40) The accusing witnesses, and prove them Zomemim..
- (41) For in a capital charge, witnesses proved Zomemim are liable to death.
- (42) And unless before it was carried out, they had been proved Zomemim. Consequently, if the accused is invited to produce witnesses to refute the other at this early stage of the proceedings, no question of condemnation arises.
- (43) Hence at the very outset, he must not be invited to prove the accusing witnesses Zomemim.
- (44) I.e., to prove the former evidence false, but not by means of shewing that the witnesses are Zomemim. (V. Glos. and p. 36, n. 3.)
- (45) The judges start by pointing out the weak features of the prosecution, e.g., even if certain statements of the prosecution are proved true, they do not shew the guilt of the accused.
- (46) Num. V, 19.

## Talmud - Mas. Sanhedrin 33a

We infer from this that capital charges are opened for acquittal.<sup>1</sup>

IN MONETARY CASES THE DECISION MAY BE REVERSED etc. But the following

contradicts this: 'If a man judged a case [by himself] and pronounced him who was liable, "not liable", or vice versa; the clean, "unclean," or the reverse: his decision stands, but he must pay an indemnity<sup>2</sup> out of his own pocket'?<sup>3</sup> — R. Joseph answered: This presents no difficulty: here it [our Mishnah] refers to a Mumheh;<sup>4</sup> there, to one who is no Mumheh.<sup>5</sup> But in the case of a Mumheh, do we reverse [the decision]? Have we not learned: If he was recognised by the Beth din as a Mumheh, he is exempted from paying [compensation]! —<sup>6</sup> R. Nahman answered: Here [in our Mishnah] the circumstances are that there is a court superior to this one in learning and numbers;<sup>7</sup> whereas in the other Mishnah there is no court available superior to this in learning and numbers.<sup>8</sup> R. Shesheth said: Here it treats of a case where he [the judge] erred regarding a law cited in a Mishnah;<sup>9</sup> there, of a case where he erred in the weighing of [conflicting] opinions. For R. Shesheth said in R. Assi's name: If he erred in a law cited in the Mishnah, the decision is reversed; if he erred in the weighing of [conflicting] opinions, the decision may not be reversed.

Rabina asked R. Ashi: Is this also the case if he erred regarding a teaching of R. Hiyya or R. Oshaia?<sup>10</sup> — Yes, said he, And even in a dictum of Rab and Samuel?<sup>11</sup> Yes, he answered. Even in a law stated by you and me? Are we then reed cutters in the bog?<sup>12</sup> he retorted.

How are we to understand the phrase: 'The weighing of [conflicting] opinions'? — R. Papa answered: If, for example, two Tannaim or Amoraim are in opposition, and it has not been explicitly settled with whom the law rests, but he [the judge] happened to rule according to the opinion of one of them, whilst the general practice<sup>13</sup> ; follows the other, — this is a case of [an error] in the weighing of [conflicting] opinions.

R. Hamnurah refuted R. Shesheth: It once happened that R. Tarfon ordered a cow [belonging to Menahem],<sup>14</sup> whose womb had been removed, to be given to dogs.<sup>15</sup> When the matter was brought before the Sages in Jabneh, they permitted [her as human food], for Theodos<sup>16</sup> the Physician stated that no cow or sow was allowed to leave Alexandria in Egypt unless her womb had first been cut out, so as to prevent her from having issue.<sup>17</sup> Thereupon R. Tarfon exclaimed: Thy ass is gone, Tarfon!<sup>18</sup> But R. Akiba said to him: You are not bound to make compensation, since he who is publicly recognised as a Mumheh is free from liability to pay.<sup>19</sup> Now if it [your dictum] is correct,<sup>20</sup> she should have said to him: You erred regarding a law cited in a Mishnah,<sup>21</sup> and he who errs in a law cited in the Mishnah, may revoke his decision! — He<sup>22</sup> meant two things:<sup>23</sup> Firstly, you have erred in a law cited in the Mishnah, and he who errs in a law cited in the Mishnah may reverse his decision. Secondly: even if you had erred in the weighing of [conflicting] opinions, you are a publicly recognised Mumheh, and such are free from liability to pay [compensation].

R. Nahman b. Isaac said to Raba: What objection did R. Hamnurah raise against R. Shesheth from the case of the cow? Surely, the cow had already been given as food to dogs, and was no longer available for return to its owner!<sup>24</sup> — He meant this: Should you say, that he who errs regarding a law cited in the Mishnah may not reverse the decision, it is correct: seeing that his decision stands, R. Tarfon was apprehensive, whereupon [R. Akiba] said to him: You are recognised by the Court as a Mumheh, and free from liability to refund. But if you say that he who errs in a law stated in the Mishnah may revoke his decision, then [R. Akiba] should have said to him: Since if the cow were still in existence, your decision would have been invalid and you would have done nothing, so too now, [that the cow has been consumed] you have done nothing.<sup>25</sup>

R. Hisda said:<sup>26</sup> The one [Mishnah]<sup>27</sup> treats of a case where he [the judge] took [from one] and gave [to the other] with his own hand;<sup>28</sup> the other [Mishnah],<sup>29</sup> where he did not take and give with his own hand.<sup>30</sup> Now, that is correct in regard to pronouncing him who is not liable, 'liable'; when he might have taken [from the defendant] and given [to the plaintiff] with his own hand; but how is it conceivable in the reverse case [except] where he said to him: 'Thou art not liable'? Then he did not take [from one] and give [to the other] with his own hand! — Since he declared, 'Thou art not

liable,' it is really as though he had taken [from one] and given [to the other] with his own hand.<sup>31</sup> Then what of our Mishnah, which teaches: IN MONETARY CASES THE DECISION MAY BE REVERSED BOTH FOR ACQUITTAL, AND FOR CONDEMNATION? As for acquittal, it is correct: this is conceivable where he [the judge] originally said to him, 'Thou art liable,' but did not actually take [from him] and give [to the other] with his own hand.<sup>32</sup> But how is it possible [to make any reversal] for condemnation, [except in the case] where the judge has first said to him: 'Thou art not liable'?'<sup>33</sup> But you maintain that when he said to him: 'Thou art not liable,' it is as though he had taken and given with, his own hand!<sup>34</sup> — The Mishnah really states [only] one ruling. Viz., IN MONETARY CASES A DECISION MAY BE REVERSED IN FAVOUR [OF THE ONE],<sup>35</sup> WHICH IS [TO THE OTHER'S (i.e.. THE PLAINTIFF'S)] DISADVANTAGE. Then by analogy, in regard to capital charges, [the statement,] THE VERDICT MAY BE REVERSED FOR ACQUITTAL ONLY

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- (1) Since Scripture begins with the negative. Thus, Rabbi too understands by this that the 'opening for acquittal' is an assurance to the accused that he has nothing to fear if he is innocent.
  - (2) For any loss caused by his erroneous decision.
  - (3) Mishnah, Bek. 28b. Thus it is evident that in monetary cases the decision cannot be reversed.
  - (4) V. Glos. To such authority was given to retract his first decision.
  - (5) Who, though his decision stands, must pay compensation in case of error.
  - (6) For an erroneous judgment, whilst his decision holds good. Thus, even if the judge is a Mumheh, his decision is not reversed.
  - (7) Which can act, in a sense, as a court of appeal to reverse the lower court's decision.
  - (8) And hence the desire to reverse the decision may be opposed by one of the parties. But in reality, both instances, viz., that of the Mishnah here, and that of the latter part of the Mishnah there, treat of a case where the decision is given by a Mumheh.
  - (9) In which case his decision may be revoked.
  - (10) I.e., does the above ruling regarding an error in a law cited in Mishnah apply also to an error in a law cited in the Tosefta: a collection of Halachoth the redaction of which is attributed to R. Hiyya and R. Oshaia? The authority of the Tosefta is not equal to that of the Mishnah.
  - (11) Whose ruling is not so authoritative as the traditional law in the Tosefta.
  - (12) I.e., insignificant, of no importance.
  - (13) Adopted by a majority of judges. So the text as given in Rashi and elsewhere. Our reading is: and the general trend of the (Talmudic) discussion thereon, v. supra 6a.
  - (14) The bracketed phrase is absent in Bek. 28b, whence this Mishnah is quoted.
  - (15) I.e., he declared her unfit for human consumption
  - (16) Or, Theodoros.
  - (17) The Egyptian breed was unique in its quality, and so they took this measure in order to limit its breeding to that country. Such a mutilation did not, however, affect them.
  - (18) I.e., shall now have to sell my ass to compensate the owner of the cow for my erroneous decision!
  - (19) Bek. 28b and infra 93a.
  - (20) That an error in a law cited in Mishnah justifies rescinding.
  - (21) Cf. Hul. 54a. An animal whose womb has been removed may be used for food.
  - (22) R. Akiba
  - (23) Lit., He meant, 'One thing and yet another.'
  - (24) What purpose, then, could the reversal of the decision serve?
  - (25) I.e., you personally did not throw it to the dogs: it was the owner's misfortune to follow your ruling. (V. B.K. 100a.) Seeing therefore that R. Akiba did not argue in the manner, it can be inferred that if one errs regarding a law cited in the Mishnah, the decision may not be reversed.
  - (26) In answering the contradiction.
  - (27) The Mishnah in Bek.
  - (28) Then the decision cannot be reversed.
  - (29) Our Mishnah.

(30) In that case, an erroneous judgment was reversed.

(31) For he is confirming the defendant in the possession of the money claimed from him by the plaintiff.

(32) Then he can subsequently revise his verdict.

(33) And now declares that he is.

(34) In which case judgment cannot be reversed according to R. Hisda, and yet it is taught that the verdict may be upset.

(35) Sc., the defendant, who had previously been pronounced liable.

### **Talmud - Mas. Sanhedrin 33b**

BUT NOT FOR CONDEMNATION, must mean, it can be reversed for acquittal, provided this involves only acquittal.<sup>1</sup> BUT NOT FOR CONDEMNATION. i.e., [there must be no reversal] in favour [of one] which is detrimental [to the other]. But to whose detriment can it possibly be? — That is no difficulty: It means to the detriment of the avenger of blood.<sup>2</sup> Because it is detrimental to him, are we to execute a man!<sup>3</sup> Moreover, how explain, BOTH . . . AND?<sup>4</sup> This remains a difficulty.

Rabina explained it<sup>5</sup> thus: E.g he [the plaintiff] had a pledge [from the defendant] and he [the judge] had taken it from him:<sup>6</sup> He declared the clean, 'unclean', means that he brought it into contact with a reptile;<sup>7</sup> he declared the unclean, 'clean', by mixing it with his [the questioner's] own fruit.<sup>8</sup>

IN CAPITAL CHARGES etc. Our Rabbis taught: Whence [do we infer] that if the accused leaves the Beth din guilty, and someone says: 'I have a statement to make in his favour,' he is to be brought back?<sup>9</sup> — Scripture reads: The guiltless<sup>10</sup> slay thou not.<sup>11</sup> And whence [do we infer] that if he leaves the Beth din not guilty, and someone says: 'I have something to state against him,' he may not be brought back? — From the verse, And the righteous,<sup>12</sup> slay thou not.<sup>13</sup>

R. Shimi b. Ashi said: It is the reverse in the case of a Mesith, for it is written: Neither shalt thou spare, neither shalt thou conceal him.<sup>14</sup> R. Kahana derived it<sup>15</sup> from the words: But thou shalt surely kill him.<sup>16</sup>

R. Zera asked of R. Shesheth: What of those condemned to exile?<sup>17</sup> — Identical law is inferred from the use of rozeah in both cases.<sup>18</sup> What of those liable to flagellation? Identical law is derived from the use of rasha' [guilty] in both cases,<sup>19</sup> it has been taught likewise: Whence [do we infer the same procedure] for those liable to exile? — Identify of law is derived from the use of 'murderer' in both places. And in the case of those liable to flogging? — From the fact that 'guilty' is used in both places.<sup>20</sup>

BUT NOT FOR CONDEMNATION. R. Hiyya b. Abba said in R. Johanan's name: Proving that he erred in a matter which the Sadducees<sup>21</sup> do not admit.<sup>22</sup> But if he erred in a matter which even they admit,<sup>23</sup> let him go back to school and learn it.<sup>24</sup>

R. Hiyya b. Abba asked R. Johanan: What if he erred in a law regarding an adulterer or an adulteress?<sup>25</sup> — He answered: While thy fire is burning, go, cut thy pumpkin and roast it.<sup>26</sup> It has been stated likewise: R. Ammi said in R. Johanan's name: If he erred in the case of an adulterer, the decision must be reversed. Then in what cases are decisions not reversed?<sup>27</sup> — R. Abbahu said in R. Johanan's name: E.g., If he erred in respect to unnatural intercourse.<sup>28</sup>

IN MONETARY CASES, ALL etc. 'ALL' [implies] even the witnesses. Shall we say that our Mishnah represents the view of R. Jose son of R. Judah, and not that of our Rabbis? For it has been taught: 'But one witness shall not testify against any person<sup>29</sup> — both for acquittal and condemnation.<sup>30</sup> R. Jose son of R. Judah said: He may testify for acquittal, but not for condemnation?' — Said R. Papa: ['ALL'] refers to [even] a single one of the disciples, and thus it agrees with all.<sup>31</sup>

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- (1) I.e., it does not cause damage to anyone else, e.g. in the case of the intentional desecration of the Sabbath, or of adultery.
- (2) V. Num. XXXV, 19. It is a duty of the avenger of blood, the victim's nearest relative, to call the murderer to account (v. Mak. 12a; infra 45b; Mains. Yad, Rozeah I, 2), therefore in case the verdict were reversed for acquittal he would lose the opportunity of avenging his relative's blood.
- (3) Surely it will not be argued that in order to soothe the kinsman's wrath we are to abide by the decision to execute the accused, even where there are reasons for reversing it.
- (4) In the words of the Mishnah; BOTH FOR CONDEMNATION AND FOR ACQUITTAL; this proves that two statements are made, not one.
- (5) R. Hisda's statement above, that where he found the guilty innocent, the decision cannot be reversed for condemnation, for that would mean actually a taking from the one and giving to the other.
- (6) And had given it to the defendant on finding him not liable.
- (7) In a case where there was a doubt as to the cleanness of a certain object, and the judge established his decision by actually making it unclean.
- (8) As a demonstration of its cleanness. These are illustrations of the possibility of the judge himself causing loss through his verdict.
- (9) For re-trial.
- (10) נָקִי, not guilty of the crime so long as there are still arguments in his favour unheard.
- (11) Ex. XXIII, 7.
- (12) צַדִּיק, found righteous in court, though not necessarily innocent, seeing that there is still evidence against him to be heard.
- (13) Ex. XXIII, 7.
- (14) Deut. XIII, 9.
- (15) I.e., that it is the reserve in the case of a Mesith.
- (16) Ibid. 10.
- (17) For unintentional homicide. Cf. Num XXXV, 11ff. Is his trial similar in procedure to trials in capital, or monetary cases?
- (18) רֹצֵחַ; 'murderer', as used in connection with murder (Num. XXXV, 16), where he is punished by death, and as used in connection with unintentional homicide (ibid. 11) which shows that the procedure with regard to reversing decisions is the same in both cases.
- (19) רִשְׁעִי. Flagellation: If the guilty is worthy to be beaten, Deut. XXV, 2; capital punishment: Who is guilty of death. Num. XXXV, 31.
- (20) Tosef. Sanh. VII.
- (21) צַדִּיקִים. A party holding views directly opposite to those of the Pharisees. They regarded only those observances obligatory which are contained in the written Word, and did not recognise those derived from Rabbinical interpretations; but v. p. 239, n. 9.
- (22) E.g., the prohibition in marriage of a father-in-law's mother (Cf. infra 75a) which is transmitted by oral law.
- (23) Such as a law found in the Biblical text.
- (24) I.e., Since he erred in a Biblical law, his decision must be reversed.
- (25) Whereas other criminal cases lend themselves to mistakes in judgment, owing to the investigation of the manifold details accompanying the act, in cases of illicit intercourse, once the act is done, there is no room for error (Rashi). According to R. Hananel, the question is, what if the judge erred by deciding that liability falls only on the male transgressor against whom alone Scripture provides, (cf. Lev. XVIII, 20), and not on the woman?
- (26) I.e. when engaged in your lesson pursue it further, it will save you from asking questions, for the law provides against an adulteress in Lev. XX, 10.
- (27) Cf. Mishnah. Decisions in capital cases (including adultery) may not be reversed for condemnation.
- (28) Which is derived from an interpretation of Lev. XVIII, 22, which the Saducees do not agree. V. infra 54a.
- (29) Num. XXXV, 30.
- (30) I.e., A witness who has testified in a case may not come again to bear other testimony in favour of, or against the accused, in the same case.
- (31) I.e., with the Rabbis too.

## Talmud - Mas. Sanhedrin 34a

What is R. Jose b. R. Judah's reason?<sup>1</sup> — Scripture says: But one witness shall not testify against any person [that he die]:<sup>2</sup> hence, only 'so that he die' may he not testify, but he may testify for acquittal. And the Rabbis?<sup>3</sup> — Resh Lakish answered: Their reason is that the witness seems personally concerned in his testimony.<sup>4</sup> But how do our Rabbis interpret, so that he die?<sup>5</sup> — They apply it to one of the disciples,<sup>6</sup> as it has been taught: Whence do we learn that if one of the witnesses says, I have a statement to make in his favour, that he is not listened to? — From the verse, But one witness shall not testify.<sup>7</sup> And whence do we know that if one of the disciples says, I can argue a point to his disadvantage, that he is not listened to? From the verse, One<sup>8</sup> shall not testify against any person that he die.<sup>9</sup>

IN CAPITAL CHARGES, ONE WHO ARGUED etc. Rab said: They taught this only of the period of the deliberations,<sup>10</sup> but at the time of pronouncement of the verdict,<sup>11</sup> one who has argued for acquittal may turn and argue for condemnation. An objection is raised:<sup>12</sup> On the following day, they rise early and assemble. He who was for acquittal declares, I was in favour of acquittal and I stand by my opinion. He who was for condemnation says, I was in favour of condemnation and I stand by my opinion. He who was in favour of condemnation may argue in favour of acquittal. But he who was in favour of acquittal may not retract and argue in favour of conviction. Now surely, on the 'the following day' the decision is to be promulgated!<sup>13</sup> — But on thy view, are there no deliberations on the 'the following day'? Therefore the reference of the Mishnah is merely to the period of the deliberations.

Come and hear! They debate the case amongst themselves, until one of those who are for conviction agrees with those who are for acquittal.<sup>14</sup> Now if that is so,<sup>15</sup> then he [the Tanna] should have taught the reverse too! — But the Tanna fosters the possibilities of acquittal, not those of condemnation.<sup>16</sup>

Come and hear! R. Jose b. Hanina said: If one of the disciples pronounced for acquittal and then died, he is regarded [when the vote is taken] as if he were alive and [standing] in his place.<sup>17</sup> But why not assume, had he been alive, he might have retracted?<sup>18</sup> — Because in fact he did not retract! But did they not send [a message] from 'there' [Palestine], that the words of R. Jose b. Hanina preclude the words of our Master?<sup>19</sup> The true version was, 'Do not preclude [the words of our Master]'.

Come and hear! Two judges' clerks stand before them [the judges], one on the right and one on the left, and indite the arguments of those who would acquit, and those who would convict.<sup>20</sup> Now, as for the arguments for conviction. It is well [that they be recorded], for on the following day another argument<sup>21</sup> may be discovered, which necessitates postponement of judgment over night.<sup>22</sup> But why [record] the grounds of the defenders; surely so that should they discover different arguments for conviction, they may not be heeded?<sup>23</sup> — No, it is lest two judges draw a single argument from two Scriptural verses, as R. Assi asked R. Johanan: What if two [judges] derive the same argument from two verses? — He answered: They are only counted as one.<sup>24</sup> Whence do we know this? — Abaye answered: For Scripture saith, God hath spoken once, twice have I heard this, that strength belongeth unto God.<sup>25</sup> One Biblical verse may convey several teachings, but a single teaching cannot be deduced from different Scriptural verses. In R. Ishmael's School it was taught: And like in hammer that breaketh the rock in pieces:<sup>26</sup> i.e., just as [the rock] is split into many splinters,<sup>27</sup> so also may one Biblical verse convey many teachings.

What is an example of: 'One argument drawn from two Biblical verses'? — R. Zebid answered: As we learnt: The Altar sanctifies<sup>28</sup> all that is 'fit' for it.<sup>29</sup> R. Joshua said: [That means,] Anything

'fit' for the fire of the Altar',<sup>30</sup> once it ascended [thereon], may not descend,<sup>31</sup> for it is written: The burnt offering, it is that which goeth up upon its fire-wood, upon the altar:<sup>32</sup> Just as the burnt offering which is 'fit' for the altar-fire, once it ascended, may not descend,<sup>33</sup> so everything which is 'fit' for the altar-fire, once it ascends, may not descend. R. Gamaliel said: Anything 'fit' for the altar,<sup>34</sup> once it has ascended, may not descend, for it is written: The burnt offering, it is that which goeth up upon its fire-wood upon the altar: Just as the burnt offering which is 'fit' for the altar, once it has ascended, may not descend, so everything else which is 'fit' for the altar, once it has ascended, may not descend. What do both include?<sup>35</sup> — Invalidated objects.<sup>36</sup> One Master [sc. R. Joshua] deduces the law from the word 'fire-wood', and the other from 'altar'.<sup>37</sup> But there, they do actually differ! For the second clause [of that Mishnah] states: R. Gamaliel and R. Joshua differ only with reference to the Sacrificial blood and libations: according to R. Gamaliel, these may not descend; whereas in R. Joshua's view, they do descend.<sup>38</sup> But, said R. Papa, it [the required example] is illustrated in the following Baraitha: R. Jose the Galilean said: From the verse,

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- (1) For the view that the witnesses may change their evidence only in favour of the accused.
  - (2) Num. XXXV, 30.
  - (3) Why do they forbid a change of his evidence in favour of the accused?
  - (4) Since he might have been induced to change his evidence in favour of the accused, lest he be proved a Zomem and so become subject to punishment by the law of retaliation.
  - (5) ) Which seem to indicate that the testimony may not be changed only when it leads to death.
  - (6) That he may not put forward arguments in favour of condemnation.
  - (7) Num. XXXV, 30. I.e., change his testimony even in his favour.
  - (8) Who is not a witness, but a disciple.
  - (9) Ibid. But he may do so for acquittal.
  - (10) When all endeavours must be used to strengthen the case for acquittal.
  - (11) When all arguments in favour of acquittal have been exhausted.
  - (12) Cf. infra 40a.
  - (13) Then why not retract in favour of conviction.
  - (14) Infra 40a.
  - (15) Viz., that when the decision is about to be pronounced, an opinion can be reversed even for condemnation.
  - (16) Theoretically, however, the trend of the debate might be in the reverse direction.
  - (17) Infra 43a.
  - (18) In favour of conviction, when judgment is pronounced.
  - (19) Sc. Rab. Therefore his ruling not to consider an eventual change of opinion is due to the fact that he holds that at the promulgation of the decision one cannot retract.
  - (20) Infra 36b.
  - (21) For condemnation.
  - (22) Cf. supra 17a; i.e., so as to give the judges a chance to alter their opinion. Hence the necessity of recording their statements in order to shew that they have changed their grounds for conviction, so necessitating a further postponement.
  - (23) Unless they erred in a law accepted even by the Sadducees. Hence the necessity of recording their grounds for acquittal in order to be able to discover the nature of the error. This proves that an opinion for conviction may not be reversed even at the time of the promulgation of the decision.
  - (24) Since no two verses are intended to teach one and the same thing, one of the judges must have erred.
  - (25) Ps. LXII, 12.
  - (26) Jer. XXIII, 29.
  - (27) The text contains a grammatical difficulty. Literally translated, it is, Just as the hammer is split etc.; whereas for the present translation, the text must read **מהחלק** instead of **מתחלק**, and some commentators emend the text accordingly. R. Tam, however, on the basis of Ekah R. IV, 7, retains the present text and its literal translation, as above, and explains, Just as the hammer, when it smites an extraordinary hard object, may itself be split, — so may the Biblical verse, when subjected to the scrutiny of a very keen intellect, split up into different meanings.
  - (28) I.e., that nothing that was laid upon it may be taken back.
  - (29) I.e., anything which has come into contact or relationship with the altar, after having been appointed for it. Even if it

became subsequently invalid for its original purpose, for any reason, e.g., in the case of a sacrifice, if the officiating priest slaughtered it with a forbidden intention, it nevertheless retained its sanctity. Now, this statement lays down the general principle with which all are in agreement, the further definition and application of which form the subject of dispute amongst various teachers whose views the Mishnah proceeds to state.

(30) I.e., only that which could have served that purpose. e.g., the flesh of a burnt offering. If, however, the blood of a sacrifice became invalid, since that is not intended to feed the fires of the altar, it does not retain its sanctity.

(31) I.e., may not be taken back, for the altar has given it a sacred character.

(32) Lev. VI, 2.

(33) Derived from . . . upon the altar all night unto the morning. (ibid).

(34) I.e., not only fit for the fires of the altar, but used in any service of the altar. Hence, in his opinion, the law applied to blood and libations too, since these were respectively sprinkled and poured upon the altar.

(35) Among the things which may not be taken back when once laid upon the altar.

(36) As explained in note 2.

(37) Now, at this stage it is assumed that since both deduce the same general principle from two different verses, there is no real disagreement between them. Thus this affords an illustration of 'one law drawn from two different verses.

(38) I.e., they lose their sanctity. For the explanation of this, v. p. 215. n. 3. Hence, this is not a true example of one law devised from two texts. (Note: A single word is also referred to as a 'verse' or 'text'.)

### **Talmud - Mas. Sanhedrin 34b**

Whatsoever toucheth the altar shall be holy,<sup>1</sup> I might infer [that this holds good] whether it be fit for the altar or not.<sup>2</sup> Scripture therefore says,<sup>3</sup> [Now this is that which thou shalt offer upon the altar; two lambs . . . ; just as lambs are fit [for the altar], so are all things that are fit [included in the previous statement].<sup>4</sup> R. Akiba said: [Scripture states,] burnt offering.<sup>5</sup> Just as the burnt offering is fit [for the altar], so with all things that are so. And what do both exclude? Invalid objects.<sup>6</sup> One Master deduces this from the word 'lambs'; the other, from 'burnt offering'.<sup>7</sup> But did not R. Adda b. Ahabah say: They differed with respect to a fowl burnt offering which had been disqualified: he who deduced it [the scope of the law] from 'lambs', holds that only lambs are included,<sup>8</sup> but not the burnt offering of a fowl; whereas he who deduced it from 'burnt offering' includes even a burnt offering of a fowl? — But, said R. Ashi, it is illustrated by the following Baraita:<sup>9</sup> Blood shall be imputed unto that man, he hath shed blood;<sup>10</sup> this<sup>11</sup> is to include [him] who sprinkles:<sup>12</sup> that is R. Ishmael's view. R. Akiba said: [Scripture adds] Or a sacrifice:<sup>13</sup> this is to include him who sprinkles. Thus, What do both include? — Sprinkling; one Master deducing it from the words: Blood shall be imputed, the other from the words: Or a sacrifice.<sup>14</sup> But did not R. Abbahu say: They differ where a man both slaughtered and sprinkled [the blood of a sacrifice]:<sup>15</sup> for according to R. Ishmael,<sup>16</sup> he is liable only to one [sin offering]; whereas on R. Akiba's view,<sup>17</sup> he is liable to two? — But surely it was stated regarding this: Abaye said: Even according to R. Akiba he is liable only to one [sin offering], for Scripture writes, There thou shalt offer thy burnt offerings and there thou shalt do [all that I commanded thee]:<sup>18</sup> the Divine Law thus grouped all acts [of sacrifice in the same category]!<sup>19</sup>

CIVIL SUITS ARE TRIED BY DAY etc. (Mnemonic: Judgment, Answering, Inclining.)

Whence is this derived? — R. Hiyya b. Papa said: From the verse, And let them judge the people at all times.<sup>20</sup> If so, even the beginning of the trial may [take place at night]! — It is as Raba explained. For Raba opposed [two verses]: It is written, And let them judge the people at all times;<sup>21</sup> but elsewhere it is said, And in the day that he causeth his sons to inherit.<sup>22</sup> How [can these be reconciled]? — The day is for the beginning of the trial, the night is for the conclusion of the trial.<sup>23</sup>

Our Mishnah<sup>24</sup> does not agree with R. Meir. For it has been taught. R. Meir used to say: What is meant by the verse, According to their word shall every controversy and every leprosy be?<sup>25</sup> Now, what connection have controversies with leprosy? — But controversies are assimilated to leprosy: just as leprosy [must be examined] by day, since it is written, And in the day when [raw flesh]



appeareth in him,<sup>26</sup> so controversies [must be tried] by day; and just as leprosy cannot [be examined] by the blind,<sup>27</sup> for it is written, Wherever the priest looketh,<sup>28</sup> so controversies too may not be tried by the blind.<sup>29</sup> And leprosy is further compared to controversies: Just as the latter may not be tried by relatives, so the former may not be examined by relatives. Now, if so,<sup>30</sup> [one might argue,] that just as controversies must be tried by three, so must leprosy too [be examined] by three; moreover, it follows a *minori*,<sup>31</sup> [if questions affecting] one's wealth are [to be tried] by three, how much more so [when they concern] one's body! Therefore Scripture teaches, When he shall be brought unto Aaron the priest or unto one of his sons the priests,<sup>31</sup> thus thou learnest that a single priest may examine leprosy.

A blind man in the neighbourhood of R. Johanan used to try suits, and R. Johanan raised no objection. But how could he do so?<sup>32</sup> Did not R. Johanan himself say, The halachah is as [every] anonymous Mishnah.<sup>33</sup> and we learnt: He who is qualified to judge is qualified to testify; some, however, are qualified to testify but not to judge. Whereon R. Johanan said: This is to admit [as witness] one who is blind of one eye?<sup>34</sup> — R. Johanan found another anonymous Mishnah,<sup>35</sup> viz., CIVIL SUITS ARE TRIED BY DAY AND CONCLUDED BY NIGHT.<sup>36</sup> But why is this anonymous Mishnah more authoritative<sup>37</sup> than the other? — Either because an anonymous Mishnah which expresses the opinion of the majority is preferable;<sup>38</sup> or alternatively, because this Mishnah is taught in the tractate relating to legal procedure.<sup>39</sup> But how does R. Meir<sup>40</sup> interpret the verse, And let them judge the people at all times? — Raba answered: As including even a cloudy day.<sup>41</sup> For we learnt:<sup>42</sup> Leprosy may not be examined in the morning, in twilight, in the house, or on a cloudy day, for [then] a dull [spot] might appear bright,<sup>43</sup> at mid-day,<sup>44</sup> for a bright [spot] might then appear dull.<sup>45</sup> Now [again], according to R. Meir, what is the purpose of, And in the day that he causeth his sons to inherit?<sup>46</sup> — He utilises it, even as Rabbah b. Hanina recited before R. Nahman: And in the day he causeth his sons to inherit: only by day mayest thou assign estates, but not by night. Whereupon the other retorted:<sup>47</sup> If so, if one dies by day, his sons inherit, but should he die at night, they do not inherit! Perhaps you refer to the legal procedure in bequests.<sup>48</sup> For it has been taught: And it shall be unto the children of Israel a statue of judgment.<sup>49</sup> that invests the whole chapter with the force of judicial proceedings.<sup>50</sup> Thus [your dictum] will agree with that which Rab Judah said in Rab's name, viz.: If three [persons] come to visit a sick man,<sup>51</sup> they may, according to their desire, either record [his bequest],<sup>52</sup> or render a judicial ruling.<sup>53</sup> In case of two, however, they may write it down,<sup>54</sup> but not render a judicial ruling.<sup>55</sup> Whereon R. Hisda said: This<sup>56</sup> holds good by day; at night, however, they may indite the bequest, but not render a judicial ruling, since they are witnesses, and a witness cannot act as judge.<sup>57</sup> — He [Rabbah b. Hanina] answered: Yes, I meant it so.

**BUT CAPITAL CHARGES MUST BE TRIED BY DAY [AND CONCLUDED BY DAY].** Whence is this deduced? — R. Shimi b. Hiyya said: Scripture states, And hang [we — hoka'] them up unto the Lord in face of the sun.<sup>58</sup> Whence do we know that hoka'ah means hanging? — From the verse, And we will hang them up [we — hoka'anum] into the Lord in Gibeah of Saul, the chosen of the Lord.<sup>59</sup>

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(1) Ex. XXIX, 37. I.e., once it touches the altar, it retains its sanctity, as above.

(2) E.g., leaven and honey, (cf. Lev. II, 11) which are never permissible for the altar, or unconsecrated animals (i.e., hullin), which are not yet fit for the altar. — Animals had to be formally consecrated before they might be sanctified upon the altar.

(3) In the following verse. Ex. XXIX, 38.

(4) Even if now disqualified. Yet they must be things that are essentially fit for the altar, as explained in p. 215. n. 7; otherwise, the law does not apply to them.

(5) עולה Ibid. verse 42; This shall be a continued burnt offering (R. Hananel). According to Rashi, it occurs in the same verse 38 as above. Though the word does not appear in the Masoretic text, it occurs in the Samaritan Text. On such variants, v. Heller, Samaritan Pentateuch, an adaptation of the Masoretic Text.

(6) I.e., things that were never permissible upon the altar, e.g., leaven and honey; v. Lev. II, 11.

- (7) Thus, this Baraitha illustrates one law drawn from two Biblical verses.'
- (8) Amongst the objects which, though disqualified, may not be taken back when once laid upon the altar.
- (9) Zeb. 107a.
- (10) Lev. XVII, 4.
- (11) Apparent redundance of the expression.
- (12) The blood of a sacrifice outside the Temple courts, as being liable to excision (kareth).
- (13) Ibid. verse 8.
- (14) Thus it illustrates 'one law drawn derived from two Scriptural verses.'
- (15) Without the Temple precincts, i.e. Unwittingly, in a spell of forgetfulness, without being reminded between the two acts that they were of a forbidden character. Now, it is a principle that every forbidden act, which, if done wittingly, involves kareth, requires a sin offering if done wittingly. There is a further principle that all things whose forbidden nature is deduced from the same word, rank as a small transgression, and therefore involve only one sacrifice.
- (16) Who deduces the penalty of kareth for sprinkling outside the court from the same verse which prohibits slaughter.
- (17) That kareth for sprinkling without the Temple precincts is deduced from a different verse.
- (18) Deut. XII, 14.
- (19) Hence there is only this one verse which commands that all acts of sacrifice, which includes slaughtering and sprinkling, shall be done in the prescribed fashion. Therefore, transgression of both involves only one sacrifice
- (20) Ex. XVIII, 22; i.e., even at night.
- (21) Ibid.
- (22) Deut. XXI, 16. From the fact that day is stressed, the Talmud deduces that all matters in connection therewith, which principle includes disputes over the inheritance, are to be settled by day. But such disputes are part of civil suits in general, and thus this verse contradicts the preceding.
- (23) For, 'and they shall judge . . . at all times' implies the giving of the verdict, which is the essence of judgment.
- (24) Which rules that the decision may be issued at night.
- (25) Deut. XXI, 5.
- (26) Lev. XIII, 14.
- (27) [Even of one eye only. v. Neg. II, 3.]
- (28) Ibid. verse 12.
- (29) [Even by one who is blind of one eye only, since it is deduced from 'leprosy', Yad Ramah.]
- (30) If they are similar in so many respects.
- (31) Ibid. verse 2.
- (32) I.e., permit him to judge.
- (33) A Mishnah that is taught without mention of its author, or of any conflict of opinions that exists regarding it.
- (34) But not as judge, so coinciding with R. Meir's opinion stated above, (v. p. 218 nn.5 and7).
- (35) Which implied that a blind man is permitted to judge.
- (36) For there are many whose eye-sight is as dim by night as that of a blind man by day.
- (37) Lit., 'stronger'.
- (38) The Mishnah which, according to R. Johanan, treats of a blind man, expresses the view of R. Meir as expressed in the preceding Baraitha, but our Mishnah, that of the majority.
- (39) Whereas the other anonymous Mishnah is cited only incidentally in a tractate relating to a different subject entirely, and it stands to reason that greater care would be taken in the former to teach what is actually the halachah.
- (40) Who holds that disputes may only be tried by day.
- (41) On which, unlike the cases of leprosy, civil suits may be tried.
- (42) Neg. II, 2.
- (43) So that it might wrongfully be declared unclean. Cf. Lev. XIII, 2ff.
- (44) When the sun is brightest.
- (45) So that it might wrongfully be declared clean, Neg. II, 2.
- (46) Since R. Meir deduces the law that civil suits must be tried by day from the case of the examination of leprosy, the reference to 'day' here appears superfluous.
- (47) In B.B. 113b, this question is attributed to Abaye.
- (48) If made by day, a bequest has judicial authority, and does not need court authentication; by night, those who witnessed it are required to legalise it before court. (Rashi.) The Rashbam in B.B. 113b translates: 'Perhaps you refer to

lawsuits concerning legacies,' i.e. that these, like any other civil suits, must take place by day.

(49) Num. XXVII, 11, at the conclusion of the section dealing with laws of inheritance.

(50) I.e., when a bequest is made, those who are present become ipso facto a Beth din, even against the wish of the testator's natural heirs. This is the explanation given by Tosaf. in B.B. 113b, which adds that the reference is not particularly to a bequest made on one's deathbed, but even to one made in full health, save that it must be accompanied by a formal kinyan (q.v.). Rashi's interpretation here is on the same lines, but he appears to refer it to a sickbed bequest.

(51) And hear him assign his estate to his heirs.

(52) Merely as witnesses. That document is afterwards produced by the heirs in court and there given its necessary authority.

(53) Since they are three they can constitute themselves into a court and have legal authority to execute the Will.

(54) In the form of a witnessed document.

(55) Since two do not make a properly constituted Court.

(56) Ruling with reference to three.

(57) I.e., when they hear a bequest at night, they can obviously do so only as witnesses, since a court cannot function at night, consequently, they cannot subsequently constitute themselves a court, for they already have the status of witnesses.

(58) וְהוֹקֵעַ, Num. XXV, 4; i.e., in the day time.

(59) וְהוֹקֵעֵנִים II Sam. XXI, 6.

### Talmud - Mas. Sanhedrin 35a

And it is written, And Rizpah the daughter of Aiah took sack-cloth, and spread it for her upon the rock, from the beginning of harvest.<sup>1</sup>

It is written, And the Lord said unto Moses, Take all the chiefs of the people.<sup>2</sup> If the people had sinned, wherein had the chiefs sinned?<sup>3</sup> — Rab Judah said in Rab's name: The Holy One, blessed be He, said unto Moses: Divide them into [many] courts.<sup>4</sup> Why? Shall we say, because two [men] may not be tried [and sentenced] on the same day?<sup>5</sup> But R. Hisda said: This was taught only with reference to [charges involving] two different modes of execution;<sup>6</sup> whereas [cases that involve only] one mode of execution<sup>7</sup> may be tried? — But it was so, that the fierce anger of the Lord may turn away from Israel.<sup>8</sup>

CIVIL SUITS MAY BE CONCLUDED ON THE SAME DAY etc. . . . Whence is this derived? — R. Hanina said: Scripture saith, She that was full of justice, righteousness lodged [yalin] in her,<sup>9</sup> but now, murderers.<sup>10</sup> Raba derived it from the following: Ashsheru hamoz<sup>11</sup> — i.e., bless<sup>12</sup> the judge who reserves<sup>13</sup> his verdict. And the other?<sup>14</sup> — [He interprets it thus:] Relieve the oppressed,<sup>15</sup> not the oppressor.<sup>16</sup> And the latter [Raba]: how does he utilize the verse: And she that was full of justice? — Even as R. Eleazar said in the name of R. Isaac. Viz.: If on a fast day, the distribution of alms<sup>17</sup> is postponed overnight, it is just as though blood were shed,<sup>18</sup> as it is written, She that was full of justice, charity<sup>19</sup> etc. This, however, applies only to bread and dates;<sup>20</sup> but in the case of money, wheat or barley, [postponement] does not matter.

THEREFORE TRIALS ARE NOT HELD [ON THE EVE OF A SABBATH OR FESTIVAL] etc. Why so? — Because it is impossible, for how could it be done? Should they try him [the accused] on the eve of the Sabbath and pronounce judgment on the same day; perhaps they may find cause for condemnation, and judgment will then have to be postponed overnight.<sup>21</sup> Or again, if they try him on the eve of the Sabbath, and pronounce judgment on the Sabbath, and execute him on that day,<sup>22</sup> but execution cannot supersede the Sabbath.<sup>23</sup> Again, should he be executed in the evening; execution must be carried out 'in the face of the sun.'<sup>24</sup> On the other hand, if judgment is pronounced on the Sabbath whilst he is executed on the first day of the week [Sunday], they might delay the course of justice.<sup>25</sup> If he be tried on the eve of the Sabbath, and the matter concluded on the first day of the week, they might have forgotten their reasons by then, for although two judges' clerks stand before

them and write down the arguments of those who would acquit and those who would convict, they can but record according to the mouth,<sup>26</sup> yet once the heart forgets, it remains forgotten.<sup>27</sup> Hence this is impossible.

Resh Rakish said to R. Johanan: Why should not the burial of a Meth-Mizwah<sup>28</sup> supersede [the laws of] the Sabbath, reasoning a minori: if the Temple service, which sets aside the Sabbath,<sup>29</sup> is itself suspended for the burial of a Meth-Mizwah (as is deduced from, And to his sister, even as it has been taught: To his father and to his mother and to his brother and to his sister:<sup>30</sup> What does this teach us?<sup>31</sup> [Even] if he [the Nazir] were on his way to sacrifice the Paschal lamb or to circumcise his son,<sup>32</sup>

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(1) Ibid. verse 10, as a protection from the birds of prey. They must have been hanged on trees.

(2) Num. XXV, 4.

(3) Only the people are mentioned as sinning (vv. 2,3), but not particularly the chiefs.

(4) To try the sinners. The verse is accordingly translated: Take the chiefs of the people (and appoint them as judges,) and hang up them (whom they shall condemn) etc.

(5) By one court; therefore many courts had to be set up, since the culprits were many'.

(6) Since the members of the court would find it difficult to find a plea in favour of the accused in each case.

(7) When the crime committed is the same, as in this case.

(8) When it was seen that all the chiefs were concerned in punishing the sinners.

(9) Isa. I, 21. I.e., judgment was held over lest points for acquittal might be found. **יָלַיַן** means, 'to stay over night'.

(10) I.e., but now they do not postpone the verdict until the next day, and thus are (judicial) murderers.

(11) Ibid, 17. **אֲשֶׁרוּ חַמוּץ** (E.V. 'relieve the oppressed').

(12) **אֲשֶׁרוּ** is rendered, 'declare happy'.

(13) Lit., 'makes sour,' (**חַמוּץ** from **מָחַץ**, 'sour') in the sense of preserving (e.g., pickle vegetables), and hence metaphorically 'to postpone', 'to keep in reserve.'

(14) R. Hanina, who derives it from the other verse. How does he interpret the verse?

(15) I.e., attend to the plaintiff.

(16) The defendant. He is hinting at the general rule in legal procedure that the plaintiff must be heard first. Cf. B K. 46b. The application of this law is particularly noticeable in the case of a counter claim, designed to nullify the original, when priority must be given to the first claim.

(17) It was customary to distribute the value of the food saved during the fast to the poor. Cf. Ber. 6b the merit of a fast consists in dispensing charity.

(18) For the needy who relied on it might have died of starvation.

(19) **צְדָקָה** means also 'charity', as in fact, in Hebrew there is only one word for 'righteousness' and 'charity': charity is righteousness. The verse is accordingly translated: She was full of justice; but now that charity is made to lodge therein, i.e., postponed overnight, they ate as murderers.

(20) I.e., only when these articles of food were distributed, on which the poor depend for breaking their fast.

(21) And pronounced on the Sabbath, which is not permissible, v. nn 6 and 7.

(22) Execution must be carried out on the same day as the pronouncement of the verdict.

(23) Killing is one of the labours forbidden on the Sabbath, even when it takes the form of judicial execution.

(24) I.e., in the day time. Num XXV, 4.

(25) Since execution must be carried out on the same day as the verdict. **עָנָה** 'to afflict', when used in connection with a court verdict, means to afflict the condemned man by postponing his execution, the wait being an additional mental torment. (10) Supra 34a.

(26) I.e., the actual words.

(27) I.e., the spirit of the argument may not be recalled through the written word.

(28) **מַת מִצְוָה** Lit., 'A corpse which it is a religious obligation (to bury). 'The burial of a dead person has no relatives to attend to him devolves upon anyone, even a High Priest. This query is raised here only because of a subsequent question whether execution on a Sabbath day is permissible.

(29) E.g., by the offering of the Tamid or daily burnt offering. Cf. Num. XXVIII, 2; Pes 77a.

(30) Num. VI, 7. For these the Nazarite may not render himself unclean. A similar restriction is imposed on the High

Priest.

(31) I.e., why is it necessary to detail all these relations, seeing that it has already been stated in the previous verse: He shall not come near to a dead body, which includes all relations? The Sifre on the verse comments on the reason for each: He may not defile himself for his father, but he must for a Meth-Mizwah; nor for his mother, but he must for a Meth-Mizwah, even if he be a priest as well as a Nazarite, nor for his brother, but he must for a Meth-Mizwah even if he be a High Priest as well as a Nazarite; nor for his sister, but he must defile himself for a Meth-Mizwah, even if he be a High Priest as well as a Nazarite and engaged in such duties as are stated in the Gemara.

(32) Both of which acts must be performed at a prescribed time.

## Talmud - Mas. Sanhedrin 35b

and he heard that one of his relatives had died, it might be thought that he should defile himself, but in fact the law<sup>1</sup> provides that he should not. Now, it might be thought that just as he may not defile himself for his sister, so may he not defile himself for a Meth-Mizwah: therefore Scripture states, And to his sister, i.e., [only] for his sister may he not defile himself, but he must do so for a Meth-Mizwah). Then the Sabbath, which is abrogated in favour of the Temple service, should surely be set aside for the burial of a Meth-Mizwah! — He answered: Execution<sup>2</sup> can prove it [sc. the contrary]: it supersedes the Temple service,<sup>3</sup> and yet does not set aside the Sabbath.<sup>4</sup> But let execution itself supersede the Sabbath, arguing [likewise] a minori: If the Temple service, which supersedes the Sabbath, is itself set aside for execution, as it is written, Thou shalt take him<sup>5</sup> from mine altar that he may die:<sup>6</sup> then the Sabbath, which the Temple service sets aside, should surely be set aside by execution! — Said Raba: A Tanna of R. Ishmael's School has already decided this, for a Tanna of the school of R. Ishmael taught: Ye shall not kindle a fire:<sup>7</sup> What does this teach?<sup>8</sup> 'What does this teach?' [asket thou]! According to R. Jose, [it is particularized] in order to constitute it merely a prohibitory command;<sup>9</sup> according to R. Nathan in order to teach separation,<sup>10</sup> as has been taught: The [singling out of] kindling is to shew that it is subject merely to a negative command: this is the view of R. Jose. R. Nathan said: It is to teach separation. But, said Raba, the Tanna's difficulty is [the word] 'habitations'.<sup>11</sup> Why is the word 'habitations'<sup>12</sup> stated? For consider: [the observance of the] Sabbath is a personal duty,<sup>13</sup> and a personal duty is obligatory both within and without the Land [sc. Palestine]; what then is the purpose of 'habitations', which the Divine Law wrote? — A disciple said on R. Ishmael's authority: Since it is written, And if a man have committed a sin worthy of death and he be put o death,<sup>14</sup> I [might] understand it to mean both on week-days and on the Sabbath.<sup>15</sup> How then should I interpret, He that profaneth it shall surely be put to death?<sup>16</sup> — As referring to other forms of work, but not judicial execution. Or perhaps that is not so, and it does indeed include execution by the Beth din; and how an I to interpret, And he be put to death? — as applying only to week-days, but not to the Sabbath!<sup>17</sup> Or perhaps, on the contrary, even the Sabbath is meant?<sup>18</sup> — Therefore<sup>19</sup> Scripture states: Ye shall not kindle a fire throughout your habitations,<sup>20</sup> and elsewhere it says And these things shall be for a statute of judgment for you throughout your generations in all your habitations:<sup>21</sup> Just as the word 'habitations' found there,<sup>22</sup> refers to [matters concerning] a Beth din, so the word 'habitations' found here refers to [work entailed by a] Beth din.<sup>23</sup> And regarding it the Divine Law states: Ye shall not kindle a fire in all your habitations.<sup>24</sup>

Abaye said: Now that you have concluded that execution does not supersede the Sabbath, it [necessarily] follows that execution does not suspend the Temple service, a minori: If the Sabbath, which is abrogated in favour of the Temple service, is not set aside for execution; then the Temple service, which supersedes the Sabbath, is surely not suspended by execution! And as to the Scriptural verse, Thou shalt take him from mine altar that he may die?<sup>25</sup> — this refers only to a private sacrifice,<sup>26</sup> which does not suspend the Sabbath.<sup>27</sup> Raba said:<sup>28</sup> But execution should not suspend [attendance even upon] a private sacrifice, a minori:

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(1) In the verse under discussion; v. n. 6.

(2) Lit., 'Murder'.

- (3) If a priest is convicted of murder; he must be executed, even if he wishes to perform the Temple service.
- (4) As was stated above.
- (5) The murderer.
- (6) Ex. XXI, 14.
- (7) Ex. XXXV, 3.
- (8) I.e., why was the kindling of fire specially mentioned; surely it was already included in: Ye shall not do any work! (Ex. XX, 10.)
- (9) I.e., its infringement is punishable only by lashes and not by stoning, as is the performance of other work on the Sabbath.
- (10) I.e., to teach that each transgression of the Sabbath laws is to be atoned for separately. This interpretation is based on the eighth of the thirteen exegetical principles expounded by R. Ishmael, namely: If anything is included in a general proposition and is then made the subject of a special statement, that which is predicated of it is not to be understood as limited to itself alone, but applies to the whole of the general proposition.
- (11) Ex. XXXV, 3.
- (12) Which word, as a rule, indicates that the law is confined to Palestine alone.
- (13) As opposed to laws dependent on the soil, such as those of the Sabbatical year, or the fruits of the soil, such as tithes etc.
- (14) Deut. XXI, 22.
- (15) Since, by reason of the a minori argument propounded above, execution might supersede the Sabbath.
- (16) Ex. XXXI, 14.
- (17) Since the argument a minori can be refuted by the fact that the burial of a Meth-Mizwah does not suspend the Sabbath laws even though it sets aside the Temple service.
- (18) I.e., execution might nevertheless supersede the Sabbath, a minori, as above. Nor is the refutation stated in the last note a valid one, since the same reasoning may be used to show that the burial of a Meth-Mizwah too should be permissible on the Sabbath.
- (19) I.e., in order to clarify the position.
- (20) Ex. XXXV, 3.
- (21) Num. XXXV, 29.
- (22) With reference to the manslayer and court executions.
- (23) I.e., execution.
- (24) Even such fire as is involved in execution by burning, ordered by a Beth din. This execution cannot suspend the Sabbath laws, in spite of the argument a minori. This fact too refutes the argument by which it was sought to prove that the burial of a Meth-Mizwah should abrogate the Sabbath.
- (25) Ex. XXI, 14, which conflicts with this conclusion.
- (26) I.e., when a priest accused of murder officiates at an offering brought by an individual.
- (27) Execution therefore supersedes it. But if he is engaged in offering a public sacrifice, execution may not set it aside, by the preceding argument.
- (28) Raba disagrees with Abaye, and proceeds to demonstrate the incorrectness of Abaye's view by an argument somewhat similar to a reductio ad absurdum.

## **Talmud - Mas. Sanhedrin 36a**

If a festival, which is superseded by a private offering,<sup>1</sup> is not abrogated for an execution;<sup>2</sup> then a private offering, which supersedes the festival, is surely not to be suspended by an execution? Now, on the view that vows and free-will offerings [i.e., private offerings] may not be sacrificed on festival days, it is correct;<sup>3</sup> but on the view that vows and free will offerings may be sacrificed on Festivals, what can you say?<sup>4</sup> Therefore Raba said: [Abaye's reasoning is unacceptable] not only on the view that vows and free-will offerings can be sacrificed on a festival, — since in that case, [the verse] From mine altar etc. has no applicability at all,<sup>5</sup> — but even if it be held that vows and free-will offerings cannot be sacrificed on festivals.<sup>6</sup> For, is it not written: From mine altar, [implying,] my altar, viz., that which is peculiarly mine;<sup>7</sup> and which altar is that? the Tamid.<sup>8</sup> And thereon the Divine Law writes, Thou shalt take him from mine altar that he may die.<sup>9</sup>

IN CIVIL SUITS, AND IN CASES OF CLEANNESS AND UNCLEANNESSE etc. Rab said: I was once one of the voters in the school of Rabbi, and it was with me that the voting began.<sup>10</sup> But did we not learn, WE COMMENCE WITH THE ELDEST? — Rabbah the son of Raba — others state, R. Hillel the son of R. Wallas — said: The voting in the school of Rabbi was different [from the usual form], because in all their voting they began with the side [benches].<sup>11</sup>

Rabbah the son of Raba — others state, R. Hillel the son of R. Wallas — also said: From Moses until Rabbi we do not find sacred learning and [secular] greatness combined in the one [person]. But do we not? Was it not so in the case of Joshua? — [No, for] there was Eleazar.<sup>12</sup> But what of Phinehas? — There were the Elders.<sup>13</sup> But was not Saul such? — No, [with him] was Samuel. But did not Samuel die [before him]? — We are referring to his whole life-time. But did not David [combine these possessions]? — There was Ira the Jairite.<sup>14</sup> But he died [before David]! — We are referring to his whole life-time. Was not Solomon [such a man]? — [No, for] there was Shimei son of Gera.<sup>15</sup> But he [Solomon] slew him! — We are referring to his whole life-time. Was there not Hezekiah? — [with him] was Shebna.<sup>16</sup> But he was slain [during Hezekiah's life-time]! — We are referring to his entire life-time. But was this not true of Ezra? — No, for [with him] was Nehemia the son of Hachalia.

R. Adda b. Ahabah said: I similarly affirm that since the days of Rabbi until R. Ashi we do not find learning, and high office combined in the same person. But do we not: was there not Huna b. Nathan?<sup>17</sup> — Huna b. Nathan was certainly subordinate to R. Ashi.<sup>18</sup>

WHEREAS IN CAPITAL CHARGES, WE COMMENCE WITH [THE OPINION OF] THOSE ON THE SIDE BENCHES. Whence is this derived? R. Aha b. Papa said: Scripture states, Thou shalt not speak<sup>19</sup> 'al rib [in a case]<sup>20</sup> — [i.e.,] thou shalt not speak 'al rab, against the chief [of the judges]. Rabbah b. Bar Hana deduced it in R. Johanan's name from the following verse, And David said unto his men, gird ye on every man his sword; and they girded on every man his sword, and David also girded on his sword.<sup>21</sup>

Rab said: In capital charges one may instruct his disciple,<sup>22</sup> and pronounce judgment with him.<sup>23</sup> An objection was raised: 'In cases of cleanness and uncleanness, a father and his son, or a master and his disciple count as two;<sup>24</sup> but in monetary cases, capital cases of flagellation, the sanctification of the month and the intercalation of the year, a father and his son, or a master and his disciple count only as one.'<sup>25</sup>

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(1) I.e., a private offering may be brought on a Festival, though it entail labour unconnected with the preparation of food for human consumption, v. Ex. XII, 16.

(2) Since in regard to work there is no difference between Sabbaths and Festivals save as regards the preparation of food.

(3) Since the preceding argument is fallacious, being based on a false premise (v. Bezah, 19a). — This is still part of Raba's reasoning.

(4) The premise being correct, the deduction is likewise correct, viz., that an execution cannot supersede a private offering. How then can the verse, Thou shalt take him from mine altar, be reconciled with this conclusion?

(5) For, as shown above, if Abaye's reasoning be accepted, execution does not suspend even private offerings: to what then can from mine altar etc.' refer?

(6) According to which view the Scriptural verse might refer to private offerings; yet even so, Abaye's deduction is unacceptable.

(7) I.e., public offerings in which the individual, as an individual, has no part.

(8) I.e., the altar on which the daily offering was made.

(9) Thus the Bible expressly negatives the deduction a minori proposed by Abaye.

(10) In connection with the Sikarikon (robber) law, a title to a piece of property held by such for twelve months. Cf. Git. 59a.

- (11) Owing to Rabbi's humility.
- (12) His colleague, equal to him in wisdom.
- (13) Who shared his authority with him.
- (14) Chief Minister to David. II Sam. XX, 26. Cf. M.K. 16b which speaks of his great learning.
- (15) V. II Sam. XIX, 18, where his great influence is indicated.
- (16) Whose college was larger than Hezekiah's. V. supra 26a.
- (17) Cf. Zeb. 19a. which refers to his intimate friendship with the Persian King, Yezdegerd. [According to Sherira's Epistle, he was exilarch in the time of R. Ashi.]
- (18) [He surrendered one by one his prerogatives to R. Ashi, v. Blank, REJ. XXX, 51.]
- (19) Lit., 'Answer'.
- (20) Ex. XXIII, 2. V. p. 94. n. 2. He takes כָּרַח in the sense of כָּרַח. Therefore the opinion of the lessor judges is first ascertained.
- (21) I Sam. XXV, 13. I.e., the question whether Nabal the Carmelite's act was to be treated as rebelliousness against the king was here discussed and a vote taken in the form of girding on the sword. David was the last to express his opinion.
- (22) In the laws relating to such cases, and the pros and cons for conviction.
- (23) The master and the disciple have each a separate vote.
- (24) Since such cases could at the outset be decided by a single person, the need for voting arises only in the event of a controversy.
- (25) Since these cases require at the very outset a fixed number of judges. Tosef. Sanh. IV.

## Talmud - Mas. Sanhedrin 36b

— Rab referred to [disciples] such as R. Kahana and R. Assi who needed Rab's traditional teaching,<sup>1</sup> but not his reasoning.<sup>2</sup>

R. Abbahu said: In ten respects do civil suits differ from capital charges,<sup>3</sup> and none of those is practised in [the trial of] the ox that is stoned,<sup>4</sup> save that twenty-three [judges are necessary] — Whence is this derived? — R. Aha b. Papa said: Scripture states, Thou shalt not wrest<sup>5</sup> the judgment of thy poor in his cause;<sup>6</sup> — the judgment of thy poor thou mayest not wrest,<sup>7</sup> but thou mayest do so in the case of the ox that is stoned.<sup>8</sup>

Ten? But there are only nine! ([You say that there are only nine,] but indeed, ten are taught! — The laws that not all [persons] are eligible,<sup>9</sup> and that twenty-three judges are necessary, are but one.)<sup>10</sup> — There is yet another [difference]:<sup>11</sup> for it has been taught: 'We do not appoint as members of the Sanhedrin, an aged man, a eunuch or one who is childless.<sup>12</sup> R. Judah includes also a cruel man. It is the reverse in the case of a Mesith,' for the Divine Law states, Neither shalt thou spare, neither shalt thou conceal him.<sup>13</sup>

ALL ARE ELIGIBLE TO TRY CIVIL SUITS. What does 'ALL' include? — It includes a bastard. But have we not already learnt this once, viz.: Whoever is competent to try capital charges is also competent to try civil suits. But some are competent to try civil suits, yet not capital charges.<sup>14</sup> Now, when we discussed this question: What does that<sup>15</sup> include? Did not Rab Judah answer, It includes a bastard? — One includes a proselyte, the other, a bastard. And both are necessary. For had the rule been given concerning a proselyte only, [one might have assumed that the reason is] because he is eligible to come into the Congregation;<sup>16</sup> but a bastard,<sup>17</sup> we would say, is not [competent]. Again, had this been stated of a bastard only, [we should think that the reason was that] he issues from a proper origin,<sup>18</sup> but a proselyte, who does not issue from a proper origin, is not [competent]. Hence the statements are [both] necessary.

BUT NOT ALL ARE ELIGIBLE TO TRY CAPITAL CHARGES. Why?<sup>19</sup> — As R. Joseph learned: Just as the Beth din must be pure in righteousness, so they must be free<sup>20</sup> from every blemish.<sup>21</sup> Amemar said: What verse [proves this]? — Thou art all fair, my love, and there is no



blemish in thee.<sup>22</sup> But perhaps a literal defect [blemish] is meant?<sup>23</sup> — R. Aha b. Jacob answered: Scripture states, That they may stand there with thee:<sup>24</sup> ‘with thee’ implies, like to thee.<sup>25</sup> But perhaps it was so stated there on account of the Shechinah?<sup>26</sup> — But, said R. Nahman b. Jacob: Scripture states, And they shall bear with thee:<sup>27</sup> ‘with thee’ implies that they must be like to thee.

MISHNAH. THE SANHEDRIN SAT IN THE FORM OF A SEMICIRCULAR THRESHING FLOOR,<sup>28</sup> SO THAT THEY MIGHT SEE ONE ANOTHER, AND TWO JUDGES CLERKS STOOD BEFORE THEM, ONE TO THE RIGHT, THE OTHER TO THE LEFT, AND WROTE DOWN THE ARGUMENTS OF THOSE WHO WOULD ACQUIT AND THOSE WHO WOULD CONDEMN.<sup>29</sup> R. JUDAH SAID: [THERE WERE] THREE: ONE TO RECORD THE ARGUMENTS FOR ACQUITTAL, A SECOND, THOSE FOR CONVICTION, AND A THIRD, TO RECORD THE ARGUMENTS FOR ACQUITTAL AND CONVICTION.

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(1) I.e., laws transmitted down from Master to pupil.

(2) In the application of these traditions. Therefore they rank as independent opinions, for with respect to the actual traditions, even the Masters had to receive them from their masters.

(3) As detailed in the Mishnah.

(4) Though its trial must be similar to that of its owner. Cf. supra 2a.

(5) Lit., ‘incline’, or ‘bend’.

(6) Ex. XXIII, 6. This is interpreted, judgment must not be inclined in favour of conviction by a majority of only one.

(7) By a majority of one, for condemnation.

(8) From this it may be inferred that the procedure in the trial of an ox to be stoned is other than that of capital cases, except in the number of judges; and that difference is extended to all the other peculiarities of capital procedure, since the object of particularly applying that procedure in capital cases was to achieve the acquittal of the accused. Not so with an ox.

(9) E.g., bastards may not try capital cases.

(10) So making the total of nine given in the Mishnah. People of illegitimate birth are ineligible as judges in capital cases because a court of twenty-three holds the status of a minor Sanhedrin, with whom pure descent is essential; hence they are counted as one.

(11) Which completes the number of ten.

(12) Because such are more or less devoid of paternal tenderness Cf. Tosef Sanh. VII and X.

(13) Deut. XIII, 9.

(14) V. supra 27b.

(15) The law that one may be competent to act as judge in one and not in another case.

(16) I.e., to intermarry with Israelites.

(17) Who may not come into the Assembly. Cf. Deut. XXIII, 3

(18) I.e., is of pure Israelitish blood.

(19) Since the Talmud does not ask, ‘whence is this derived,’ as before, but ‘why’, it may be assumed that this limitation is a Rabbinical one, and therefore the Talmud asks why it was imposed.

(20) Lit., ‘pure’.

(21) Of family descent.

(22) Cant. IV, 7. [This verse must refer to the Sanhedrin, as such a praise can hardly be sung of the whole people (Yad Ramah).]

(23) I.e., a bodily defect.

(24) Num. IV, 16.

(25) The Elders were required to be like Moses with regard to family descent.

(26) That passage explicitly states that the Shechinah was to rest upon them. Cf. Num. XI, 17. And I will take of the spirit which is upon thee and put it upon them; therefore, purity of descent was indispensable, but elsewhere, this may be unnecessary.

(27) Ex. XVIII, 22, with reference to the judges set up on the advice of Jethro, to bear with Moses the burden of the people. In that passage there is no indication of the bestowal of the divine spirit upon them.

(28) In Krauss, Sanhedrin-Makkot (1933) a.l. this is discussed at great length. In fact, most threshing floors were round,

but their essential feature was that they were shaped like a trough. i.e., forming a depression in the soil. It is to this aspect of the threshing floor that they are compared. Hence the meaning of the passage is: They sat in semi-circular rising tiers, as in an amphitheatre.

(29) They were two, as a precautionary measure against error. Cf. supra 34a.

### **Talmud - Mas. Sanhedrin 37a**

AND THREE ROWS OF SCHOLARS SAT<sup>1</sup> IN FRONT OF THEM; EACH KNOWING HIS OWN PLACE.<sup>2</sup> IN CASE IT WAS NECESSARY TO ORDAIN [ANOTHER JUDGE],<sup>3</sup> HE WAS APPOINTED FROM THE FIRST [ROW] IN WHICH CASE ONE OF THE SECOND [ROW] MOVED UP TO THE FIRST, ONE OF THE THIRD TO THE SECOND, AND A MEMBER OF THE ASSEMBLED [AUDIENCE]<sup>4</sup> WAS SELECTED AND SEATED IN THE THIRD [ROW]. HE<sup>5</sup> DID NOT SIT IN THE PLACE VACATED BY THE FIRST<sup>6</sup> BUT IN THE PLACE SUITABLE FOR HIM.<sup>7</sup>

GEMARA. Whence is this derived? — R. Aha Haninah said: Scripture states, Thy navel is like a round goblet [‘aggan ha-Sahar] wherein no mingled wine is wanting.<sup>8</sup> ‘Thy navel’ — that is the Sanhedrin. Why was it called ‘navel’? — Because it sat at the navel-point<sup>9</sup> of the world. [Why] ‘aggan’?<sup>10</sup> — Because it protects [meggin] the whole world. [Why] ha-Sahar? — Because it was moon-shaped.<sup>11</sup> [Why] in which no mingled wine is wanting? — I.e., if one of them had to leave, it had to be ascertained if twenty-three, corresponding to the number of the minor Sanhedrin, were left,<sup>12</sup> in which case he might go out; if not, he might not depart.

Thy belly is like a heap of wheat:<sup>13</sup> Just as all benefit from a heap of wheat, so do all benefit from the deliberations of the Sanhedrin.

Set about with lilies:<sup>14</sup> Even through a hedge of lilies they would make no breach.<sup>15</sup> In this connexion there is the story of a Min<sup>16</sup> who said to R. Kahana: Ye maintain that a menstruant woman is permitted yihud [privacy] with her husband: can fire be near tow without singeing it? He retorted: The Torah testifies this of us: Set about with lilies — even through a hedge of lilies they make no breach. Resh Lakish deduced [the same answer] from the following verse, Thy temples [rakkathek] are like a pomegranate split open!<sup>17</sup> Even the emptiest [rekanin]<sup>18</sup> among you are as full of meritorious deeds as a pomegranate [of seeds].<sup>19</sup> R. Zera deduced it from the following verse, And he smelt the smell of his raiment;<sup>20</sup> read not begadaw [his raiment] but bogedaw [his traitors].<sup>21</sup>

In the neighbourhood of R. Zera there lived some lawless men. He nevertheless showed them friendship in order to lead them to repent; but the Rabbis were annoyed [at his action]. When R. Zera's soul went to rest,<sup>22</sup> they said: Until now we had the burnt man with the dwarfed legs<sup>23</sup> to implore Divine mercy for us; who will do so now? Thereupon they felt remorse in their hearts and repented.

THREE ROWS Abaye said: We may infer from this<sup>24</sup> that when one moves they all move.<sup>25</sup> But can he<sup>26</sup> not object to them: Until now I used to sit at the head,<sup>27</sup> whilst now ye place me at the tail!<sup>28</sup> Said Abaye: They can answer him thus: Better a tail to lions than a head to foxes.<sup>29</sup>

MISHNAH. HOW WERE THE WITNESSES INSPIRED WITH AWE? WITNESSES IN CAPITAL CHARGES<sup>30</sup> WERE BROUGHT IN AND INTIMIDATED [THUS]: PERHAPS WHAT YE SAY IS BASED ONLY ON CONJECTURE,<sup>31</sup> OR HEARSAY,<sup>32</sup> OR IS EVIDENCE FROM THE MOUTH OF ANOTHER WITNESS,<sup>33</sup> OR EVEN FROM THE MOUTH OF A TRUSTWORTHY PERSON:<sup>34</sup> PERHAPS YE ARE UNAWARE THAT ULTIMATELY WE SHALL SCRUTINIZE YOUR EVIDENCE BY CROSS EXAMINATION AND INQUIRY? KNOW THEN THAT CAPITAL CASES ARE NOT LIKE MONETARY CASES. IN CIVIL

SUITS, ONE CAN MAKE MONETARY RESTITUTION<sup>35</sup> AND THEREBY EFFECT HIS ATONEMENT; BUT IN CAPITAL CASES HE IS HELD RESPONSIBLE FOR HIS BLOOD [sc. THE ACCUSED'S] AND THE BLOOD OF HIS [POTENTIAL] DESCENDANTS UNTIL THE END OF TIME,<sup>36</sup> FOR THUS WE FIND IN THE CASE OF CAIN, WHO KILLED HIS BROTHER, THAT IT IS WRITTEN: THE BLOODS OF THY BROTHER CRY UNTO ME:<sup>37</sup> NOT THE BLOOD OF THY BROTHER, BUT THE BLOODS OF THY BROTHER, IS SAID — i.e., HIS BLOOD AND THE BLOOD OF HIS [POTENTIAL] DESCENDANTS. (ALTERNATIVELY, THE BLOODS OF THY BROTHER, TEACHES THAT HIS BLOOD WAS SPLASHED OVER TREES AND STONES.)<sup>38</sup> FOR THIS REASON WAS MAN CREATED ALONE, TO TEACH THEE THAT WHOSOEVER DESTROYS A SINGLE SOUL OF ISRAEL,<sup>39</sup> SCRIPTURE IMPUTES [GUILT] TO HIM AS THOUGH HE HAD DESTROYED A COMPLETE WORLD; AND WHOSOEVER PRESERVES A SINGLE SOUL OF ISRAEL, SCRIPTURE ASCRIBES [MERIT] TO HIM AS THOUGH HE HAD PRESERVED A COMPLETE WORLD.<sup>40</sup> FURTHERMORE, [HE WAS CREATED ALONE] FOR THE SAKE OF PEACE AMONG MEN, THAT ONE MIGHT NOT SAY TO HIS FELLOW, 'MY FATHER WAS GREATER THAN THINE, AND THAT THE MINIM<sup>41</sup> MIGHT NOT SAY, THERE ARE MANY RULING POWERS IN HEAVEN; AGAIN, TO PROCLAIM THE GREATNESS OF THE HOLY ONE, BLESSED BE HE: FOR IF A MAN STRIKES MANY COINS FROM ONE MOULD, THEY ALL RESEMBLE ONE ANOTHER, BUT THE SUPREME KING OF KINGS,<sup>42</sup> THE HOLY ONE, BLESSED BE HE, FASHIONED EVERY MAN IN THE STAMP OF THE FIRST MAN, AND YET NOT ONE OF THEM RESEMBLES HIS FELLOW. THEREFORE EVERY SINGLE PERSON IS OBLIGED TO SAY: THE WORLD WAS CREATED FOR MY SAKE.<sup>43</sup>

#### PERHAPS YE WILL SAY:

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- (1) Also in semi-circular form, but on the floor. Each row numbered twenty-three, making a total of sixty-nine. They were there for completion purposes in case there might be a majority of only one for condemnation. Although forty-eight would have sufficed for that purpose, since the completion goes on till the number of seventy-one is reached, some difficulty would have been experienced in arranging that number into rows. It would not have been proper to make two rows of twenty-four, since these would have been larger than that of the Sanhedrin, nor three rows of sixteen, which would have seemed too small, nor two rows of twenty-three and a third one only of two. Hence the sixty-nine (Rashi).
- (2) The disciples were seated according to rank.
- (3) If a member died, or for completion purposes.
- (4) [Behind the rows of the members of the Courts there stood a large audience of scholars, v. Krauss op. cit.]
- (5) Who was chosen from the assembly.
- (6) Of the row.
- (7) When the one at the head of the row was promoted, all moved one place up, leaving the last seat for the new member.
- (8) Cant. VII, 3.
- (9) I.e., the centre. According to Midrashic legend the Temple was situated in the centre of the world. Cf. Tanhuma, Wayikra. XVIII,23.
- (10) אגן akin to מגן — 'to enclose'. Hence, shield, protect.
- (11) סהר=moon. I.e., they were seated in circular form like a moon.
- (12) The actual number required for capital cases is twenty-three, roughly a third of seventy-one, the remaining two-thirds being for completion purposes. The Aggadists therefore compare the court to mingled wine, a mixture of one-third of wine and two-thirds of water. Cf. B M. 60a; Tanhuma. Bamidbar IV.
- (13) Cant. VII, 3.
- (14) Ibid.
- (15) Metaphorically: the lightest barrier sufficed to keep them from sin.
- (16) מין, a sectarian. v. Glos.
- (17) Cant. VI, 7.
- (18) ריקנין from ריק (empty, void: a play on ריקתך). Even those who by comparison are emptiest of good deeds.
- (19) So there is no fear of their infringing the prohibition.

(20) Gen. XXVII, 27.

(21) The consonants of both words are the same — בַּגְדֵי I.e., even those who are traitors to the teachings of Judaism diffuse the fragrance of good deeds. Maharsha: Isaac was able to trace in Jacob his original character even though he appeared before him in disguise, so even in his apparently unworthy descendants their good qualities are discernible.

(22) I.e., when he died.

(23) V. B M. 85a for the reason for this nick-name.

(24) The statement in the Mishnah that the member chosen from the assembled audience does not occupy the seat just vacated.

(25) V. p. 231, n. 7.

(26) The promoted member of the rows of scholars.

(27) E.g., of the second row.

(28) Of the first row.

(29) Aboth IV, 15.

(30) [Ms. M: How are witnesses in capital charges intimidated? They were brought in, etc.]

(31) I.e., from circumstantial evidence.

(32) [A general rumour (Yad Ramah).]

(33) [Each one of you has heard it from a separate witness (Yad Ramah).]

(34) [You both heard it from the same trustworthy person.]

(35) If he causes financial loss through giving false testimony.

(36) Lit., 'the world', i.e., not only for the death of the accused himself, but of his potential descendants for all time.

(37) Gen.IV,10; רַבִּי is plural.

(38) This is obviously not part of the caution, but interpolated. V. Krauss, Sanhedrin-Makkot a.l.

(39) 'OF ISRAEL' is absent in some texts.

(40) Since all mankind originated from one man.

(41) V. p. 211, n. 8, and p. 239, n. 9; here, however, it is more probable that the allusion is to the Gnostics and their doctrine of the Demiurgus; v. Krauss, op. cit. a.l.

(42) Lit., 'the King of the Kings of the Kings.'

(43) How grave the responsibility therefore of corrupting myself by giving false evidence, and thus bringing the moral guilt of murder upon a whole world.

## Talmud - Mas. Sanhedrin 37b

WHY SHOULD WE INCUR THIS ANXIETY?<sup>1</sup> [KNOW THEN:] IS IT NOT ALREADY WRITTEN, AND HE BEING A WITNESS, WHETHER HE HATH SEEN OR KNOWN, IF HE DO NOT UTTER IT?<sup>2</sup> AND SHOULD YE SAY: WHY SHOULD WE BEAR GUILT FOR THE BLOOD OF THIS [MAN]:<sup>3</sup> — SURELY, HOWEVER, IT IS SAID, **WHEN THE WICKED PERISH, THERE IS JOY!**<sup>4</sup>

GEMARA. Our Rabbis taught: What is meant by BASED ON CONJECTURE? — He [the judge] says to them: Perhaps ye saw him running after his fellow into a ruin, ye pursued him, and found him sword in hand with blood dripping from it, whilst the murdered man was writhing [in agony]: If this is what ye saw, ye saw nothing.<sup>5</sup>

It has been taught: R. Simeon b. Shatah said: May I never see comfort<sup>6</sup> if I did not see a man pursuing his fellow into a ruin, and when I ran after him and saw him, sword in hand with blood dripping from it, and the murdered man writhing, I exclaimed to him: Wicked man, who slew this man? It is either you or I!<sup>7</sup> But what can I do, since thy blood [i.e., life] does not rest in my hands, for it is written in the Torah, At the mouth of two witnesses etc., shall he that is to die be put to death?<sup>8</sup> May he who knows one's thoughts exact vengeance from him who slew his fellow! It is related that before they moved from the place a serpent came and bit him [the murderer] so that he died.

But should this man [have died] through a serpent? Did not R. Joseph say, and so too it was taught in the school of Hezekiah: From the day the Temple was destroyed, although the Sanhedrin was abolished, the four modes of execution were not abolished? They were not abolished, [you say,] but surely they were! — But the law of the four modes of execution was not abolished:<sup>9</sup> He who is worthy of stoning either falls from the roof,<sup>10</sup> or is trampled to death by a wild beast; he who merits burning either falls into the fire or is bitten by a serpent;<sup>11</sup> he who is worthy of decapitation is either delivered to the [gentile] Government<sup>12</sup> or brigands attack him; he who is worthy of strangulation is either drowned in a river or dies of suffocation?<sup>13</sup> — I will tell you: that man was guilty of another crime,<sup>14</sup> for a Master said: One who incurs two death penalties imposed by Beth din is executed by the severer.<sup>15</sup>

BASED ON CONJECTURE. Thus, only in capital charges do we disallow conjecture, but permit it in civil suits.<sup>16</sup> Who [is the authority for this]? — R. Aha. For it has been taught: R. Aha said: If among camels there is a lustful one, and a camel is found killed by its side, it is certain that this one killed it.<sup>17</sup> Now, on your reasoning,<sup>18</sup> when he [the Tanna] regards EVIDENCE FROM THE MOUTH OF ANOTHER WITNESS [as invalid]: it is only in capital charges that we do not admit it; whilst we do in monetary cases? But did we not learn: If he [the witness] says: He [the defendant] said to me, ‘I owe him [the money],’ or, ‘So and so told me that he owes him,’ his statement is worthless,<sup>19</sup> unless he states, ‘In our presence<sup>20</sup> he admitted to him that he owed him two hundred zuz!’<sup>21</sup> This proves that although [such evidence] is inadmissible in monetary cases too, we caution them<sup>22</sup> only in capital cases. So in the present instance,<sup>23</sup> though it [sc. conjecture] is inadmissible in civil suits too, we nevertheless admonish them only in capital cases.

KNOW THAT etc. Rab Judah the son of R. Hiyya said: This teaches that Cain inflicted upon his brother many blows and wounds, because he knew not whence the soul departs,<sup>24</sup> until he reached his neck.<sup>25</sup> Rab Judah the son of R. Hiyya also said: Since the day the earth opened her mouth to receive the blood of Abel, she has never opened it again, for it is written, From the edge of the earth have we heard songs, glory to the righteous:<sup>26</sup> implying, from the ‘edge’ of the earth, but not from the mouth of the earth. Hezekiah his brother objected thereto: And the earth opened her mouth!<sup>27</sup> — He answered: She opened if for evil,<sup>28</sup> but not for good.

Rab Judah the son of R. Hiyya also said: Exile atones for the half of men's sins. Earlier [in the Cain narrative] it is written, And I shall be a fugitive and a wanderer;<sup>29</sup> but later, And he dwelt in the land of Nod [wandering].<sup>30</sup>

Rab Judah said: Exile makes remission for three things, for it is written, Thus saith the Lord etc. He that abideth in this city shall die by the sword and by the famine and by the pestilence; but he that goeth out and falleth away to the Chaldeans who beseige you he shall live and his life shall be unto him for a prey.<sup>31</sup> R. Johanan said: Exile atones for everything, for it is written, Thus saith the Lord, write ye this man childless, a man that shall not prosper in his days, for no man of his seed shall prosper sitting upon the throne of David and ruling any more in Judah.<sup>32</sup> Whereas after he [the king] was exiled, it is written, And the sons of Jechoniah, — the same is Assir — Shealtiel his son etc.<sup>33</sup> [He was called] Assir,<sup>34</sup> because his mother conceived him in prison. Shealtiel,<sup>35</sup> because God did not plant him<sup>36</sup> in the way that others are planted. We know by tradition that a woman cannot conceive in a standing position. [

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(1) If the moral responsibility is so great, why should we give evidence at all? Quite unintentionally we may cause a perversion of justice.

(2) Then he shall bear his iniquity. Lev. V, 1.

(3) I.e., we prefer to transgress that law, rather than be responsible for the accused's death.

(4) Prov. XI, 10.

(5) For it is not an actual witnessing of the murder. But v. Mishnah on 81b, and Talmudic discussion thereon.

(6) A customary oath. This may either mean, May I (personally) always be afflicted; or, May I never see the comfort of Zion and of Jerusalem. If the latter be correct, the troublous times of the period, owing to the clash of the Pharisees and the Sadducees, might have given rise to such an oath.

(7) I.e., it must be you.

(8) Deut. XVII, 6.

(9) I.e., the death which the Jewish courts could no longer decree was now brought about by Heavenly agencies.

(10) Before stoning one was thrown from a certain height. Cf. infra 45a.

(11) The action of the poison was likened to the inner fire of burning; v. p. 349.

(12) Whose mode of execution was then as a rule by the sword: 'handed over' does not mean, by the Jews, but rather, falls into their hands, through some misdeed which attracts their attention.

(13) Now, returning to the subject, the said murderer ought to have met his death by the sword: why then did he die of a bite?

(14) Punishable by burning, which is severer. Cf. infra 49b.

(15) Infra 81a.

(16) This follows from the fact that the Mishnah states this only in connection with the former.

(17) V. B.B. 93a. Hence in monetary cases circumstantial evidence is acceptable. The Mishnah thus follows the view of a single authority.

(18) That, because in monetary cases the attention of the witnesses is not actually called to the inadmissibility of circumstantial evidence, such is permissible.

(19) Lit., 'He hath said nothing.'

(20) I.e., 'In the presence of another witness and myself.'

(21) Supra 29a.

(22) Sc. the witnesses.

(23) With reference to circumstantial evidence.

(24) I.e., he did not know which blow would prove fatal.

(25) And severed the arteries.

(26) Isa. XXIV, 16.

(27) Num. XVI, 32.

(28) To swallow Korah and his associates; the opening to receive Abel's blood is however accounted for good. i.e., to hide Cain's guilt.

(29) נַעַן וְנָדָה Gen. IV, 14.

(30) נֹדַד, The other half of the curse, 'to be a fugitive' was remitted because of his wandering, i.e., exile,

(31) Jer. XXI, 8-9. He that remained at home was subject to these three evils; but wandering and its consequent hardships outweighed them all.

(32) Jer. XXII, 30.

(33) I Ch. III, 17. Notwithstanding the curse that he should be childless and not prosper, after being exiled he was forgiven.

(34) אֶסְרִי, imprisoned.

(35) According to this Haggadah they were one and the same person.

(36) אֵל שֶׁתֵּלֵן, a play on שֶׁאֵל תֵּיֵאָר.

## Talmud - Mas. Sanhedrin 38a

yet she<sup>1</sup> did conceive standing.<sup>2</sup> Another interpretation: Shealtiel, because God obtained<sup>3</sup> [of the Heavenly court] absolution from His oath.<sup>4</sup> Zerubbabel [was so called] because he was sown in Babylon.<sup>5</sup> But [his real name was] Nehemiah the son of Hachaliah.

Judah and Hezekiah, the sons<sup>6</sup> of R. Hiyya, once sat at table with Rabbi and uttered not a word. Whereupon he said: Give the young men plenty of strong wine,<sup>7</sup> so that they may say something. When the wine took effect, they began by saying: The son of David<sup>8</sup> cannot appear ere the two ruling houses in Israel shall have come to an end, viz., the Exilarchate, in Babylon and the Patriarchate in Palestine, for it is written, And he shall be for a Sanctuary, for a stone of stumbling

and for a rock of offence to both houses of Israel.<sup>9</sup> Thereupon he [Rabbi] exclaimed: You throw thorns in my eyes, my children!<sup>10</sup> At this, R. Hiyya [his disciple] remarked: Master, be not angered, for the numerical value of the letters of yayin<sup>11</sup> is seventy, and likewise the letters of sod:<sup>12</sup> When yayin [wine] goes in, sod [secrets] comes out.

R. Hisda said in Mar 'Ukba's name — others state, R. Hisda quoted from a lecture of Mari b. Mar: What is meant by the verse, And so the Lord hath hastened<sup>13</sup> the evil and brought it upon us, for the Lord our God is righteous?<sup>14</sup> Because God is righteous He hastened with the evil and brought it upon us! — Even so: the Holy One, blessed be He, did a righteous [i.e., charitable] thing unto Israel in that he anticipated the exile of Zedekiah while the exile of Jechoniah was yet in being,<sup>15</sup> for it is written with reference to the latter, And the craftsmen [he-harash] and the smiths [masger], a thousand.<sup>16</sup> Harash,<sup>17</sup> implies, as soon as they opened a [learned] discussion, all [the others] became as though deaf.<sup>18</sup> Masger:<sup>19</sup> i.e., when they closed [the discussion of] a halachah, it was not reopened.<sup>20</sup> And how many were they? — A thousand.

'Ulla said: He advanced [the exile by] two years as compared with the period indicated by we-noshantem.<sup>21</sup> R. Aha b. Jacob said: We infer from this that the 'speediness' of the Lord of the universe meant eight hundred and fifty-two years.<sup>22</sup>

THEREFORE etc.

Our Rabbis taught: Man was created alone.<sup>23</sup> And why so? — That the Sadducees<sup>24</sup> might not say: There are many ruling powers in Heaven. Another answer is: For the sake of the righteous and the wicked; that the righteous might not say: 'Ours is a righteous heredity.'<sup>25</sup> and that the wicked might not say: 'Ours is an evil heredity.'<sup>26</sup> Another answer is: For the sake of [the different] families, that they might not quarrel with each other.<sup>27</sup> Now, if at present, though but one was [originally] created,<sup>28</sup> they quarrel. how much more if two had been created!<sup>29</sup> Another answer is: Because of robbers and plunderers: I.e., If at present, though but one was originally created, people rob and plunder, how much more had two been created.<sup>30</sup>

AND AGAIN, TO PROCLAIM THE GREATNESS OF etc. Our Rabbis taught: [The creation of the first man alone] was to show forth the greatness of the Supreme King of kings, the Holy One, blessed be He. For if a man mints many coins from one mould, they are all alike, but the Holy One, blessed be He, fashioned all men in the mould of the first man, and not one resembles the other, for it is written, It is changed as clay under the seal and they stand as a garment.<sup>31</sup> And why are men's faces not like one another? — Lest a man see a beautiful dwelling or a beautiful woman and say, 'She is mine for it is written, But from the wicked their light is withholden and the high arm is broken.'<sup>32</sup>

It has been taught: R. Meir used to say: In three things man differs from his fellow: In voice, appearance and mind [i.e., thoughts]. In voice and appearance', to prevent unchastity;<sup>33</sup> 'In mind', because of thieves and robbers.<sup>34</sup>

Our Rabbis taught: Adam was created [last of all beings] on the eve of Sabbath. And why? — Lest the Sadducees say: The Holy One, blessed be He, had a partner [viz., Adam] in His work of creation. Another answer is: In order that, if a man's mind becomes [too] proud, he may be reminded that the gnats preceded him in the order of creation. Another answer is: That he might immediately enter upon the fulfilment of a precept.<sup>35</sup> Another answer is: That he might straightway go in to the banquet.<sup>36</sup> The matter may be compared to a king of flesh and blood who built palaces and furnished them, prepared a banquet, and thereafter brought in the the guests. For it is written: Wisdom hath builded her house, she hath hewn out her seven pillars. She hath prepared her meat, she hath mingled her wine, she hath also furnished her table. She hath sent forth her maidens, she calleth upon the

highest places of the city.<sup>37</sup> Wisdom hath builded her house, — this is the attribute of the Holy One, blessed be He, who created the world by wisdom. She hath hewn out her seven pillars, — these are the seven days of creation. She hath prepared her meat, she hath mingled her wine, she hath also furnished her table, — these are the seas and the rivers and all the other requirements of the world. She hath sent forth her maidens, she calleth, — this refers to Adam and Eve. Upon the highest places of the city; Rabbah b. Bar Hana opposed [two verses]. It is written, Upon the top of the highest places.<sup>38</sup> But elsewhere it is written, On a seat on the high places.<sup>39</sup> — At first<sup>40</sup> he was seated upon the ‘top’ of the highest places, but subsequently upon a ‘seat’.

Whoso is thoughtless, let him turn in hither; as for him that lacketh understanding, she saith to him.<sup>41</sup> The Holy One, blessed be He, said: Who was it that enticed him? — A woman<sup>42</sup> hath spoken to him, for it is written, He that committeth adultery with a woman, lacketh understanding.<sup>43</sup>

It has been taught: R. Meir used to say: The dust of the first man was gathered from all parts of the earth, for it is written, Thine eyes did see mine unformed substance,<sup>44</sup> and further it is written, The eyes of the Lord run to and fro through the whole earth.<sup>45</sup> R. Oshaiah said in Rab's name: Adam's trunk came from Babylon,

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- (1) His mother.
  - (2) For lack of room in prison, v. Lev. Rab. XIX.
  - (3) **שאל אל** ‘God asked’.
  - (4) Which He had made, to punish Jechoniah with childlessness.
  - (5) **זרע לבב**.
  - (6) They were twins. Cf. Yeb. 65b.
  - (7) Lit., ‘Make the wine strong for the young men.’
  - (8) I.e., the Messiah.
  - (9) Isa. VIII, 14.
  - (10) They were foretelling the abolition of the Nasi's office which he, Rabbi, occupied.
  - (11) **יין** 10 + 10 + 50 = 70. [Ms. M. omits **אותיות** letters. If retained it must be taken as a direct translation of the Gr. grammata derived from gramma ‘letter’, hence the equivalent of **גימטריא**, cf. Rashi. V. Gandz, S., op. cit. 90 and J.E. V, 589.]
  - (12) **סוד** 60 + 6 + 4 = 70.
  - (13) For this meaning of **וישקוד** (E.V. ‘watched over’), cf. Jer. I, 12: **שקד** hasten.
  - (14) Dan. IX, 14.
  - (15) So that the great scholars who were exiled with Jechoniah were still alive to transmit their traditional teachings to their posterity (Rashi.)
  - (16) II Kings XXIV, 16.
  - (17) **חרש**, ‘craftsman’ or ‘deaf’ (with different pointing in each case).
  - (18) I.e., they overwhelmed them with the depth of their wisdom
  - (19) **מסגר**. (E.V. ‘smith’) from **סגר** ‘to close’.
  - (20) None would presume to cast the least doubt on their ruling.
  - (21) And ye shall have been long (lit., ‘grown old’). Deut. IV, 25. The numerical value of **ונושנתם** (6 + 50 + 6 + 300 + 50 + 400 + 40) is eight hundred and fifty-two. Subtracting two years according to this Haggadah, there are eight hundred and fifty years left, which is the length of time between Israel's entry into Palestine and the destruction of the Temple. The Temple was erected in the four hundred and eightieth year from the Exodus out of Egypt, and it stood for four hundred and ten years. Subtracting forty years for the period of their wanderings in the desert, we reach a total of eight hundred and fifty years that acceleration by two years is here regarded as a ‘righteous’ (i.e., charitable) act, since it averted the complete destruction threatened in Deut. IV, 26.
  - (22) For the following verse states, Ye shall speedily perish completely from off the land. Thus by ‘speedily’ God meant 852 years, alluded to by **we-noshantem**.
  - (23) I.e., only one man was created.
  - (24) Many early versions have Minim in this place and in several other instances further on. **צדוקים** must have been



inserted by the censors, v. p. 234. n. 4.

(25) And therefore we have no need to avoid temptation.

(26) And therefore we have no power to resist temptation.

(27) On the superiority of their respective ancestry.

(28) I.e., when they all descend from one father.

(29) I.e., if they came from different stocks.

(30) In which case some might claim that the land originally belonged to their first ancestor.

(31) Job XXXVIII, 14.

(32) Ibid. 15, their light = 'their visage', i.e it is not like their neighbour's; the high arm = 'the excuse for high-handed action'.

(33) In order that the sexes might not be confused either in the darkness or the light.

(34) Who cannot be trusted to know the secrets of others

(35) The hallowing of the Sabbath.

(36) I.e., that all nature should be ready for his use.

(37) Prov. IX, 1-3.

(38) Prov. IX, 3.

(39) Prov. IX 14, which denotes a lower station (Rashi). Tosaf. reverses their significance.

(40) Before his sin. Tosaf. At first, before Eve was created, he merely sat on the top etc., but afterwards, Eve's creation raised him to a higher pinnacle, so that he had a throne set for him.

(41) Ibid. 4.

(42) Who is referred to as enticing.

(43) Ibid. VI, 32.

(44) Ps. CXXXIX, 16.

(45) Zech. IV, 10. Adam's substance was seen by the look of the Lord which sweeps through the whole world. [This is perhaps another way of teaching the 'equality of man', all men having been formed from one and the same common clay, v. Bacher, AT, II, 65.]

## **Talmud - Mas. Sanhedrin 38b**

his head from Erez Yisrael,<sup>1</sup> his limbs from other lands, and his private parts, according to R. Aha, from Akra di Agma.<sup>2</sup>

R. Johanan<sup>3</sup> b. Hanina said: The day consisted of twelve hours. In the first hour, his [Adam's] dust was gathered; in the second, it was kneaded into a shapeless mass. In the third, his limbs were shaped;<sup>4</sup> in the fourth, a soul was infused into him; in the fifth, he arose and stood on his feet; in the sixth, he gave [the animals] their names; in the seventh, Eve became his mate; in the eighth, they ascended to bed as two and descended as four;<sup>5</sup> in the ninth, he was commanded not to eat of the tree, in the tenth, he sinned; in the eleventh, he was tried, and in the twelfth he was expelled [from Eden] and departed, for it is written, Man abideth<sup>6</sup> not in honour.<sup>7</sup>

Rami b. Hama said: A wild beast has no dominion over man unless he appears to it as a brute,<sup>8</sup> for it is written. Men are overruled<sup>9</sup> when they appear as beasts.<sup>10</sup>

(Mnemonic: When;<sup>11</sup> The End; Aramaic.)

Rab Judah said in Rab's name: When the Holy One, blessed be He, wished to create man, He [first] created a company of ministering angels and said to them: Is it your desire that we make a man in our image? They answered: Sovereign of the Universe, what will be his deeds? Such and such will be his deeds, He replied. Thereupon they exclaimed: Sovereign of the Universe, What is man that thou art mindful of him, and the son of man that thou thinkest of him?<sup>12</sup> Thereupon He stretched out His little finger among them and consumed them with fire. The same thing happened with a second company. The third company said to Him: Sovereign of the Universe, what did it avail

the former [angels] that they spoke to Thee [as they did]? the whole world is Thine, and whatsoever that Thou wishest to do therein, do it. When He came to the men of the Age of the flood and of the division [of tongues] whose deeds were corrupt, they said to Him: Lord of the Universe, did not the first [company of angels] speak aright? Even to old age I am the same, and even to hoar hairs will I carry,<sup>13</sup> He retorted.

Rab Judah said in Rab's name: The first man reached from one end of the world to the other, as it is written, Since the day that God created man upon the earth, even from the one end of Heaven unto the other.<sup>14</sup> But when he sinned, the Holy One, blessed be He, laid His hand upon him and diminished him, as it is written, Thou hast hemmed me in behind and before, and laid Thy hands upon me.<sup>15</sup> R. Eleazar said: The first man reached from earth to heaven, as it is written, Since the day that God created man upon the earth, and from one end of the Heaven [to the other].<sup>16</sup> But when he sinned, the Holy One, blessed be He, laid His hand upon him and diminished him, for it is written, Thou hast hemmed me in behind and before etc.<sup>15</sup> But these verses contradict each other! — Both measurements are identical.<sup>17</sup>

Rab Judah also said in Rab's name: The first man spoke Aramaic,<sup>18</sup> for it is written, How weighty are thy thoughts unto me, God.<sup>19</sup> And that is what Resh Lakish meant when he said: What is the meaning of the verse, 'This is the book of the generations of Adam?'<sup>20</sup> It is to intimate that the Holy One, blessed be He, showed him [Adam] every generation and its thinkers,<sup>21</sup> every generation and its sages. When he came to the generation of Rabbi Akiba, he [Adam] rejoiced at his learning but was grieved at his death,<sup>22</sup> and said: How weighty<sup>23</sup> are Thy friends<sup>24</sup> to me, O God.<sup>19</sup>

Rab Judah also said in Rab's name: Adam was a Min,<sup>25</sup> for it is written, And the Lord God called unto Adam and said unto him, Where art thou?<sup>26</sup> i.e., whither has thine heart turned? R. Isaac said: He practised epispasm:<sup>27</sup> For here it is written, But like man, [Adam] they have transgressed the covenant;<sup>28</sup> whilst elsewhere it is said, He hath broken my covenant,<sup>29</sup> R. Nahman said: He denied God.<sup>30</sup> Here it is written, They have transgressed the covenant;<sup>28</sup> whilst elsewhere it is stated, [He hath broken my covenant,<sup>31</sup> and again,] Because they forsook the covenant of the Lord their God.<sup>32</sup>

We learnt elsewhere:<sup>33</sup> R. Eliezer said: Be diligent to learn the Torah and know how to answer an Epikoros.<sup>34</sup> R. Johanan commented: They taught this only with respect to a Gentile Epikoros; with a Jewish Epikoros, it would only make his heresy more pronounced.<sup>35</sup>

R. Johanan said: In all the passages which the **Minim have taken** [as grounds] **for their heresy,**<sup>36</sup> their refutation is found near at hand. Thus: Let us make man in our image,<sup>37</sup> — And God created [sing.] man in His own image;<sup>38</sup> Come, let us go down and there confound their language,<sup>39</sup> — And the Lord came down [sing.] to see the city and the tower;<sup>40</sup> Because there were revealed [plur.] to him God,<sup>41</sup> — Unto God who answereth [sing.] me in the day of my distress;<sup>42</sup> For what great nation is there that hath God so nigh [plur.] unto it, as the Lord our God is [unto us] whensoever we call upon Him [sing.];<sup>43</sup> And what one nation in the earth is like thy people, [like] Israel, whom God went [plur.] to redeem for a people unto himself [sing.],<sup>44</sup> Till thrones were placed and one that was ancient did sit.<sup>45</sup>

Why were these<sup>46</sup> necessary? To teach R. Johanan's dictum; viz.: The Holy One, blessed be He, does nothing without consulting His Heavenly Court,<sup>47</sup> for it is written, The matter is by the decree of the watchers, and the sentence by the word of the Holy Ones.<sup>48</sup> Now, that is satisfactory for all [the other verses], but how explain Till thrones were placed? — One [throne] was for Himself and one for David.<sup>49</sup> Even as it has been taught: One was for Himself and one for David: this is R. Akiba's view. R. Jose protested to him: Akiba, how long will thou profane the Shechinah?<sup>50</sup> Rather, one [throne] for justice, and the other for mercy. Did he accept [this answer] from him or not? Come and hear! For it has been taught: One is for justice and the other for charity; this is R. Akiba's view.

Said R. Eleazar b. Azariah to him: Akiba, what hast thou to do with Aggada? Confine thyself to [the study of] Nega'im and Ohaloth.<sup>51</sup> But one was a throne, the other a footstool: a throne for a seat and a footstool in support of His feet.

R. Nahman said: He who is as skilled in refuting the Minim as is R. Idith,<sup>52</sup> let him do so; but not otherwise. Once a Min said to R. Idith: It is written, And unto Moses He said, Come up to the Lord.<sup>53</sup> But surely it should have stated, Come up unto me! — It was **Metatron**<sup>54</sup> [who said that], he replied, whose name is similar to that of his Master,<sup>55</sup> for it is written, For my name is in him.<sup>56</sup> But if so, [he retorted,] we should worship him! The same passage, however, — replied R. Idith says: Be not rebellious<sup>57</sup> against him, i.e., exchange Me not for him. But if so,<sup>58</sup> why is it stated: He will not pardon your transgression?<sup>59</sup> He answered: By our troth<sup>60</sup> we would not accept him even as a messenger,<sup>61</sup> for it is written, And he said unto him, If Thy [personal] presence go not etc.<sup>62</sup>

A Min once said to R. Ishmael b. Jose: It is written, Then the Lord caused to rain upon Sodom and Gomorrah brimstone and fire from the Lord.<sup>63</sup> but from him should have been written! A certain fuller<sup>64</sup> said, Leave him to me, I will answer him. [He then proceeded,] It is written, And Lamech said to his wives, Ada and Zillah, Hear my voice, ye wives of Lamech,<sup>65</sup> but he should have said, my wives! But such is the Scriptural idiom — so here too, it is the Scriptural idiom.

Whence do you know that? asked he [R. Ishmael]. — I heard it in a public discourse<sup>66</sup> of R. Meir, [he answered]. Even as R. Johanan said: When R. Meir used to deliver his public discourses, a third was Halacha, a third Haggadah, and a third consisted of parables. R. Johanan also said: R. Meir had three hundred **parables of foxes**, and we have only three left,<sup>67</sup>

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(1) His head, the most exalted part of his body, comes from Eretz Yisrael the most exalted of all lands.

(2) [A town near Pumbeditha (Obermeyer, op. cit. 237, n. 3), notorious on account of the loose morals of its inhabitants, v. Ginzberg, Legends V, 15.]

(3) V. l.: R. Ahai.

(4) Lit., 'Extended'.

(5) I.e., Cain and his twin sister were born. V. Yeb. 62a. Abel and his other twin sister were born after they sinned. V. Tosaf. a.l.

(6) **יָרֵיךְ**, lit., 'tarrieth not over night'.

(7) Ps. XLIX, 13.

(8) Man's majesty keeps the wild beasts in check only as long as he does not descent to their level.

(9) **נִבְזָשׁוּ**, He is like the beasts that perish.

(10) Ps. XLIX, 13.

(11) Lit., 'hour'.

(12) Ps. VIII, 5.

(13) Isa. XLVI, 4. I.e., I shall suffer mankind under all conditions.

(14) Deut. IV, 32.

(15) Ps. CXXXIX, 5.

(16) Rashal rightly deletes the bracketed passage, because on this dictum the verse must be read: He created man upon the earth and reaching up to the end of Heaven, i.e., he reached from earth to Heaven.

(17) [The gigantic stature of Adam plays an important part in the system of many Gnostic sects, v. Ginzberg, op. cit. V, 79.]

(18) [This may have been said in justification of the abandonment by the Babylonian Jews of the Hebrew language in favour of Aramaic.]

(19) Ps. CXXXIX, 17. This Psalm deals with the creation of man. **יָקָר** 'weighty', and **רַעִיךְ** 'thoughts' are Aramaisms.

(20) Gen. V, 1.

(21) Lit., 'exponents'.

(22) R. Akiba was executed by Tineius Rufus after being most cruelly tortured. Cf. Ber. 61b.

- (23) Perhaps to be understood here with a twofold meaning: weighty = honoured; and weighty = a source of heaviness and grief.
- (24) רעים is probably here taken in its usual Hebrew meaning, "Thy friends",
- (25) V. Glos. V. p. 234, n. 4; it is to be observed that Min is contrasted (in the next passage) with unbeliever.
- (26) Gen. III, 9.
- (27) I.e., he removed the mark of circumcision.
- (28) Hos. VI, 7.
- (29) Gen. XVII, 14. with reference to circumcision.
- (30) Lit. 'the fundamental (principle)'.
- (31) Gen. XVII, 14. Ms. M. omits the bracketed passage; rightly so, for it is irrelevant.
- (32) Jer. XXII, 9, referring to belief in God.
- (33) Aboth II, 14.
- (34) Who endeavours to draw support from the Torah for his beliefs. אפיקורוס is derived from the personal name, Epicurus, and is adopted by the Talmud for the sake of the play upon the word פקר 'to be free from restraint'. To denote one who denies God and his commandments, v. Herford, Christianity in Talmud p. 120.]
- (35) Lit., 'He is more lawless.' With him, therefore, discussion is not advised since he is deliberate in his negation and not therefore easily dissuaded (Rashi).
- (36) E.g., where God is spoken of in the plural.
- (37) Gen. I, 26.
- (38) Ibid. 27.
- (39) Gen. XI, 7.
- (40) Ibid. 5.
- (41) Ibid. XXXV, 7.
- (42) Ibid. 3.
- (43) Deut. IV, 7.
- (44) II Sam. VII, 23.
- (45) Dan. VII, 9.
- (46) Plural forms.
- (47) פמליא, 'family'v. p. 675.
- (48) Dan. IV, 14.
- (49) The Messiah.
- (50) By asserting that a human being sit beside Him.
- (51) Names of Treatises in the Seder Tohoroth, the most difficult in the whole of the Talmud. V. infra 67b. R. Akiba was a great authority on these laws, whereas his Haggadic interpretations were not always acceptable. [This interpretation involved the same danger as that of R. Akiba's first interpretation in that it tended to obscure the true monotheistic concept of God.]
- (52) [Ms. M.: R. Idi.]
- (53) Ex. XXIV, 1.
- (54) Name of an Angel, probably derived from metator, guide. In Talmud and Midrash he is regarded notably as the defender of the rights of Israel (cf. Hag. 16a).
- (55) Cf. Rashi on Ex. XXIII, 21. The numerical value of Metatron (מטטרון) is equal to that of שדי (the Almighty) viz. 314.
- (56) Ex. XXIII, 21.
- (57) תמור is here taken, in the sense of 'exchange', from מור.
- (58) That he is not to be worshipped, but God alone.
- (59) Ibid. Surely, he has no authority to do so.
- (60) Lit., 'we hold the belief.'
- (61) Lit., 'Postman' — of forgiveness.
- (62) Ex. XXXIII, 15. [The Min was a believer in the doctrine of two rulers and he sought support for this belief from Ex. XXIV, 1. R. Idith met his argument by showing that even Metatron was accepted by Jews only as guide, and in no sense a second god. For a full discussion of the passage, v. Herford, op. cit. p. 285ff.]
- (63) Gen. XIX, 24

(64) A figure frequently mentioned in the Talmud as of a specific type. V. e.g., Ber. 28a, Ned. 41a. [In Roman literature, he is an object of ridicule; in rabbinic lore, he plays a more dignified role.]

(65) Gen. IV, 23.

(66) פִּירְקָא v. supra p. 178 n. 3.

(67) Probably of those collected by R. Meir, since many other fox fables are found scattered throughout the Talmud and Midrash. Cf. Ber. 61b; Eccl. Rab. V. 14.

### Talmud - Mas. Sanhedrin 39a

[as illustrations to the verses]. [a] The fathers have eaten sour grapes and the children's teeth are set on edge;<sup>1</sup> [b] Just balances, just weights,<sup>2</sup> [c] The righteous is delivered out of trouble and the wicked comes in in his stead.<sup>3</sup>

The Emperor<sup>4</sup> once said to Rabban Gamaliel:<sup>5</sup> Your God is a thief, for it is written, And the Lord God caused a deep sleep to fall upon the man [Adam] and he slept [and He took one of his ribs etc.]<sup>6</sup> Thereupon his [the Emperor's]<sup>7</sup> daughter said to him: Leave him to me and I will answer him, and [turning to the Emperor] said: 'Give me a commander.'<sup>8</sup> 'Why do you need him?' asked he. — 'Thieves visited us last night and robbed us of a silver pitcher, leaving a golden one in its place.' 'Would that such visited us every day!' he exclaimed. 'Ah!' she retorted, 'was it not to Adam's gain that he was deprived of a rib and a wife<sup>9</sup> presented to him in its stead to serve him?' He replied: 'This is what I mean: he should have taken it from him openly.'<sup>10</sup> Said she to him: 'Let me have a piece of raw meat.' It was given to her. She placed it under her armpit,<sup>11</sup> then took it out and offered it to him to eat. 'I find it loathsome,' he exclaimed. 'Even so would she [Eve] have been to Adam had she been taken from him openly,' she retorted.<sup>12</sup>

The Emperor also said to Rabban Gamaliel: I know what your God is doing, and where He is seated. Rabban Gamaliel became, [as it were] overcome and sighed, and on being asked the reason, answered. 'I have a son in one of the cities of the sea, and I yearn for him. Pray tell me about him.'<sup>13</sup> 'Do I then know where he is,' he replied. 'You do not know what is on earth, and yet [claim to] know what is in heaven!' he retorted.

Again the Emperor said to Rabban Gamaliel: 'It is written, He counteth the number of the stars etc.'<sup>14</sup> In what way is that remarkable; I too can count them!' Rabban Gamaliel brought some quinces, put them into a sieve, whirled them around, and said: 'Count them.' 'Keep them still,' he requested. Thereupon Rabban Gamaliel observed, 'But the Heavens revolve so.' Some say that the Emperor spoke thus to him: 'The number of the stars is known to me.' Thereupon Rabban Gamaliel asked him, 'How many molars and [other] teeth have you?' Putting his hand to his mouth, he began to count them. Said he to him, 'You know not what is in your mouth and yet wouldst know what is in Heaven!'

Again the Emperor said to Rabban Gamaliel, 'He who created the mountains did not create the wind, for it is written, For lo, there is a former of mountains and creator of wind.'<sup>15</sup> — According to this reasoning, when we find it written of Adam, And He created...<sup>16</sup> and, And he formed:<sup>17</sup> would you also say that He who created this [one limb] did not create that [another limb]? Further there is a part of the human body just a handbreadth square, which contains two holes,<sup>18</sup> and because it is written, He that planteth ear, shall he not hear; he that formeth the eye, shall he not see?<sup>19</sup> would you maintain there too that He who created the one did not create the other? 'Even so,' he answered. 'Yet,' he [Rabban Gamaliel] rejoined, 'at death both<sup>20</sup> are brought to agree!'

A mag<sup>21</sup> once said to Amemar: From the middle of thy [body] upwards thou belongest to Ormuzd;<sup>22</sup> from the middle downwards, to Ahriman.<sup>23</sup> The latter asked: Why then does Ahriman permit Ormuzd to send water<sup>24</sup> through his territory?

The Emperor proposed to R. Tanhum, 'Come, let us all be one people.' 'Very Well,' he answered, 'but we who are circumcised cannot possibly become like you;<sup>25</sup> do ye become circumcised and like us.' The Emperor replied: 'You have spoken well; nevertheless, anyone who gets the better of the king [in debate] must be thrown into the vivarium,<sup>26</sup> So they threw him in, but he was not eaten. Thereupon a heretic remarked: 'The reason they did not eat him is that they are not hungry.' They threw him [the heretic] in, and he was eaten.<sup>27</sup>

The Emperor said to Rabban Gamaliel: 'Ye maintain that upon every gathering of ten [Jews] the Shechinah rests:<sup>28</sup> how many Shechinahs are there then?' Rabban Gamaliel called [Caesar's] servant, and tapped him on the neck, saying, 'Why does the sun enter into Caesar's house?'<sup>29</sup> 'But,' he<sup>30</sup> exclaimed, 'the sun shines<sup>31</sup> upon the whole world!' 'Then if the sun, which is but one of the countless myriads of the servants of the Holy One, blessed be He, shines on the whole world, how much more the Shechinah of the Holy One, blessed be He, Himself!'

A certain Min said to R. Abbahu: 'Your God is a jester,<sup>32</sup> for He said to Ezekiel. Lie down on thy left side,<sup>33</sup> and it is also written, Lie on thy right side.'<sup>34</sup> [Just then] a disciple came and asked him: 'What is the reason for the Sabbatical year?' 'Now,' said R. Abbahu, 'I shall give you an answer which will suit you both equally. The Holy One, blessed be He, said to Israel, Sow your seed six years but omit the seventh, that ye may know that the earth is mine<sup>35</sup> They, however, did not do so, but sinned and were exiled. Now, it is the universal practice that a king of flesh and blood against whom his subjects<sup>36</sup> have rebelled, if he be cruel, kills them all; if merciful, he slays half of them; but if he is exceptionally merciful,<sup>37</sup> he only chastises the great ones.<sup>38</sup> So also, the Holy One, blessed be He, afflicted Ezekiel in order to cleanse Israel from their iniquities.'

A certain Min said to R. Abbahu: Your God is a priest, since it is written, That they take for me Terumah [wave offering].<sup>39</sup> Now, when He had buried Moses,<sup>40</sup> wherein did He bathe [after contact with the corpse]?<sup>41</sup> Should you reply, 'In water: is it not written, Who hath measured the waters in the hollow of His hand?<sup>42</sup> — 'He bathed in fire,' he answered, 'for it is written, Behold the Lord will come in fire.'<sup>43</sup> 'Is then purification by fire effective?' 'On the contrary,' he replied, 'bathing [for purposes of purification] should essentially be in fire, for it is written, And all that abideth not the fire ye shall make to go through the water.'<sup>44</sup>

A Min once said to R. Abina: It is written, And what one nation in the earth is like Thy people, [like] Israel.<sup>45</sup> Wherein lies their superiority: ye too are combined with us, for it is written, All the nations are as nothing before Him?<sup>46</sup> He answered: One of yourselves [Balaam] has already testified for us, as it is written,

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(1) Ezek. XVIII, 2.

(2) Lev. XIX, 36.

(3) Prov. XI, 8 Rashi gives the parables in question, as follows, combined in a single story. [Cf. however, Ms. M.: 'We have only one'.] A fox once craftily induced a wolf to go and join the Jews in their Sabbath preparations and share in their festivities. On his appearing in their midst the Jews fell upon him with sticks and beat him. He therefore came back determined to kill the fox. But the latter pleaded: 'It is no fault of mine that you were beaten, but they have a grudge against your father who once helped them in preparing their banquet and then consumed all the choice bits.' 'And was I beaten for the wrong done by my father?' cried the indignant wolf. 'Yes,' replied the fox, 'the fathers have eaten sour grapes and the children's teeth are set on edge. However,' he continued, 'come with me and I will supply you with abundant food. He led him to a well which had a beam across it from either end of which hung a rope with a bucket attached. The fox entered the upper bucket and descended into the well whilst the lower one was drawn up. 'Where are you going?' asked the wolf. The fox, pointing to the cheese-like reflection of the moon, replied: 'Here is plenty of meat and cheese; get into the other bucket and come down at once.' The wolf did so, and as he descended, the fox was drawn up. 'And how am I to get out?' demanded the wolf. 'Ah' said the fox 'the righteous is delivered out of trouble and the

wicked cometh in in his stead. Is it not written, Just balances, just weights'?

(4) קִיסָר So. Ms. M. Cur. edd. כּוֹפֵר 'an infidel'.

(5) Gamaliel II, also known as Gamaliel of Jabneh [He visited Rome twice — once during the reign of Domitian and again during that of Nerva, his successor, and the disputations that follow may have taken place on one of these occasions, probably the latter, v. Graetz, MGWJ I, 192ff]

(6) Gen. II, 21.

(7) [So Midrash ha-Gadol, p. 84].

(8) דּוֹכוֹם, guard in charge of a military company.

(9) Lit., 'a handmaid'.

(10) I.e., when he was awake.

(11) Rashi translates: She placed it under the hot ashes, and after roasting it, etc.

(12) One often takes an instinctive dislike to food or other objects if they are first seen in their raw state (Rashi). According to the rendering adopted, the flesh was repulsive because it had come into contact with her body. Likewise, had Adam known that Eve was part of his body, he might have been repelled.

(13) Lit., 'show him to me.'

(14) Ps. CXLVII, 4.

(15) Amos IV, 13. That is how the Emperor must have translated the verse, drawing an inference from the two different words used to denote creation (E.V. = he that formeth the mountains and createth the wind.

(16) Gen I, 27.

(17) Ibid. II, 7.

(18) The part containing both eye and ear.

(19) Ps. XCIV, 9. Two different expressions are used for the creation of the eye and ear respectively.

(20) The one who planted and the one who created. I.e., assuming that there were two creators of man, he could not completely die unless both agreed; otherwise, the creator of the eye might insist that the eye goes on living, whilst the creator of the ear might wish it to die.

(21) A priest of the Zoroastrian Religion.

(22) Ormuzd, the principle of light, life and good, in the Zoroastrian system, constantly at war with Ahriman (q.v.).

(23) Angra Mainyus Lit., 'the Destroyer', the head of the forces of darkness, death and evil. Warfare must be waged between the two, Ormuzd and Ahriman, for twelve thousand years, at the end of which Ahriman will be defeated by Ormuzd V. J.E. I, 294. s. v. Ahriman. Hence the upper part of the body, which contains the head and heart, and consequently what is good in man, belongs to the former; the lower half of the body, the seat of the sexual and excretory organs, to the latter.

(24) I.e., the excreta.

(25) Circumcision cannot be effaced entirely.

(26) An enclosure in which wild beast or fish are kept. Perhaps the arena.

(27) [Herford, op. cit. 253, suggests this Emperor to have been Julian the Apostate (361-363).

(28) Cf. Aboth III, 6. (11) So Rashi. Others translate: Struck him with his ladle.

(29) I.e., why doest thou permit it to enter?

(30) Rashi: the infidel.

(31) Lit., 'rests'.

(32) I.e., He makes His prophets ridiculous.

(33) Ezek. IV, 4.

(34) Ibid. verse 6.

(35) Cf. Lev. XXV, 3; 21.

(36) Lit., 'His country.'

(37) Lit., 'A merciful one full of mercy.'

(38) I.e. the leaders.

(39) Ex. XXV. 2. Wave offering, as a rule, were given to Priests.

(40) Deut. XXXIV, 6.

(41) V. Lev. XXII, 4-6.

(42) Isa. XL, 12. I.e., He could not bathe in water, relatively so scanty compared with Himself.

(43) Ibid. LXVI, 15.

(44) Num. XXXI, 23. Essentially therefore, purification is by fire.

(45) II Sam. VII, 23.

(46) Isa. XL, 17.

## Talmud - Mas. Sanhedrin 39b

And he [Israel] shall not be reckoned amongst the nations.<sup>1</sup>

R. Eleazar opposed [two verses]: It is written, The Lord is good to all,<sup>2</sup> but it is also written, The Lord is good unto them that wait for Him!<sup>3</sup> — This may be compared to a man who has an orchard. When he irrigates it, he irrigates the whole; but when he prunes, he prunes only the best [trees].<sup>4</sup>

THEREFORE EVERY SINGLE PERSON etc. And there went out the song<sup>5</sup> throughout the host:<sup>6</sup> R. Aha b. Hanina said: [It is the song referred to in the verse.] When the wicked perish, there is song;<sup>7</sup> [thus] when Ahab b. Omri perished there was ‘song’. But does the Holy One, blessed be He, rejoice over the downfall of the wicked? Is it not written, [That they should praise] as they went out before the army, and say, Give thanks unto the Lord for His mercy endureth for ever;<sup>8</sup> concerning which R. Jonathan asked: Why are the words, He is good<sup>9</sup> omitted from this expression of thanks? Because the Holy One, blessed be He, does not rejoice in the downfall of the wicked.<sup>10</sup> For R. Samuel b. Nahman said in R. Jonathan's name: What is meant by, And one approached not the other all night?<sup>11</sup> In that hour the ministering angels wished to utter the song [of praise]<sup>12</sup> before the Holy One, blessed be He, but He rebuked them, saying: My handiwork [the Egyptians] is drowning in the sea; would ye utter song before me!<sup>13</sup> — Said R. Jose b. Hanina: He Himself does not rejoice, yet He causes others to rejoice. Scripture supports this too, for it is written, [And it shall come to pass, that as the Lord rejoiced over you to do good . . . so yasis will the Lord] cause rejoicing [over you by destroying you],<sup>14</sup> and not yasus [so will the Lord rejoice etc.]<sup>15</sup> This prove it.

[And dogs licked his blood] and the harlots washed themselves:<sup>16</sup> R. Eleazar said: This was in clear fulfilment of two visions, one of Micaiah, the other of Elijah. In the case of Micaiah it is written, If thou returned at all in peace the Lord hath not spoken by me.<sup>17</sup> In the case of Elijah it is written, In the place where dogs licked the blood of Naboth.<sup>18</sup>

With reference to the harlots:] Raba said, they were real [pictures of] harlots. Ahab was frigid by nature [passionless], so Jezebel painted pictures of two harlots on his chariot, that he might look upon them and become heated.<sup>19</sup>

And a certain man drew his bow at a venture<sup>20</sup> and smote the king of Israel.<sup>21</sup> R. Eleazar said: The word means ‘without intention’. Raba said: In order to fulfil<sup>22</sup> the two visions, that of Micaiah and that of Elijah.

(Mnemonic: He called, merited, to Edom.)

It is written, And Ahab called Obadiah who was over the household — Now Obadiah feared the Lord exceedingly.<sup>23</sup> What did he<sup>24</sup> say to him? — R. Isaac answered: He spoke thus to him: Of Jacob it is written, I have observed the signs and the Lord hath blessed me [Laban] for thy sake;<sup>25</sup> and of Joseph it is written, The Lord blessed the Egyptian's house for Joseph's sake,<sup>26</sup> whilst my house<sup>27</sup> has not been blessed! Perhaps [it is because] you are not a God-fearing man? Thereupon a Heavenly voice issued and proclaimed, And Obadiah feared the Lord greatly, but the house of Ahab is not fit for a blessing.

R. Abba said: Greater [praise] was expressed of Obadiah than Abraham, since of Abraham the word ‘greatly’ is not used,<sup>28</sup> while of Obadiah it is.



R. Isaac said: Why did Obadiah attain<sup>29</sup> the gift of prophecy? — Because he hid a hundred prophets in caves, as it is written, For it was so when Jezebel cut off the prophets of the Lord that Obadiah took a hundred prophets and hid them, fifty in a cave.<sup>30</sup> Why just fifty? — R. Eleazar said: He learnt this lesson from Jacob,<sup>31</sup> as it is written, ‘Then the camp which is left shall escape.’<sup>32</sup> R. Abbahu said: It was because the one cave could not hold more than fifty.

‘The vision of Obadiah. Thus said the Lord God concerning Edom.’<sup>33</sup> Why particularly Obadiah against Edom? — R. Isaac said: The Holy One, blessed be He, said: Let Obadiah, Who has lived with two wicked persons<sup>34</sup> and yet has not taken example by their deeds, come and prophesy against the wicked Esau,<sup>35</sup> who lived with two righteous persons<sup>36</sup> and yet did not learn from their good deeds.

Ephraim Maksha'ah,<sup>37</sup> the disciple of R. Meir, said on the authority of R. Meir: Obadiah was an Edomite proselyte: and thus people say, From the very forest itself comes the [handle of the] axe [that fells it].<sup>38</sup>

And he [David] smote Moab, and measured them with a line, casting them down to the ground.<sup>39</sup> R. Johanan said on the authority of R. Simeon b. Yohai: Thus the proverb runs, From the very forest itself comes the [handle of the] axe [that fells it].<sup>40</sup> When R. Dimi came [from Palestine] he said [similarly]: The joint putrefies from within.

Then he took his eldest son that should have resigned in his stead and offered him for a burnt offering upon the wall.<sup>41</sup> Rab and Samuel [differ therein:] One said: [He offered him] to God; the other, To a heathen deity. Now, on the view that it was to God, it is correct: hence it is written, And there came great wrath upon Israel.<sup>42</sup> But if it be maintained that he was offered to a heathen deity, why, And there was great wrath etc.? — Even as R. Joshua b. Levi [taught]: For R. Joshua b. Levi opposed [two verses]: It is written, Neither have ye done according to the ordinances of the nations that were round about you;<sup>43</sup> yet it is [elsewhere] written, But ye have done according to the ordinances of the nations that were round about you?<sup>44</sup> [That means:] Ye did not act as the right minded,<sup>45</sup> but as the corrupt amongst them.<sup>46</sup>

And they departed from him and returned to the earth.<sup>47</sup> R. Hanina b. Papa said: In that hour the wicked of Israel descended to the lowest depths [of depravity].<sup>48</sup>

And the damsel was fair, until [she was] exceedingly [so].<sup>49</sup> R. Hanina b. Papa said: Yet she never attained to half of Sarah's beauty, for it is written, ‘until . . . exceedingly’, ‘exceedingly’ itself not being included.<sup>50</sup>

## CHAPTER V

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(1) Num. XXIII, 9.

(2) Ps. CXLV, 9.

(3) Lam. III, 25.

(4) The world and all in it was given to all, but only the good are fully cared for.

(5) רנה, E.V. ‘cry’.

(6) I Kings XXII, 36, with reference to Ahab's death at Ramoth in Gilead.

(7) רנה Prov. XI, 10.

(8) II. Chron. XX, 21, with reference to Jehoshaphat king of Judah, when he went to engage in war with the Ammonites and Moabites.

(9) כִּי טוֹב, as in Ps. CVII, 1.

(10) כִּי טוֹב, can also be rendered ‘it is good’.

- (11) Ex. XIV, 20.
- (12) Cf. Isa. VI, 3. And one (angel) called unto another, and said, Holy, holy, holy, etc.
- (13) The verse is thus taken to mean that one (angel) did not approach the other, calling upon him to join in the Song (Maharsha).
- (14) Deut. XXVIII, 63. **וַיִּשְׁמַע**, in the Hiphil (causative).
- (15) **וַיִּשְׁמַע**, in the Kal.
- (16) I Kings XXII, 38. The verse ends, according to the word of the Lord which he spake and R. Eleazar's comment is based on that (Maharsha).
- (17) I Kings XXII, 28.
- (18) Ibid. XXI, 19.
- (19) The harlots washed means, therefore, that their pictures were smeared with blood.
- (20) Lit., 'in his innocence.'
- (21) Ibid. verse 34.
- (22) Lit., 'to make perfect.'
- (23) I Kings XVIII, 3.
- (24) So Ms. M. Cur. edd.: 'What does the verse say?' which Rashi explains: What connection have the two facts related in the verse?
- (25) Gen. XXX, 27.
- (26) Ibid. XXXIX, 5.
- (27) Lit., 'the house of that man'.
- (28) Cf. Gen. XXII, 12.
- (29) The Heb. **זָבַח** denotes to merit something, and to attain through merit.
- (30) Kings XVIII, 4. If the one cave was discovered the others might escape.
- (31) Who divided his followers into camps.
- (32) Gen. XXXII, 9.
- (33) Obad. I, 1.
- (34) Ahab and Jezebel.
- (35) I.e., Edom; Esau is the 'father' of Edom.
- (36) I.e., Isaac and Rebecca.
- (37) 'The disputant', or 'seller of cucumbers.'
- (38) I.e., the descendant of Edom was found to be the most suitable person to reprimand them. From this narrative it appears that the Rabbis of the Talmud identified Obadiah, the governor of Ahab's household with the Obadiah of the minor Prophets. [This view is shared also among moderns by Hoffmann and Keil.]
- (39) II Sam. VIII, 2.
- (40) David was descended from Ruth the Moabitess.
- (41) II Kings III, 27.
- (42) Ibid. Because of their failure to show loyalty to God in comparison with the devotion shown by the Moabite King.
- (43) Ezek. V, 7.
- (44) Ibid. XI, 12.
- (45) As, for example, is related of Eglon, king of Moab who, when Ehud said to him: I have a message from God unto thee, (Judges III, 20) arose out of his seat as a sign of respect.
- (46) E.g., in allowing human beings as sacrifices, as did the king of Moab.
- (47) Lit., translation of II Kings III, 27; E.V. 'to their land'.
- (48) Interpreting 'to the earth' in the sense of (moral) degradation.
- (49) Lit., rendering of I Kings I, 4, with reference to Abishag.
- (50) 'Until' (**עַד**) is taken in the sense of 'up to' but not including. I.e., she reached only the point of medium beauty. This Haggadic interpretation is quoted here in order to group together the two sayings of the one teacher.

## Talmud - Mas. Sanhedrin 40a

MISHNAH. THEY [THE JUDGES] USED TO EXAMINE THEM<sup>1</sup> WITH SEVEN [HAKIROTH] SEARCHING QUERIES: IN WHAT SEPTENNATE?<sup>2</sup> IN WHAT YEAR? IN WHAT MONTH?

ON WHICH DAY OF THE MONTH? ON WHAT DAY?<sup>3</sup> AT WHAT HOUR [OF THE DAY]? AND, AT WHAT PLACE? R. JOSE SAID: [THEY WERE ONLY ASKED:] ON WHICH DAY [OF THE WEEK]? AT WHAT HOUR? AND, AT WHAT PLACE? [THEY WERE FURTHER ASKED:] DID YE KNOW HIM?<sup>4</sup> AND, DID YE WARN HIM?<sup>5</sup>

WHERE ONE COMMITS IDOLATRY, [THE WITNESSES ARE ALSO ASKED] WHAT<sup>6</sup> DID HE WORSHIP? AND, HOW<sup>7</sup> DID HE WORSHIP? THE MORE EXHAUSTIVE THE CROSS-EXAMINATION [BEDIKOTH] THE MORE PRAISEWORTHY THE JUDGE. IT ONCE HAPPENED THAT BEN ZAKKAI<sup>8</sup> CROSS-EXAMINED [THE WITNESSES] EVEN AS TO THE STALKS OF THE FIGS.<sup>9</sup>

WHAT IS THE DIFFERENCE BETWEEN HAKIROTH AND BEDIKOTH!<sup>10</sup> — IN HAKIROTH, IF ONE [OF THE WITNESSES] ANSWERS: ‘I DO NOT KNOW,’ THEIR<sup>11</sup> EVIDENCE IS VOID. WITH RESPECT TO BEDIKOTH, HOWEVER, IF ONE ANSWERS: ‘I DO NOT KNOW,’ OR EVEN IF BOTH SAY: ‘WE DO NOT KNOW,’ THEIR EVIDENCE IS VALID. BUT IF THEY [THE WITNESSES] CONTRADICT EACH OTHER, WHETHER IN THE HAKIROTH OR THE BEDIKOTH, THEIR EVIDENCE IS VALID.

IF ONE [WITNESS] TESTIFIES, ‘[IT HAPPENED] ON THE SECOND OF THE MONTH,’ AND THE OTHER, ‘ON THE THIRD OF THE MONTH:’ THEIR EVIDENCE IS VALID, FOR ONE MAY HAVE BEEN AWARE OF THE INTERCALATION OF THE MONTH AND THE OTHER MAY NOT HAVE BEEN AWARE OF IT.<sup>12</sup> IF, HOWEVER, ONE SAYS, ‘ON THE THIRD,’ AND THE OTHER, ‘ON THE FIFTH,’ THEIR EVIDENCE IS INVALID. SIMILARLY, IF ONE TESTIFIES, ‘DURING THE SECOND HOUR [OF THE DAY],’<sup>13</sup> AND THE OTHER ‘DURING THE THIRD HOUR:’ THEIR EVIDENCE IS VALID.<sup>14</sup> BUT IF ONE SAYS, AT THREE,’ AND ANOTHER, ‘AT FIVE,’ THEIR EVIDENCE IS INVALID.<sup>15</sup> R. JUDAH SAID: [EVEN THEN, THEIR EVIDENCE IS] VALID. BUT IF ONE SAYS, ‘AT FIVE,’ AND THE OTHER, ‘AT SEVEN,’ THEIR EVIDENCE IS INVALID, FOR AT FIVE THE SUN IS TO THE EAST, WHILE AT SEVEN, THE SUN IS TO THE WEST.

AFTER THIS, THE SECOND [WITNESS] IS ADMITTED<sup>16</sup> AND [LIKEWISE] EXAMINED. IF THEIR EVIDENCE TALLIES, THEY [THE JUDGES] COMMENCE [THE PROCEEDINGS] IN FAVOUR [OF THE ACCUSED].<sup>17</sup>

SHOULD ONE OF THE WITNESSES DECLARE, ‘I HAVE SOMETHING TO SAY IN HIS FAVOUR’; OR ONE OF THE DISCIPLES, ‘I HAVE AN ARGUMENT IN HIS DISFAVOUR’, HE IS SILENCED.<sup>18</sup> BUT IF A DISCIPLE SAYS, ‘I HAVE SOMETHING TO PLEAD IN HIS FAVOUR’, HE IS BROUGHT UP AND SEATED WITH THEM,<sup>19</sup> AND DOES NOT DESCEND FROM THERE ALL THAT DAY. IF THERE IS SUBSTANCE IN HIS STATEMENT HE IS HEARD. AND EVEN IF HE [THE ACCUSED] HIMSELF SAYS, ‘I AM IN A POSITION TO PLEAD IN MY OWN DEFENCE, HE IS HEARD, PROVIDED THERE IS SUBSTANCE IN HIS STATEMENT.

IF THEY FIND HIM NOT GUILTY, HE IS DISCHARGED, IF NOT, IT [THE TRIAL] IS ADJOURNED TILL THE FOLLOWING DAY,<sup>20</sup> WHILST THEY [THE JUDGES] GO ABOUT IN PAIRS,<sup>21</sup> PRACTISE MODERATION IN FOOD, DRINK NO WINE THE WHOLE DAY,<sup>22</sup> AND DISCUSS<sup>23</sup> THE CASE THROUGHOUT THE NIGHT. EARLY NEXT MORNING THEY REASSEMBLE IN COURT. HE WHO IS IN FAVOUR OF ACQUITTAL STATES, ‘I DECLARED HIM INNOCENT AND STAND BY MY OPINION.’ WHILE HE WHO IS IN FAVOUR OF CONDEMNATION SHALL SAY: ‘I DECLARE HIM GUILTY AND STAND BY MY OPINION.’ ONE WHO [PREVIOUSLY] ARGUED FOR CONVICTION MAY NOW ARGUE FOR ACQUITTAL, BUT NOT VICE VERSA. IF THEY HAVE MADE ANY MISTAKE, THE

TWO JUDGES' CLERKS<sup>24</sup> ARE TO REMIND THEM THEREOF.

IF THEY FIND HIM NOT GUILTY, THEY DISCHARGE HIM. IF NOT, THEY TAKE A VOTE.<sup>25</sup> IF TWELVE ACQUIT AND ELEVEN CONDEMN, HE IS ACQUITTED. IF TWELVE CONDEMN AND ELEVEN ACQUIT, OR IF ELEVEN CONDEMN AND ELEVEN ACQUIT AND ONE SAYS, 'I DO NOT KNOW,'<sup>26</sup> OR EVEN IF TWENTY-TWO ACQUIT OR CONDEMN AND A SINGLE ONE SAYS, 'I DO NOT KNOW,'<sup>27</sup> THEY ADD TO THE JUDGES. UP TO WHAT NUMBER IS THE COURT INCREASED? — BY TWOS UP TO THE LIMIT OF SEVENTY-ONE.<sup>28</sup>

IF THIRTY-SIX ACQUIT AND THIRTY-FIVE CONDEMN,<sup>29</sup> HE IS ACQUITTED. BUT IF THIRTY-SIX CONDEMN AND THIRTY-FIVE ACQUIT, THE TWO SIDES DEBATE THE CASE TOGETHER UNTIL ONE OF THOSE WHO CONDEMN AGREES WITH THE VIEW OF THOSE WHO ARE FOR ACQUITTAL.

GEMARA. 'Whence is this<sup>30</sup> inferred? — Rab Judah said: Scripture states, Then shalt thou inquire and make search and ask diligently;<sup>31</sup> and it says, And [if] it be told thee and thou hear it, then shalt thou inquire diligently;<sup>32</sup> again it says, And the judges shall inquire diligently.<sup>33</sup>

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(1) The witnesses, in a capital charge, after admonition. Other versions read 'him', i.e., the witness, since the witnesses were separately examined.

(2) Of the Jubilee, was the murder committed?

(3) Of the week. This latter inquiry is necessary because witnesses who might come to refute their evidence, might not remember the date while knowing on what day of the week it took place. (Rashi).

(4) Rashi, the murderer; Maim. and others: the accused; R. Hananel: the murderer and the accused.

(5) That murder is forbidden on pain of death? These two questions, according to Maimonides (Yad 'Eduth, I, 4-5) belong to the specific category of דרישות (inquiry) which is on the one hand treated like בדיקות (investigation) in that the evidence is invalid if one of the witnesses cannot answer them; and on the other like בדיקות, (cross-examination) in this respect that the witnesses are not amenable to the law of retaliation in case of refutation.

(6) I.e., which idol?

(7) Lit., 'with what?'

(8) Cf. infra 41a.

(9) Of the tree under which a murder was alleged to have been committed.

(10) HAKIROTH refers to the questions on date, hour and place: BEDIKOTH to cross examination on the accompanying circumstances.

(11) I.e., that of both witnesses.

(12) I.e., one knew that the previous month had consisted of thirty days whilst the other thought that it had consisted only of twenty-nine days provided they agree as to the day of the week. Cf. Kesef Mishneh, on Yad'Eduth II, 4, and Tosaf. 41b s.v. **דחה**.

(13) The length of the day was counted from sunrise to sunset, and having regard to the variation of that period, an hour lasted anywhere between 49 and 71 minutes.

(14) For people are liable to error in matters of the exact time in the hour.

(15) An error in two hours is improbable.

(16) Mishnah supra pp. 175-6.

(17) V. supra 32b.

(18) Cf. supra 34a. Witnesses after having given their testimony, are not allowed to make any further statements, even for acquittal, as they might do so with a view to avoiding any possible charge of collusion arising out of their first evidence.

(19) The judges. It follows that the judges sat on raised seats faced by the disciples. V. supra p. 230, n. 10.

(20) Cf. supra 32a, and note.

(21) During the adjournment, to discuss the matter.

(22) Another precautionary measure in capital cases

(23) [V. Yad Ramah.]

(24) Cf. supra 36b.

(25) Lit., 'they stand to vote.'

(26) So that there is no majority of two for conviction. cf. supra 2a.

(27) The member who is doubtful is regarded as non-existent (cf. supra 17a), whilst capital cases may not be tried by less than twenty-three.

(28) If there is a division of opinion amongst the newly co-opted members.

(29) When the court has been increased to the extreme limit.

(30) The seven questions of time and place.

(31) Deut. XIII, 15. In reference to a condemned city. The three expressions for investigation indicate three questions. It should be observed, however, that the Talmud does not regard the word 'ask' by itself as teaching that a formal question must be put to the witnesses but that here it is coupled with 'diligently'.

(32) Ibid. XVII, 4, in connection with the trial of an idolater. The words thou shalt inquire denote one question, and the emphasis, diligently, a second.

(33) Ibid. XIX, 18, with reference to witnesses proved Zomemim (v. Glos). Here also two questions are implied. Hence seven questions in all are necessary.

### **Talmud - Mas. Sanhedrin 40b**

But perhaps we should say that each case is as written,<sup>1</sup> for if it be so,<sup>2</sup> the Divine Law should have stated them in a single case?<sup>3</sup> — Since all [seven] are severally prescribed,<sup>4</sup> [the requirements of] each is inferred from the other,<sup>5</sup> and that being so, it is as though all [seven] were written with reference to each. But surely they [the cases in question] are not similar to each other!<sup>6</sup> (Mnemonic: Spared, Sword, Warning.) Thus: The condemned city is unlike the other two,<sup>7</sup> for their possessions [the condemned's, in the latter two charges,] are spared.<sup>8</sup> Again, idolatry differs from the other two cases, for in them [execution is] by the sword.<sup>9</sup> Again, witnesses proved Zomemim are unlike the other two cases, since they require a formal warning?<sup>10</sup> — We infer it<sup>11</sup> from the identical use of 'diligently'<sup>12</sup> and the *gezerah-shawah*<sup>13</sup> is free,<sup>14</sup> for otherwise, it [the deduction] could be refuted.<sup>15</sup> And it is truly free: since Scripture could have read,<sup>16</sup> And they shall inquire and they shall search,<sup>17</sup> and yet changes its expression [by employing the word] 'diligently',<sup>18</sup> it follows that the purpose thereof was to leave it free.<sup>19</sup> But it [the analogy] is free only on one side!<sup>20</sup> [For] granted that it is free in these two cases,<sup>21</sup> since [another expression] could have been used:<sup>22</sup> in the case of the condemned city,<sup>23</sup> what else could have been written:<sup>24</sup> for are not all [three]<sup>25</sup> employed?<sup>26</sup> — There too it [sc. 'diligently'] is truly free, for Scripture could have read, Inquiring thou shalt inquire,<sup>27</sup> or searching thou shalt search;<sup>28</sup> and varies the idiom by the use of 'diligently'; it may therefore be inferred that this was in order to leave it free.<sup>29</sup>

Now,<sup>30</sup> we infer [the same requirement for charges punishable by] strangulation a *minori* from cases punishable by stoning or decapitation.<sup>31</sup> Again, the same is deduced for cases of burning a *minori* from those of stoning.<sup>32</sup> This [however] is right on the view of the Rabbis that stoning is severer [than burning]. But what is to be said on the view of R. Simeon that burning is the severer?<sup>33</sup> — Rab Judah therefore said: [Scripture states,] Behold if it be truth and the thing certain,<sup>34</sup> [and again] Behold if it be truth and the thing certain:<sup>35</sup> this gives eleven [expressions implying inquiry].<sup>36</sup> Seven [are employed] to indicate the seven queries: then subtracting the three needed for the *gezerah shawah*,<sup>37</sup> one still remains, whose purpose according to R. Simeon, is to include the cases of burning,<sup>38</sup> whereas according to the Rabbis,<sup>39</sup> [the necessary explanation is that] Scripture [sometimes] takes the trouble of stating a fact which can be deduced a *minori*. R. Abbahu ridiculed this [explanation]: Perhaps it [the eleventh expression] indicates an eighth query!<sup>40</sup> But are eight queries [hakiroth] conceivable?<sup>41</sup> Why not? Surely, What part of the hour, may be added [as the eighth question]! And indeed, it has been taught even so: 'They examined him with eight queries.' Now, that is correct<sup>42</sup> according to Abaye on R. Meir's ruling, viz., A man is [to be treated as] not liable to make even the slightest error.<sup>43</sup> And even according to the version which states, A man is

liable to make a slight error: it is also right.<sup>44</sup> But according to Abaye on R. Judah's ruling, viz., A man is liable to err to the extent of half an hour, and according to Raba, who said, People are liable to err to even a greater extent, what can you say? — Well then, [the eleventh expression] may be intended to add, 'Which year of the Jubilee' as a query. But that is identical with: 'In what septennate?'! — Rather this is the additional question: 'In what Jubilee? And the other Tanna? —<sup>45</sup> Since he [the witness] tells us in which septennate, it is necessary to ask: 'In which Jubilee?'<sup>46</sup> R. JOSE SAID etc. it has been taught: R. Jose said to the Sages: According to your view, one who comes and testifies, 'He killed him last night,' must be asked: 'In which septennate? In what year? In what month? On what day of the month?' They retorted: And according to your view, one who comes and declares, 'He killed him just now,' is to be asked: 'On what day? At what hour? And where?' But [you too must answer that] even though the questions may be unnecessary, they are put to them [the witnesses], in accordance with the view of R. Simeon b. Eleazar;<sup>47</sup> so here too,<sup>48</sup> even if they are unnecessary, they are put to them [the witnesses], in accordance with R. Simeon b. Eleazar's view. And R. Jose?<sup>49</sup> — 'He killed him last night,' is a frequent testimony; whereas, 'He has killed him just now,' is rare.<sup>50</sup>

**DID YE KNOW HIM?** Our Rabbis taught: [The following questions are asked]: Do ye know him? Did he kill a heathen? Did he kill an Israelite? Did ye warn him? Did he accept your warning?<sup>51</sup> Did he admit his liability to death?<sup>52</sup> Did he commit the murder within the time needed for an utterance?<sup>53</sup> Where he committed idolatry, [the witness is asked:] Which [idol] did he worship? Did he worship Peor?<sup>54</sup> Did he worship Merkolis?<sup>55</sup> How did he worship? By sacrifice, offering incense, libations, or prostration? Ulla said: Where is the need of warning intimated in the Torah? — In the verse, And if a man shall take his sister, his father's daughter, or his mother's daughter, and see her nakedness.<sup>56</sup> Does guilt then depend upon [mere] seeing? Hence it must mean [that he is liable to punishment] only if he 'sees' the reasonableness thereof.<sup>57</sup> And since this is inapplicable to Kareth,<sup>58</sup>

(1) I.e., three questions are to be put to the case of the condemned city; two in a charge of idolatry, and two for Zomemim.

(2) That seven are necessary in each individual charge.

(3) Whence the procedure for all other capital charges would follow.

(4) I.e., in the three charges taken together. [Our text is difficult. Yad Ramah reads **וכולוהו לחקירה קאתו** 'Since all have been prescribed for the purpose of enquiry'].

(5) I.e., since close examination is stated in the case of each, the three charges are assimilated to each other, and therefore the questions that are to be put in one case are to be put in the others too (Rashi)

(6) How then assimilate the three charges to each other?

(7) That of the idolater and the Zomemim.

(8) This act of leniency may indicate a greater degree of leniency in general, therefore a more rigid inquiry might be necessary, this too being in favour of the accused; but in the case of the condemned city, where the possessions of the condemned are destroyed, the inquiries might be less exacting, since the general tendency there is to greater severity. Hence only the number explicitly stated, as above, may be necessary.

(9) Deut. XIII, 16, with regard to the condemned city. V. also Deut. XIX, 21, where a false charge of murder seems to be referred to, which is punished by decapitation, which is therefore also the punishment of the Zomemim. This is a milder form of death than stoning, the penalty for idolatry. Cf. infra 49b.

(10) I.e., before conviction is possible but in the case of Zomemim, no previous warning is required. V. Keth. 33a and Rashi's interpretation a.l., which is based on the verse. Ye shall do unto him as he had purposed to do unto his brother. Since then the cases are dissimilar, how could the procedure in all capital cases be learnt from one?

(11) That the requirements of each case are transferred to the others

(12) Which is common to all the three verses cited.

(13) V. Glos.

(14) I.e., the words of the text which form the basis of the analogy are pleonastic and not legally essential.

(15) As shown above. It is a principle of exegesis that if the two terms of the analogy are not altogether similar the deduction of the *gezerah shawah* is not valid. V. also p. 363, n. 3.

- (16) With reference to the Zomemim.
- (17) Which is the expression used in respect of a condemned city.
- (18) I.e., instead of 'they shall search', the second question was expressed by 'diligently'.
- (19) I.e., though the main purpose of the verse is to indicate the number of questions to be put, this alteration of expression serves the subsidiary purpose too of intimating that the verse is free, so as to permit an analogy to be drawn.
- (20) I.e., the word 'diligently' which forms the basis of the analogy is pleonastic only in one of the two terms that are compared, regarding idolatry and Zomemim as one term, and a condemned city as the other. Hence the analogy can be rejected. (This is a matter of dispute on the part of various teachers; v. p. 363, n. 3.)
- (21) Sc. idolatry and Zomemim.
- (22) E.g., make a search. The modification of the expression therefore denotes a basis for the analogy.
- (23) Where there is the expression search.
- (24) Instead of 'diligently'.
- (25) I. e., (i) thou shalt inquire; (ii) and make search, (iii) and ask diligently, 'ask' by itself being disregarded, as stated on p. 258. n. 4.
- (26) Hence 'diligently' cannot be regarded as pleonastic and consequently the analogy can be refuted.
- (27) דרוש תדרוש.
- (28) חקור תחקור The connection of the infinitive with the verb to convey emphasis is a common feature in the Bible. Cf. Ex. XXII, 3: Deut. XV, 10, 14.
- (29) Hence it is free on both sides, and so cannot be rejected.
- (30) Since the need of the seven questions has been established in cases punishable by stoning or decapitation, viz., idolatry and witnesses proved Zomemim.
- (31) Strangulation is regarded as a milder form of death than the former two, hence the seven questions are certainly necessary there. (V. p. 259, n. 2).
- (32) Stoning is severer than burning, and decapitation milder.
- (33) I.e., how then can we deduce a seven-fold inquiry from cases involving a milder to those involving a severer punishment?
- (34) Deut XIII, 15, with reference to the condemned city.
- (35) Ibid. XVII, 4, with reference to the idolater.
- (36) For 'if it be truth' implies that a question is put to ascertain it; likewise, 'and (if) the thing (be) certain' implies another question; hence the two sentences imply another four questions, in addition to the seven.
- (37) Sc. concerning the word 'diligently' in the cases of idolatry, Zomemim, and the condemned city.
- (38) That there too the witnesses must be examined with the seven queries of time and place.
- (39) For, as stated above, they declared the need of seven queries in the cases of charges punishable by burning a minori from stoning. What need then of the eleventh expression, which likewise indicates the case of burning? Hence this assumption must be made.
- (40) How can it be taken for certain that its purpose is to extend the law of seven queries to charges of burning?
- (41) I.e., can one ask a further question through which false witnesses may be declared Zomemim?
- (42) I.e., that eight queries are conceivable, each of which may serve the purpose of refuting the witnesses.
- (43) In regard to the exact time (Pes. 11b). So that, should the witnesses be refuted over a matter of half an hour, e.g., if they stated that they witnessed a murder at 4:30, and other witnesses testify that they were elsewhere, we do not assume that they might have witnessed the murder at 4 or 5, and erred in half an hour, but declare them Zomemim. Hence a purpose is served by questioning them on the precise part of the hour.
- (44) To add another query as regards the precise part of the hour.
- (45) Who does not favour an eight-fold inquiry, — what view does he hold?
- (46) Since it is highly improbable that evidence would be postponed from one Jubilee to another (Rashi) (Or. one includes the other, v. Yad Ramah]. — It may be observed that owing to the discussion on the possibility or need of eight questions, R. Abbahu's objection remains unanswered, unless it be assumed that R. Simeon who maintains that burning is severer than stoning also agrees with the Tanna of the Mishnah that only seven questions are put.
- (47) Cf. supra. 32b. 'They shall take the witnesses from one place to another in order to confuse them.'
- (48) I.e., to defend our view.
- (49) How does he maintain his objection, seeing that it may rightly be raised against his own view too?
- (50) Therefore R. Jose maintains that the latter possibility may be disregarded.

(51) By saying, e.g., 'I know that I am warned not to do so.'

(52) By answering you, e.g., 'Even though I shall be punished by such and such a death, yet I will commit this crime.'

(53) Such as a greeting from a disciple to teacher, e.g., 'Peace be unto thee, my Master and Teacher'. V. B.K. 73b; Mak. 6a. If the murder was delayed longer, the plea that he forgot the warning might be accepted. (Rashi)

(54) Num. XXV, 1-9. Worshipped by obscene rites. V. infra 60a, and Rashi, on Num. loc. cit., also p. 410, n. 1.

(55) זֶרְקוּלִים, Roman, Mercurius, Greek, Hermes, the patron deity of wayfarers. V. p. 410, n. 2.

(56) Lev. XX, 17.

(57) I.e., if the witnesses previously warn him that his proposed action is forbidden on pain of kareth.

(58) כַּרְת; excision — punishment by Heaven, where no warning is needed, since God knows whether the culprit was aware of the forbidden nature of his action or not.

## Talmud - Mas. Sanhedrin 41a

we must refer it to flogging.<sup>1</sup>

The school of Hezekiah taught: And if a man come presumptuously upon his neighbour to slay him with guile;<sup>2</sup> — this implies that they warned him, yet he remained with wilful intent.<sup>3</sup> The school of R. Ishmael taught: And they that found him gathering sticks;<sup>4</sup> that implies that they warned him, yet he continued gathering. The school of Rabbi taught: Because [lit., 'for the word that'] he hath humbled [his neighbour's wife]<sup>5</sup>, teaching, [it is] by reason of 'the word' [that he is stoned].<sup>6</sup> And [these verses] are all necessary: for had the Divine Law stated [this provision] only in reference to a man's sister, one might have said that it applied only to those liable to flogging, but not to those liable to death,<sup>7</sup> therefore the Divine Law wrote, If a man come presumptuously etc.<sup>8</sup> Again, had this verse only been written, I might have thought that it [sc. a warning] is necessary only for decapitation, which is a milder form of death; but for stoning, which is severer, one might hold that it is not [required]: thus all are necessary. But why need two [intimations]<sup>9</sup> in respect of stoning? — According to R. Simeon,<sup>10</sup> to extend [the law of warning] to cases of burning;<sup>11</sup> whilst the Rabbis<sup>12</sup> [answer]: (Scripture [sometimes] takes the trouble of stating a law<sup>13</sup> which can be deduced a minori. But Scripture should have intimated it for stoning [only], and then these other cases<sup>14</sup> could have been inferred from it! — Here too [the same answer must be given]: Scripture [sometimes] takes the trouble of stating a law which can be deduced a minori.

'Did he admit his liability to death?' Whence do we infer this? Raba — others state, Hezekiah — said: Scripture states, Shall he that is to die<sup>15</sup> be put to death;<sup>16</sup> [He is not put to death] unless he [previously] admitted his liability to death.<sup>17</sup>

R. Hanan said: Witnesses against a betrothed damsel<sup>18</sup> who were proved Zomemim, are not executed,<sup>19</sup> since they may plead, We came forward [to testify] only to render her ineligible for her [intended] husband.<sup>20</sup> But they must surely have warned her!<sup>21</sup> — This treats of a case where they did not warn her. But if so, how could she be put to death at all?<sup>22</sup> This refers to an educated woman, and is based on the view of R. Jose son of R. Judah. For it has been taught: R. Jose son of R. Judah said: A scholar needs no warning, for warning was instituted only in order to distinguish between wilfulness and unwilfulness.<sup>23</sup> But since they are not executed, how could she be? For this becomes evidence to which the law of Zomem cannot be applied,<sup>24</sup> and such is not admissible!<sup>25</sup> — He [R. Hanan] actually meant it thus: Since they are not executed, for they can plead, 'We came only to make her ineligible for her [intended] husband,' she too cannot be executed, because it is evidence to which the law of Zomem cannot be applied. Then in the case of an educated woman, who, as we know, is to be executed on the view of R. Jose son of R. Judah, how, is that possible?<sup>26</sup> — If she misconducted herself twice.<sup>27</sup> But they [the witnesses] can still plead, We came only to render her forbidden to her second paramour!<sup>28</sup> — [The case in question is one] where the misconduct was repeated with the first adulterer,<sup>29</sup> or one of misconduct with one of her relations.<sup>30</sup>



But why state this only of a 'betrothed damsel': surely the same applies to a married woman too! — True: but [the purpose here is to teach that] even in such a case, though she has not yet lived with her husband, they can plead, We came forward only to make her ineligible for her [intended] husband.

R. Hisda said: If one testified that he [the accused] slew him with a sword, and another, that he slew him with a dagger, it [the evidence] is inadmissible.<sup>31</sup> If one says, His clothes were black, and the other, His clothes were white; the evidence is admissible.<sup>32</sup>

An objection is raised: 'Certain'<sup>33</sup> implies that the evidence must be certain; if one witness says, He slew him with a sword, and the other says, With a dagger; or if one says, His clothes were black, and the other, They were white, the evidence is not 'certain'?<sup>34</sup> — R. Hisda interpreted this as referring to the [colour of] the cloth with which he strangled him, which comes under the same category as sword or dagger.

Come and hear! If the one says that his sandals were black, and the other, that they were white, the evidence is not certain!<sup>35</sup> — There too the meaning is, that he kicked him with his sandal and killed him.<sup>36</sup>

Come and hear! IT ONCE HAPPENED THAT BEN ZAKKAI CROSS-EXAMINED [THE WITNESSES] AS TO THE STALKS OF THE FIGS. — Rami b. Hama replied: The meaning is, that a man cut off a fig on the Sabbath, for which he was to be put to death.<sup>37</sup> But has it not been taught: They said to him, 'He killed him beneath a fig-tree'? — But, said Rami b. Hama: It was a case where he [the accused] pierced his victim with the sharp end of a fig branch.

Come and hear! He questioned [the witnesses]: Were the stalks of this fig tree thin or thick? And were the figs [themselves] black or white?<sup>38</sup> But, answered R. Joseph: Would one raise an objection from Ben Zakkai! Ben Zakkai had a different view, since he assimilated bedikoth to hakiroth.<sup>39</sup> Now, who was this Ben Zakkai? Shall we say, R. Johanan b. Zakkai? Was he then [a member] of the Sanhedrin?<sup>40</sup> Has it not been taught:<sup>41</sup> The whole lifetime of R. Johanan b. Zakkai was a hundred and twenty years. Forty years he engaged in business; forty years he studied, and forty years he taught. And it has also been taught: Forty years before the destruction of the Temple, the Sanhedrin were exiled<sup>42</sup> and took up residence in Hanuth.<sup>43</sup> Whereon R. Isaac b. Abudimi said: This is to teach that they did not try cases of Kenas.<sup>44</sup> 'Cases of Kenas!' Can you really think so!<sup>45</sup> Say rather, They did not try capital charges.<sup>46</sup> Again we learnt:<sup>47</sup> When the Temple was destroyed, R. Johanan enacted [so and so].<sup>48</sup> But the reference is to some other Ben Zakkai. Reason too supports this: for were R. Johanan b. Zakkai meant, would Rabbi<sup>49</sup> have called him merely Ben Zakkai!<sup>50</sup> Yet has it not been taught: It once happened that R. Johanan b. Zakkai examined [witnesses] as to the stalks on the figs?<sup>51</sup> — He must therefore have been a disciple sitting before his Master,<sup>52</sup> when he made this statement the reasoning of which was so acceptable to them [the Rabbis]

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(1) I.e., a warning must be given that he is liable to flagellation.

(2) Ex. XXI, 14.

(3) From the use of the imperfect **יִיֵד**, which connotes a continuous present. Murder is punishable by decapitation.

(4) Num. XV, 33; here too, the deduction follows from the use of the present part. (**בִּקְוֹשֵׁשׁ**), i.e. 'he went on gathering sticks after he was found (and warned). This shows the need for warning in the case of stoning

(5) Deut. XXII, 24.

(6) **עַל דְּבַר** 'By reason of the word' — sc. of warning.

(7) For one might think that owing to the severity of the crime people would themselves realise the consequences and so not need warning.

(8) So indicating the need of warning in a case punishable by death.

(9) One in connection with the 'gatherer of sticks', and the other regarding the 'betrothed damsel'.

- (10) Who holds that burning is a severer death; consequently, the warning here cannot be deduced from the reference to stoning, since it might be thought that in the case of a severer punishment, warning is not required.
- (11) R. Simeon bases this on the hermeneutical **אם אינו ענין** i.e. if it has no hearing on cases of stoning, it must refer to cases of burning.
- (12) Who hold that stoning is a severer death, so that warning for burning follows therefrom a fortiori.
- (13) Here, not explicitly, but by the same principle of **אם אינו ענין**.
- (14) Sc. lashes and decapitation.
- (15) Lit., 'the dead.'
- (16) Deut. XVII, 6.
- (17) This is deduced from the expression, **המת**, the dead, instead of 'murderer'. In accepting the warning then, he is regarded as dead de jure, even before appearing in court, since the warning involves the consequences of the evil deed.
- (18) Who have testified to her infidelity. Had the charge been proved, she would have been executed.
- (19) Despite the fact that collusive witnesses are punished according to the law of retaliation.
- (20) For if the charge were proved, even if for some reason she were not executed, she would be forbidden to her husband!
- (21) That the consequence of her act was death. How then could this argument for the defence be raised
- (22) And in that case the witnesses too are not liable, since it is written, And ye shall do unto him as he thought (plotted) to do unto his brother (Deut. XIX, 19), i.e., they are punished only as the accused would have been punished.
- (23) If the murderer was not warned he could plead ignorance of the death penalty. A scholar could not raise such a point in his defence. Hence this woman would have been liable to death, and in consequence, the false witnesses too, but for the plea stated above.
- (24) I.e., even if their evidence is proved to be false, the law of retaliation cannot operate, because of their possible defence that they intended only to make her ineligible for her intended husband, and not to bring the death penalty upon her.
- (25) Lit., 'is not called testimony.' For unless there is this deterrent to false testimony, it is suspect ab initio.
- (26) Since the witnesses themselves, if proved Zomemim, are not executed.
- (27) And so the witnesses in the second charge can no longer plead that their intention was only to prohibit her to her husband, since she is already forbidden.
- (28) An unfaithful woman is forbidden not only to her husband, but also to the adulterer, if he afterwards wishes to marry her. V. Sotah 26b.
- (29) To whom she is already prohibited in consequence of their earlier relations.
- (30) Whom she is absolutely forbidden to marry at all.
- (31) Lit., 'not certain', quoted from: Behold if it be truth and the thing certain (Deut. XIII, 15. XVII, 4.), v. supra 30b.
- (32) Contradictory statements made during cross examination are of sufficient importance to be invalidated only when they refer to the act itself.
- (33) Deut. XIII, 15: XVII, 4. V p. 265, n. 9.
- (34) Hence inadmissible. I.e. the evidence must tally, even in respect of matters which have no direct bearing on the act.
- (35) Although there is here no actual contradiction in matters directly involving the act.
- (36) The sandals being the actual weapons, the question of colour is on a par with the question of sword or dagger.
- (37) Hence the species of fig is of direct importance for the veracity of the witnesses.
- (38) I.e., ripe or unripe. Now surely, he could not have killed anyone with the figs. This proves that the meaning is that the witnesses deposed that the accused had killed his victim under or near a fig-tree, and thus this again refutes R. Hisda.
- (39) And maintained that just as contradictions on the latter invalidated the evidence, so on the former. The general view, however, disagrees with this, and R. Hisda's dictum was likewise in accordance with the general view.
- (40) At the time when they still had power to try capital cases.
- (41) Cf. R. H. 31b.
- (42) From the Hall of Hewn Stones. V. infra p. 205, n. 5.
- (43) **הנות** A place on the Temple Mount outside the hewn chamber where they had temporary residence. (Derenbourg, Essai, p. 467, and Krauss, REJ, LXIII, 66f., identify it with the 'Chamber of the sons of Hanan' (a powerful priestly family, cf. Jer. XXXV, 4) mentioned in J. Pe'ah I, 5.)
- (44) V. Glos.
- (45) That these, like capital charges, could be tried only in the chief seat of the Sanhedrin — the Hall of Hewn Stones!

These cases could, in fact, be tried anywhere in Palestine.

(46) V. A.Z. 8b on Deut. XVII, 10: And thou shalt do according to the tenor of the sentence which they shall declare unto thee, from that place; this implies that it is the place that conditions the authority of the Sanhedrin in respect of the death sentence. [J. Sanh. I, 1 has, 'the right to try capital cases was taken away from them, i.e., by the Romans. For a full discussion of the subject v. Juster. op. cit, II, 138ff.]

(47) R. H. 29b.

(48) Hence the last period of R. Johanan's career was after the destruction of the Temple, when the Sanhedrin no longer tried capital cases.

(49) In the Mishnah.

(50) Depriving him of the title given at ordination.

(51) I.e., it must be the same person.

(52) At a time when capital cases were yet tried.

## **Talmud - Mas. Sanhedrin 41b**

that they established it in his name. Thus while he was yet a student he was called Ben Zakkai, as is customary for a disciple sitting before his master, and when later he was a teacher,<sup>1</sup> he was called Rabban Johanan b. Zakkai. Hence, when he is referred to as Ben Zakkai,<sup>2</sup> it is in accordance with his earlier status;<sup>3</sup> while when he is called R. Johanan b. Zakkai, it is in accordance with his status at the time [that the Baraitha was taught].

IT ONCE HAPPENED THAT ETC. . . WHAT IS THE DIFFERENCE BETWEEN HAKIROTH AND BEDIKOTH.? etc. What does 'EVEN<sup>4</sup> IF BOTH SAY etc. mean? It is surely obvious that if when one of the two witnesses says, 'I do not know,' their evidence is valid, if two say so, their testimony is likewise valid?<sup>5</sup> — R. Shesheth said: This refers to the first clause [of the Mishnah]<sup>6</sup> and its meaning is as follows: In hakiroth, even if two say, 'We know,' and one is in doubt, their evidence is invalid. With whom does this agree? — With R. Akiba, who treated three [witnesses] as equal to two.<sup>7</sup> Raba demurred: Surely the Mishnah states: THEIR EVIDENCE IS VALID!<sup>8</sup> — But, said Raba, it means this: Even in hakiroth, if two say, 'We know,' and the third says, 'I do not know,' their evidence is valid. With whom does this agree? — Not with R. Akiba.

R. Kahana and R. Safra were studying [the Tractate] Sanhedrin in the school of Rabbah. When Rami b. Hama met them, he asked them: What have ye to say on the Tractate Sanhedrin as taught in the school of Rabbah?<sup>9</sup> They retorted: And what in particular are we to say of the Tractate itself?<sup>10</sup> What is your special difficulty? — He answered: [The difficulty arises] from what is stated: WHAT IS THE DIFFERENCE BETWEEN HAKIROTH AND BEDIKOTH? IN HAKIROTH, IF ONE [OF THE WITNESSES] ANSWERS, 'I DO NOT KNOW,' THEIR EVIDENCE IS VOID. WITH RESPECT TO BEDIKOTH, HOWEVER, IF ONE ANSWERS, I DO NOT KNOW,' OR EVEN IF BOTH SAY, 'WE DO NOT KNOW THEIR EVIDENCE IS VALID. Now consider: both are Biblically [required]:<sup>11</sup> why then should hakiroth differ from bedikoth? — They said to him: How compare them?<sup>12</sup> As for hakiroth, if one of the witnesses says, , 'I do not know', the evidence is invalid because it cannot be refuted;<sup>13</sup> but with respect to bedikoth, if one of them answers, 'I do not know', the evidence remains valid, since it is still subject to refutation. Thereupon he said to them: If that is what you have to say, you have much to say thereon. But they replied: only because of your great forbearance have we said so much; had you criticized us, we should not have said anything.<sup>14</sup>

IF ONE TESTIFIES . . . [FOR ONE MAY HAVE BEEN AWARE OF THE INTERCALATION OF THE MONTH etc.] Till what date?<sup>15</sup> — R. Aha b. Hanina said in the name of R. Assi in the name of R. Johanan: Until the greater part of the month [has passed].<sup>16</sup> Raba said: We too learnt likewise' IF HOWEVER, ONE SAID, 'ON THE THIRD , AND THE OTHER, 'ON THE FIFTH, THEIR EVIDENCE IS INVALID. But why so? Why not assume that the one may have known of two intercalations,<sup>17</sup> whilst the other was ignorant of both! Hence it must surely be so because, when the

greater part of the month has passed, one knows thereof [sc. intercalation]! — [No.] In truth I might argue that even after the passing of the greater part of the month, one does not necessarily know [of the intercalation],<sup>18</sup> yet he must have known of the Shofar-signal:<sup>19</sup> , we may then say that he may have erred regarding one signal,<sup>20</sup> but not regarding two.<sup>21</sup>

R. Hanina also said in the name of R. Assi in R. Johanan's name: Until what day of the month may the benediction over the new moon be recited?<sup>22</sup> — Until its concavity is filled up. And how long is that? — R. Jacob b. Idi said In Rab Judah's name: Seven days. The Nehardeans said: Sixteen [days].

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(1) I.e., after ordination.

(2) In the Mishnah.

(3) Which is chronologically correct.

(4) The word 'even' gives the impression that when both witnesses are dubious, the evidence is less likely to be valid than when only one is in doubt.

(5) For if one is ignorant on a certain point, the other's knowledge thereof is valueless. Hence whatever evidence is valid when one is ignorant, is also valid when both are ignorant.

(6) Which deals with HAKIROTH.

(7) Just as when there are only two witnesses, if one of them is disqualified, the whole evidence falls to the ground, so when there are three. V. Tosaf. and cf. Mak. 5b.

(8) How then interpret it of a case where the evidence is invalid?

(9) Seeing that you have studied under such a great man, you must surely have discovered many new points.

(10) I.e., even if we had not studied with Rabbah, was there really any difficulty to be found there? (Rashi). [Yad Ramah adds: 'as generally taught' (lit., 'as all the world teaches')?]

(11) V. supra 40b, 41a.

(12) Lit., 'How so, now!'

(13) Be proving that the witnesses were elsewhere at the said time. Hence, if one is in doubt regarding the place or time, such refutation is impossible. — It should be observed that only refutation of time and place is meant in the whole discussion, since that is the only form of refutation which renders the witnesses liable to the law of retaliation.

(14) I.e., had you criticized our arguments we should not have been able to resist yours!

(15) I.e., until what day of the month may ignorance of the defectiveness or fullness of the last month be assumed in explanation of the discrepancy between two witnesses?

(16) After that, contradiction as to date invalidates the evidence. The greater part of the month means one day beyond half way.

(17) Either consecutively or alternately.

(18) And so the question from the Mishnah is not corroborative.

(19) Blown at the proclamation of the new moon, be the month full or defective.

(20) I.e., though knowing that the Shofar had been sounded, he may have erred once as to the day on which it was sounded.

(21) Hence the invalidity of the evidence where there is a difference of two days.

(22) A benediction is recited at each re-appearance of the new moon just as on the re-appearance of everything that is beneficial to mankind. V. J. Ber. IX, 2. 'He who sees the moon in her stage of renovation, utters: Blessed etc.'

## **Talmud - Mas. Sanhedrin 42a**

Now, both agree with R. Johanan,<sup>1</sup> but the one [explains it as meaning]: Until it is like a strung bow;<sup>2</sup> the other: Until it is like a sieve.<sup>3</sup>

R. Aha of Difti<sup>4</sup> said to Rabina:<sup>5</sup> Yet should not one utter the benediction,<sup>6</sup> 'Blessed . . . who art good and dispensest good'?<sup>7</sup> — He replied: But when it is waning, do we say, 'Blessed be the true judge.'<sup>8</sup> that we should say: 'Blessed . . . who art good and dispensest good?'<sup>9</sup> But why should not both be recited?<sup>10</sup> Since it is a regular phenomenon, no benediction at all is required.<sup>11</sup>

R. Aha b. Hanina also said in the name of R. Assi in R. Johanan's name: Whoever pronounces the benediction over the new moon in its due time welcomes, as it were, the presence of the Shechinah: for one passage states, This month;<sup>12</sup> whilst elsewhere it is said, This is my God, and I will glorify Him.<sup>13</sup>

In the school of Rabbi Ishmael it was taught: Had Israel inherited no other privilege<sup>14</sup> than to greet the presence of their Heavenly Father once a month,<sup>15</sup> it were sufficient. Abaye said: Therefore<sup>16</sup> we must recite it standing. But Meremar and Mar Zutra allowed themselves to be carried on the shoulders<sup>17</sup> when they pronounced the blessing.

R. Aha said to R. Ashi: In 'the West,' they pronounce the following benediction: 'Blessed be He who reneweth the moons.' Whereupon he retorted: Such a blessing even our women folk pronounce!<sup>18</sup> But [one should rather use the following], in accordance with Rab Judah, who gives it thus: Praised etc.<sup>19</sup> who created the Heavens with His word, and all their hosts with the breath of His mouth. He appointed unto them fixed laws and times, that they should not change their ordinance. They rejoice and are glad to do the will of their Creator. They work<sup>20</sup> truthfully, for their action is truth. The moon He ordered that she should renew herself as a crown of beauty for those whom He sustains from the womb,<sup>21</sup> and who will, like it, be renewed in the future, and magnify their Maker in the name of the glory of His kingdom. Blessed art Thou, O Lord, who renewest the moons.

For with wise advice<sup>22</sup> thou shalt make thy war.<sup>23</sup> R. Aha b. Hanina [further] said in the name of R. Assi in R. Johanan's name: In whom do you find [skill to conquer in] the battle of the Torah?<sup>24</sup> — Only in him who possesses bundles of Mishnah [teaching].<sup>25</sup>

R. Joseph applied to himself [the verse]: Much increase [of grain] is by the strength of the ox.<sup>26</sup>

SIMILARLY, IF ONE TESTIFIED, 'DURING THE SECOND HOUR' etc. R. Shimi b. Ash said: They taught this only of hours.<sup>27</sup> But if one testifies, 'It was before sunrise,' and the other says, 'After sunrise, their evidence is invalid.'<sup>28</sup> This is obvious<sup>29</sup> — But [put it thus:] if one testifies, 'Before sunrise,' and the other, 'During sunrise.'<sup>30</sup> But this too is obvious! I might, however, think that he [the witness] was standing in the glow [before sunrise] and what he saw was but a gleam.<sup>31</sup> He therefore informs us otherwise.

AFTER THIS, THE SECOND WITNESS IS ADMITTED etc. [AND HE DOES NOT DESCEND FROM THERE ALL THAT DAY.] Only THAT DAY,<sup>32</sup> and no longer? But has it not been taught: 'If there is substance in his statement, he does not go down from there at all;<sup>33</sup> but if there is no substance therein, he does not descend thence all that day, that his rise be not his fall'?'<sup>34</sup> — Abaye said: Interpret it [sc. the Mishnah] as applying [to a case] where no substance was found in his statement.

IF THEY FIND HIM NOT GUILTY etc. [AND DRINK NO WINE]. Why drink no wine? — R. Aha b. Hanina said: Scripture states, It is not for princes<sup>35</sup> to say, Where is strong drink?<sup>36</sup> [i.e.,] those who are engaged in [unravelling] the secrets of the world<sup>37</sup> must not become drunk.

THE TWO SIDES DEBATE THE CASE TOGETHER UNTIL ONE OF THOSE WHO CONDEMN AGREES WITH etc. But what if they do not agree? R. Aha ruled: He is discharged. R. Johanan said likewise: He is discharged. R. Papa said to Abaye: Then he should be set free in the first place!<sup>38</sup> He answered: Thus did R. Johanan say: It is in order that they may not leave the Court in confusion.<sup>39</sup> Some say that R. Papa said to Abaye: Why add, Let him be discharged by the first court?<sup>40</sup> To which he replied: R. Jose is in agreement with you. For it has been taught: R. Jose said: Just as a court of seventy-one is not increased, so may a court of twenty-three not be increased.

Our Rabbis taught: In civil suits, a declaration is made, The judgement nisdakan,<sup>41</sup> but not in capital charges.<sup>42</sup> What does nisdakan mean? Shall we say, The case is difficult:<sup>43</sup> surely, the reverse should have been taught!<sup>44</sup> R. Huna b. Manoah said in the name of R. Aha the son of R. Ika: We should reverse (the instances). R. Ashi said: In truth, you need not reverse it: what is meant by 'The judgment nisdakan'? — The case is wisely [established].<sup>45</sup>

An objection is raised: The presiding judge declares, 'The judgment nisdakan.' Now, should you agree that it means, 'The case is wisely established,' it is correct, hence the presiding judge makes the declaration. But if you maintain that it means, 'The case is difficult;' is it not better that the presiding judge should not say it? Surely in doing so he actually disgraces himself! — There is no comparison between declaring one's own disgrace and having another declare it.<sup>46</sup> Others state: Should you agree that it means, 'The case is difficult,' it is correct, for there is no comparison between declaring ones own disgrace and having another declare it. But if you maintain that it means, 'The case is wisely established:' does not the president [of the court] thereby praise himself? Whereas it is written, Let another praise thee and not thine own mouth?<sup>47</sup> — It is different in judicial matters, since the president is charged with the duty,<sup>48</sup> as we learnt: When a decision has been arrived at, they are admitted, and the presiding judge declares, 'So and so, thou art not liable,' or, 'So and so, thou art liable.'<sup>49</sup> [

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- (1) That the recital of the benediction is conditioned by the filling up of the moon's concavity.
  - (2) I.e., semicircular, which shape it assumes after seven days.
  - (3) I.e., round, at full moon.
  - (4) [Dibtha on the Tigris. (Obermeyer op. cit. p. 197)].
  - (5) With reference to Rab Judah's view.
  - (6) After seven days and until full moon.
  - (7) This benediction is made on the attainment of a thing over which its due blessing has already been pronounced, but which has now either been improved or been replaced by a thing of the same kind but of a better quality (v. Ber. 59b). And so R. Aba maintained that even if in Rab Judah's opinion the usual benediction for the new moon is not to be uttered after seven days because it is then no longer new, yet since it is still in its growing stage, becoming more luminous as the days pass until full moon is reached, this latter blessing should be uttered.
  - (8) A benediction recited on hearing bad tidings. Cf. Ber. 54a.
  - (9) When it is waxing. I.e., since its waning is not regarded as a loss, entailing this benediction, its waxing is not a gain, necessitating the other.
  - (10) On the respective occasions.
  - (11) For its waxing is no particular boon from God, nor its waning an infliction, which are the fundamental reasons of these benedictions.
  - (12) Ex. XII, 2, concerning the New Moon.
  - (13) Ex. XV, 2, in the Song of Moses. 'This' is taken as connoting something that could, as it were, be pointed at with the finger (v. Mekilta. Ex. XV, 2), and the use of this word in the two verses suggests that he, who praises God at the periodical renewal of the moon, gives witness to the revelation of Divine Glory as manifested in natural phenomena.
  - (14) זכות; v. p. 153. n. 2.
  - (15) I.e., if they practised no other observance but this — the benediction over the new moon.
  - (16) Because it is a greeting of God's Presence.
  - (17) Probably because of their infirmity through age. Cf. supra 7b, and Rashi's comment
  - (18) As if to say, 'There is nothing in that.' Such a short benediction is fit only for the uneducated. e.g., women (Maharsha).
  - (19) The 'etc.' (curr. edd. in brackets) stands for 'art thou, O Lord our God. . .'
  - (20) Tosaf.'s reading: 'He works', referring to God.
  - (21) I.e., from childhood, viz., Israel, cf. Isa. XLVI, 3.
  - (22) תחבולות.
  - (23) Prov. XXIV, 6.
  - (24) I.e., who is qualified to meet the difficulties of the Torah, and give a true interpretation?

- (25) I.e., he who is fully conversant with the law; according to Rashi, the point is that mere dialectic skill and ingenuity are no substitutes for a sound knowledge of the sources. **חבילות**, bundle, is a word play on **חבילות**.
- (26) Prov. XIV, 4. V. Deut. XXXIII, 17, where Joseph is symbolically compared to a bullock; also Hor. 14a: R. Joseph was renowned for his erudition, being known as Sinai. Hence his application of the above verse to himself.
- (27) I.e., if the witnesses state a definite time, e.g., three hours, four hours. etc. Only then is there a dispute in the Mishnah as to the margin of possible error.
- (28) Even according to R. Judah.
- (29) As there could be no error in such a matter.
- (30) Their evidence is null.
- (31) Mistaking it for the rays of sunrise; thus their statements tally.
- (32) Does the disciple remain seated with the Judges.
- (33) I.e., he becomes a member of the Court. V. Yad, Sanh. X, 8, although according to Tosafoth Yom Tob on Sanh. V, 4, he is not given a (for note 9 see p. 274) vote. Me'iri, however, maintains that he is seated with them only as long as the trial lasts.
- (34) If he had to resume his seat in the presence of the Assembly, he would be disgraced.
- (35) **רוזנים**, here connected with **רוז**, secret. V. Dan. II, 18, 29.
- (36) Prov. XXXI, 4.
- (37) I.e., seeking to bring to light the secrets hidden in men's hearts, and so endeavouring to establish the truth — in a capital charge.
- (38) I.e., after the court was increased to seventy-one and there was yet no clear majority. Why then delay by debating, surely the court as a whole must not seek to convict?
- (39) I.e., without a definite decision. It reflects discredit on a court that it should rise in a state of controversy, having been unable to bring the matter to a definite conclusion (Rashi).
- (40) Of twenty-three. If there was then no clear majority, both sides should have endeavoured to win one more vote over to their opinion, and in the case of failure, he should have been set free there and then.
- (41) **נזדקן**, from the root **זקן**, may have a twofold meaning; a) old, in that the case has become old in discussion and could not be solved; or b) wise, in that the case has become clear, or wisely established, and is no longer in need of discussion. The following discussion is based on these two alternative meanings.
- (42) Cf. Tosef. Sanh. VII.
- (43) Lit., 'old', I.e., the case is become old and stale through prolonged discussion, and cannot be solved.
- (44) I.e., in capital cases one should all the more say, 'The judgment nizdakan,' so as to acquit the accused.
- (45) **זקן** according to the Rabbis, denotes 'wise' Cf. Kid. 32b.
- (46) Which would be the position if the words were pronounced by another member of the court.
- (47) Prov. XXVII, 2.
- (48) Of declaring the verdict.
- (49) Supra 29a.

## Talmud - Mas. Sanhedrin 42b

### CHAPTER VI

MISHNAH. WHEN THE TRIAL IS ENDED,<sup>1</sup> HE [THE CONDEMNED] IS LED FORTH TO BE STONED.<sup>2</sup> THE PLACE OF STONING WAS WITHOUT THE COURT, EVEN AS IT IS WRITTEN, BRING FORTH HIM THAT HATH CURSED.<sup>3</sup>

A MAN WAS STATIONED AT THE DOOR OF THE COURT WITH THE SIGNALLING FLAG<sup>4</sup> IN HIS HAND, AND A HORSE-MAN WAS STATIONED AT THE DISTANCE YET WITHIN SIGHT OF HIM,<sup>5</sup> AND THEN IF ONE<sup>6</sup> SAYS, 'I HAVE SOMETHING [FURTHER] TO STATE IN HIS FAVOUR', HE [THE SIGNALLER] WAVES THE FLAG, AND THE HORSE-MAN RUNS AND STOPS THEM.<sup>7</sup> AND EVEN IF HE HIMSELF SAYS, 'I HAVE SOMETHING TO PLEAD IN MY OWN FAVOUR', HE IS BROUGHT BACK, EVEN FOUR OR FIVE TIMES, PROVIDING, HOWEVER, THAT THERE IS SUBSTANCE IN HIS ASSERTION.

GEMARA. And was the place of stoning only just outside the court and no further? Has it not been taught: The place of stoning was outside the three encampments?<sup>8</sup> — True, it is even as you say, yet he teaches it thus, so that one may infer from it that if the Beth din went forth<sup>9</sup> and stationed itself outside the three encampments,<sup>10</sup> even so the place of stoning had to be without the court, in order that it [the court] should not appear murderously inclined, or that there might be a possibility of deliverance.<sup>11</sup>

Whence is this inferred?<sup>12</sup> From what our Rabbis taught: Bring forth him that hath cursed without the camp:<sup>13</sup> i.e., without the three camps. You say, ‘without the three camps;’ but may it not mean simply outside one camp? — It is here stated, Without the camp; and in reference to the bulls that were [wholly] burned,<sup>14</sup> it is also said, without the camp:<sup>15</sup> Just as there, [it means] without the three camps, so here too. And whence is that derived there? — From what our Rabbis taught: The whole bullock shall he carry away without the camp<sup>16</sup> — i.e., without the three camps. You say, ‘without the three camps;’ but perhaps it simply means ‘without one camp’?<sup>17</sup> — But when Scripture states further, with reference to the bull offered for the Community,<sup>18</sup> without the camp, which is unnecessary, for it has already been stated, And he shall burn it as he hath burned the first bullock,<sup>19</sup> its purpose is to add a second camp.<sup>20</sup> And when Scripture states further, with reference to the ashes,<sup>21</sup> without the camp,<sup>22</sup> which is also superfluous, since it has already been said, Where the ashes are poured out shall it be burned,<sup>23</sup> its purpose must be to add a third camp.<sup>24</sup>

But why not derive it<sup>25</sup> from the sacrifices slaughtered without [the legitimate precincts]?<sup>26</sup> Just as there, [the meaning is] without one camp,<sup>27</sup> so here too, without one camp is meant! — It is logical to make the deduction from the bullocks that were [wholly] burned, since they have the following points in common: [i] Bring forth... without the camp; [ii] [the bringing forth] is a necessary preliminary [to the act]; [iii] atonement.<sup>28</sup> On the contrary, it should rather be deduced from the sacrifices slaughtered without, since they have the following in common; [i] human being; [ii] sinners; [iii] life is taken; and [iv] piggul?<sup>29</sup> — It is preferable to deduce one necessary preliminary from another. R. Papa said:<sup>30</sup> Where did Moses reside? In the camp of the Levites.<sup>31</sup> And God said to him: Bring forth him that hath cursed without the camp<sup>32</sup> — which therefore means, without the camp of the Levites. Hence, when it states, And they brought forth him that had cursed outside the camp, the camp of the Israelites [must be meant].<sup>33</sup> But surely, that is necessary to intimate the fulfilment [of the command]? — This fulfilment is expressly stated:

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- (1) And the accused is found guilty.
  - (2) If he be so sentenced. Stoning is given here as an example, it being enumerated first in the list of the four modes of execution in Jewish law. Cf. *infra* 49b.
  - (3) ‘Bring forth’ implies ‘without,’ as is also shewn by the end of the sentence: without the camp. Lev. XXIV, 14.
  - (4) Sudarium, a cloth or kerchief.
  - (5) The signal man.
  - (6) Of the judges (Rashi).
  - (7) From carrying out the sentence until the court has gone into the details to see whether there is any substance in the new statement offered.
  - (8) That of the Divine Presence and the Priests, that of the Levites, and that of the rest of the Israelites. In Jerusalem they were situated as follows: The first was confined to the space of the Temple court, the second to the Temple Mount and the third occupied the rest of the city.
  - (9) From its usual locale, as stated in the previous note.
  - (10) I.e., one of the minor Sanhedrins.
  - (11) Between sentence and execution. The further the place of execution was from the court, therefore, the better for the condemned.
  - (12) That the execution must take place outside the three camps.
  - (13) Lev. XXIV, 14, with reference to the blasphemous.



- (14) I.e., the sin offering of the anointed priest (Lev. IV, 3, seq.), and of the whole community (ibid. 13 seq.).
- (15) Ibid. 12, 21.
- (16) Ibid. 12.
- (17) I.e., only outside the precincts of the Temple.
- (18) In case the whole community committed an unwitting transgression.
- (19) Ibid. i.e., the sin offering of the anointed priest, ibid. 3 seq.
- (20) Beyond, which the burning is to take place.
- (21) Which were heaped up and had to be removed.
- (22) Lev. VI, 4.
- (23) Lev. IV, 12; this explicitly states that the place for burning the ashes was without the camp. Hence the same statement in the verse first quoted is redundant.
- (24) V. n. 12.
- (25) Sc. the meaning of 'without the camp', Lev. XXIV, 14.
- (26) Cf. Lev. XVII, 3ff. What ever man etc. . . . that offereth a burnt offering or sacrifice and bringeth it not unto the entrance of the appointed tent . . . that man shall be cut off from among his people.
- (27) As is deduced from the words, bringeth it not unto the entrance of the appointed tent, i.e., the priestly camp, but outside it.
- (28) In both these cases there is a positive command, Bring forth, etc. Whereas with references to sacrifices slaughtered outside the forecourt it is only stated, He that slaughtered it outside the camp. Again, the bringing forth without the camp is a prerequisite for the fitting performance of the act; whereas in the case of sacrifices slaughtered outside the Temple court it is a transgression. Moreover, the burning of the bullock is an atonement for the High Priest and the whole Congregation (cf. Lev. IV, 20), and stoning likewise is an atonement for the malefactor; but that feature is absent in the case of sacrifices slaughtered without.
- (29) 'Without the camp' in both these places refers to a human being; the blasphemer was to be taken 'without the camp', whilst it was a human being who slaughtered 'without the camp'; whereas, in connection with the burnt bullocks, this phrase relates to animals; they were to be taken 'without the camp'. Again, the blasphemer and the slaughterer without the camp are both sinners, whereas the bullock, in direct relation to which the phrase is stated, is not a sinner. Further, in both these cases, the leading 'without the camp' was in order to take life — that of the blasphemer and the sacrifice yet to be slaughtered; but the burnt bullocks were already slaughtered; and 'without the camp' is mentioned in connection with burning their carcasses. And finally, the law of piggul is inapplicable to these two. פִּיגּוּל, unfitness caused by an intention in the mind of the officiating priest to dispose of a sacrifice outside the legal limits of space or time. In both these cases the performance of the act outside does not involve this sin. In stoning it is, of course, not applicable, and sacrificing outside the prescribed area is not piggul, which implies instead a sacrificing outside the precincts but unlawful intentions about the sacrifice's subsequent disposal. Nor is piggul possible in the case of sacrifices slaughtered without. In the case of the bullocks to be wholly burned, an intention to burn them beyond their proper place makes the sacrifice in a sense piggul (v. Rashi). (5) V. n. 3.
- (30) In proof that the third camp is meant.
- (31) Since he was a Levite.
- (32) Lev. XXIV, 14.
- (33) It was not necessary to repeat the words, out of the camp; therefore the words here mean something different from their use earlier.

### **Talmud - Mas. Sanhedrin 43a**

And the children of Israel did as the Eternal had commanded Moses.<sup>1</sup> If so,<sup>2</sup> what is the purpose of the sentence, And they stoned him with a stone?<sup>3</sup> — This is needed for what was taught: And they stoned him with a stone,<sup>4</sup> — him,<sup>5</sup> but not his garments. With a stone,<sup>6</sup> — [to teach] that if he was killed by a single stone the commandment is fulfilled.<sup>7</sup> And it was necessary to write [in this instance], 'stone', and [in another], 'stones'.<sup>8</sup> For had the Divine Law written [only] 'a stone', I might have said: In case he does not die through one stone, no more are to be brought to kill him. The Divine Law therefore states, 'stones'. Again, had the Divine Law written 'stones' [only], I might have said that at the outset two must be fetched. The Divine Law therefore states, 'a stone'.<sup>9</sup>

But this Tanna states, 'Here it is written [etc.],'<sup>10</sup> — He meant, If it were not written, i.e., even if this verse<sup>11</sup> were not found,<sup>12</sup> I could have adduced a *gezerah shawah*; seeing, however, that this verse is written, a *gezerah shawah* is not necessary. R. Ashi said; Where did Moses reside? In the camp of the Levites And God said to him: Bring forth him that hath cursed, — i.e., without the camp of the Levites; without the camp, — i.e., outside the camp of the Israelites.<sup>13</sup> And they brought forth him that had cursed,<sup>14</sup> — this stands for the actual fulfilment [of the command]. But the fulfilment is expressly stated: And the children of Israel did as the Eternal had commanded Moses! — That is necessary to indicate that hands were laid [on the culprit]<sup>15</sup> and that he was hurled down.<sup>16</sup> Whereupon the Rabbis asked R. Ashi: How, according to you, do you interpret all the expressions; 'bring forth', in connection with the bullocks that are [wholly] burned?<sup>17</sup> This is a difficulty.

**A MAN WAS STATIONED.** R. Huna said: It is obvious to me that the stone with which one is stoned, the gallows on which one is hanged, the sword with which one is decapitated, and the cloth with which one is strangled, are all provided by the Community. And why so? Because we could not tell a man to go and fetch his own property to kill himself. But, asked R. Huna, who provides the flag for signalling and the horse on which one rides to stop them?<sup>18</sup> Seeing that they are for his protection, must they be provided by him, or rather, since the court is bound to endeavour to save him, by them? Again, what of R. Hiyya b. Ashi's dictum in R. Hisda's name; When one is led out to execution, he is given a goblet of wine containing a grain of frankincense, in order to benumb his senses, for it is written, Give strong drink unto him that is ready to perish, and wine unto the bitter in soul.<sup>19</sup> And it has also been taught; The noble women in Jerusalem used to donate and bring it. If these did not donate it, who provided it? As for that, it is certainly logical that it should be provided out of the public [funds]: Since it is written. 'Give', [the implication is] of what is theirs.

R. Aha son of R. Huna inquired of R. Shesheth: What if one of the disciples said, 'I have a statement to make in his favour,' and there and then becomes speechless?<sup>20</sup> R. Shesheth blew into his hand,<sup>21</sup> and said; [You ask, what] if one becomes speechless! Why there may also be some one in the farthest part of the earth [who could make such a statement]!<sup>22</sup> — In the latter case, however, no one has actually said so, but in the former case, such a declaration has been made! [Hence the problem.] What then? — Come and hear! For R. Jose b. Hanina said: If one of the disciples who argued for acquittal died, he is regarded as though alive and in his place.<sup>23</sup> Thus, it is so only if he had actually spoken in favour of acquittal,<sup>24</sup> but not otherwise.<sup>25</sup> [That does not solve it:] where one has actually argued for acquittal, I have no doubts; but the problem arises if he only declared [that he could do so].<sup>26</sup>

**AND EVEN IF HE HIMSELF** etc. Even the first and second time?<sup>27</sup> But it has been taught: 'The first and second time, whether his statement has substance or not, he is brought back; thereafter, if there is substance in his statement, he is brought back, but not otherwise'? — Said R. Papa: Interpret it, from the second time<sup>28</sup> onwards. How do they [the judges] know?<sup>29</sup> — Abaye said: Two Rabbis are sent with him; if his statement has substance, he is [brought back]; if not, he is not [brought back]. But why not do so in the first place?<sup>30</sup> — Because being terrified, he cannot say all he wishes.<sup>31</sup>

**MISHNAH. IF THEN THEY FIND HIM INNOCENT, THEY DISCHARGE HIM; BUT IF NOT, HE GOES FORTH TO BE STONED, AND A HERALD PRECEDES HIM [CRYING]: SO AND SO, THE SON OF SO AND SO, IS GOING FORTH TO BE STONED BECAUSE HE COMMITTED SUCH AND SUCH AN OFFENCE, AND SO AND SO ARE HIS WITNESSES. WHOEVER KNOWS ANYTHING IN HIS FAVOUR, LET HIM COME AND STATE IT.**

**GEMARA.** Abaye said; It must also be announced: On such and such a day, at such and such and hour, and in such and such a place [the crime was committed], in case there are some who know [to

the contrary], so that they can come forward and prove the witnesses Zomemim.<sup>32</sup>

AND A HERALD PRECEDES HIM etc. This implies, only immediately before [the execution], but not previous thereto.<sup>33</sup> [In contradiction to this] it was taught: On the eve of the Passover Yeshu<sup>34</sup> was hanged. For forty days before the execution took place, a herald went forth and cried, 'He is going forth to be stoned because he has practised sorcery and enticed Israel to apostasy. Any one who can say anything in his favour, let him come forward and plead on his behalf.' But since nothing was brought forward in his favour he was hanged on the eve of the Passover!<sup>35</sup> — 'Ulla retorted: Do you suppose that he was one for whom a defence could be made? Was he not a Mesith [enticer], concerning whom Scripture says, Neither shalt thou spare, neither shalt thou conceal him?<sup>36</sup> With Yeshu however it was different, for he was connected with the government [or royalty, i.e., influential].

Our Rabbis taught: Yeshu had five disciples, Matthai, Nakai, Nezer, Buni and Todah. When Matthai was brought [before the court] he said to them [the judges], Shall Matthai be executed? Is it not written, Matthai [when] shall I come and appear before God?<sup>37</sup> Thereupon they retorted; Yes, Matthai shall be executed, since it is written, When Matthai [when] shall [he] die and his name perish.<sup>38</sup> When Nakai was brought in he said to them; Shall Nakai be executed? It is not written, Naki [the innocent] and the righteous slay thou not?<sup>39</sup> Yes, was the answer, Nakai shall be executed, since it is written, in secret places does Naki,<sup>40</sup> [the innocent] slay.<sup>41</sup> When Nezer was brought in, he said; Shall Nezer be executed? Is it not written, And Nezer [a twig] shall grow forth out of his roots.<sup>42</sup> Yes, they said, Nezer shall be executed, since it is written, But thou art cast forth away from thy grave like Nezer [an abhorred offshoot].<sup>43</sup> When Buni was brought in, he said: Shall Buni be executed? Is it not written, Beni [my son], my first born?<sup>44</sup> Yes, they said, Buni shall be executed, since it is written, Behold I will slay Bine-ka [thy son] thy first born.<sup>45</sup> And when Todah was brought in, he said to them; Shall Todah be executed? Is it not written, A psalm for Todah [thanksgiving]?<sup>46</sup> Yes, they answered, Todah shall be executed, since it is written, Whoso offereth the sacrifice of Todah [thanksgiving] honoured me.<sup>47</sup>

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(1) Ibid. 23.

(2) That the words, And they brought forth him etc., must be separately interpreted.

(3) Ibid. It is not needed to show how the execution was carried out, as that was already stated in the words quoted above; hence, by analogy, this too needs a distinctive interpretation.

(4) That is the literal translation, the sing. (stone) being used here.

(5) I.e., his bare body.

(6) Sing., as here.

(7) And more stones are not to be thrown at his corpse, to add to his disgrace.

(8) In the case of the gatherer of sticks, it is written, with stones (plural), Num. XV, 36.

(9) To teach that if he died by a single stone, it was satisfactory.

(10) I.e., he deduces the fact that the third camp is meant from a gezerah shawah. How then could R. Papa, an Amora, make the deduction from the verse itself?

(11) Quoted by R. Papa.

(12) Which itself indicates that the third camp is meant.

(13) For 'bring forth' itself implies beyond the camp (v. p. 578, n. 4), therefore the additional phrase denotes another camp.

(14) Lev. XXIV, 23.

(15) Cf. Lev. XXIV, 14. Let all that heard him lay their hands upon him.

(16) From a height, before stoning. V. infra 45a. The phrase quoted above cannot be taken as giving information regarding the carrying out of the stoning, as that has already been stated in the first portion of the verse. It indicates therefore the observance of all other regulations in connection with that penalty. e.g., the laying on of hands etc.

(17) Since he maintained that 'bring forth' has a meaning apart from 'without the camp. What separate meaning does he then give to these expressions when found in connection with the burnt bullocks?

- (18) From carrying out the sentence, in case one of the judges raises a new point for the defence.
- (19) Prov. XXXI, 6.
- (20) I.e., should it be assumed that his arguments would have been weighty, and so now that he is unable to give them, the case should be retried by other judges?
- (21) As a sign of ridicule at the question. [The figure of speech is probably taken from the method of blowing at the chaff when sifting ears of corn from one hand to the other, v. Ma'as. IV, 5.]
- (22) Justice is impossible if such assumptions are permitted.
- (23) I.e., when the vote is taken (supra 34a).
- (24) I.e., gave his grounds for doing so.
- (25) Hence if one said he could speak for the defence and there and then became dumb, his declaration is disregarded.
- (26) I.e., when R. Jose states, 'argued for acquittal,' did he mean that he must have given reasons for his statement, or that he merely said he could do so, even if he was subsequently prevented from giving his reasons.
- (27) I.e., must there be substance in his statement even the first and second time?
- (28) Exclusive, not inclusive, i.e., from the end of the second time, viz., from the third time.
- (29) Whether his statement has substance.
- (30) I.e., as soon as he starts out for the place of execution, so as to avoid an unnecessary return even the first time.
- (31) Therefore the first two times he receives the benefit of the doubt.
- (32) V. Glos.
- (33) E.g., not forty days before. The two passages that follow have been expunged in all censored editions. [As to the historical value to be attached to them, v. Klausner, Jesus. p. 27ff.]
- (34) [Ms. M. adds the Nasarean'.]
- (35) [A Florentine Ms. adds: and the eve of Sabbath.]
- (36) Deut. XIII, 9.
- (37) Ps. XLII, 3.
- (38) Ibid. XLI, 6.
- (39) Ex. XXIII, 7.
- (40) Naki is employed here as subject.
- (41) Ps. X, 8.
- (42) Isa. XI, 1.
- (43) Ibid. XIV, 19.
- (44) Ex. IV, 22.
- (45) Ibid. IV, 23.
- (46) Ps. C, 1.
- (47) Ibid. L, 23. ['We can only regard this fencing with texts as a jeu d'esprit occasioned no doubt by some 'actual event', Herford, op. cit. p. 93. Cf. also Klausner, op. cit. p. 28ff]

### **Talmud - Mas. Sanhedrin 43b**

R. Joshua b. Levi said; He who sacrifices<sup>1</sup> his [evil] inclination and<sup>2</sup> confesses [his sin] over it,<sup>3</sup> Scripture imputes it to him as though he had honoured the Holy One, blessed be He, in both worlds, this world and the next; for it is written, Whoso offereth the sacrifice of confession honoureth me.<sup>4</sup>

R. Joshua b. Levi also said: When the Temple was in existence, if a man brought a burnt offering, he received credit for a burnt offering; if a meal offering, he received credit for a meal offering; but he who was humble in spirit, Scripture regarded him as though he had brought all the offerings, for it is said, The sacrifices of God are a broken spirit.<sup>5</sup> And furthermore, his prayers are not despised, for it is written, A broken and contrite heart, O God, Thou wilt not despise.<sup>6</sup>

MISHNAH. WHEN HE IS ABOUT TEN CUBITS AWAY FROM THE PLACE OF STONING, THEY SAY TO HIM, 'CONFESS',<sup>7</sup> FOR SUCH IS THE PRACTICE OF ALL WHO ARE EXECUTED, THAT THEY [FIRST] CONFESS, FOR HE WHO CONFESSES HAS A PORTION IN THE WORLD TO COME. EVEN SO WE FIND IN THE CASE OF ACHAN, THAT JOSHUA

SAID UNTO HIM, MY SON, GIVE, I PRAY THEE, GLORY TO THE LORD, THE GOD OF ISRAEL, AND MAKE CONFESSION UNTO HIM.<sup>8</sup> AND ACHAN ANSWERED JOSHUA AND SAID, OF A TRUTH, I HAVE SINNED AGAINST THE LORD THE GOD OF ISRAEL, AND THUS AND THUS HAVE I DONE.<sup>9</sup> AND WHENCE DO WE KNOW THAT HIS CONFESSIONS MADE ATONEMENT FOR HIM? — FROM THE WORDS, AND JOSHUA SAID: WHY HAST THOU TROUBLED US? THE LORD SHALL TROUBLE THEE THIS DAY,<sup>10</sup> I.E., THIS DAY ART THOU TO BE TROUBLED, BUT THOU SHALT NOT BE TROUBLED IN THE NEXT WORLD.

AND IF HE KNOWS NOT WHAT TO CONFESS,<sup>11</sup> THEY INSTRUCT HIM, ‘SAY, MAY MY DEATH BE AN EXPIATION FOR ALL MY SINS.’ R. JUDAH SAID: IF HE KNOWS THAT HE IS A VICTIM OF FALSE EVIDENCE, HE CAN SAY: MAY MY DEATH BE AN EXPIATION FOR ALL MY SINS BUT THIS. THEY [THE SAGES] SAID TO HIM: IF SO, EVERYONE WILL SPEAK LIKEWISE IN ORDER TO CLEAR HIMSELF.<sup>12</sup>

GEMARA. Our Rabbis taught: The word *na*<sup>13</sup> is none other than a form of supplication. When the Holy One, blessed be He, said to Joshua, Israel hath sinned,<sup>14</sup> he asked Him, ‘Sovereign of the Universe, who hath sinned?’ ‘Am I an informer?’ He answered, ‘Go and cast lots.’ Thereupon he went and cast lots, and the lot fell upon Achan. Said he to him; ‘Joshua, dost thou convict me by a mere lot?’<sup>15</sup> Thou and Eleazar the Priest are the two greatest men of the generation, yet were I to cast lots upon you, the lot might fall on one of you.<sup>16</sup> I beg thee,<sup>17</sup> he replied, ‘cast no aspersions on [the efficacy of] lots, for Eretz Yisrael is yet to be divided by means of lots, as it is written, The land shall be divided by lot.<sup>18</sup> [Therefore,] make confession.’ Rabina said: He bribed him with words, saying, Do we seek aught from thee but a confession? confess unto Him and be free. Straightway, Achan answered Joshua and said: Of a truth, I have sinned against the Lord, the God of Israel, and thus have I done.<sup>19</sup> R. Assi said in R. Hanina's name: This teaches that Achan had thrice violated the ban, twice in the days of Moses,<sup>20</sup> and once in the days of Joshua, for it is written, I have sinned,<sup>21</sup> and thus and thus have I done.<sup>22</sup>

R. Johanan said on the authority of R. Eleazar b. Simeon: He did so five times, four times in the days of Moses,<sup>23</sup> and once in the days of Joshua, for it is written, I have sinned and thus and thus have I done.<sup>24</sup> And why were they [the Israelites] not punished until this occasion? R. Johanan answered on the authority of R. Eleazar b. Simeon: Because [God] did not punish for secret transgressions until the Israelites had crossed the Jordan.

This point is disputed by Tannaim: The secret things belong unto the Lord our God, but the things that are revealed belong unto us and to our children for ever.<sup>25</sup> Why are the words: *Lanu u-lebanenu*, [unto us and to our children] and the ‘ayin of the word ‘ad, [for ever] dotted?<sup>26</sup> — To teach that God did not punish for transgression committed in secret, until the Israelites had crossed the Jordan:<sup>27</sup> this is the view of R. Judah. Said R. Nehemia to him; Did God ever<sup>28</sup> punish [all Israel] for crimes committed in secret; does not Scripture say for ever?<sup>29</sup> But just as God did not punish [all Israel] for secret transgressions [at any time], so too did He not punish them [corporately] for open transgressions until they had crossed the Jordan.<sup>30</sup> Then

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(1) I.e., resists, or conquers.

(2) After having been induced to sin.

(3) Cf. e.g. Lev. XVI, 21. Ms. M. omits ‘over it’.]

(4) **יִכְבְּדֵנִי** Ps. L, 23. This is probably deduced from the nun energicum inserted between the suffix and the verbal stem for the sake of emphasis.

(5) Ps. LI, 19.

(6) Ibid.

(7) This and any other sins you may have committed.

- (8) Josh. VII, 19.
- (9) Ibid. 20.
- (10) Ibid. 25.
- (11) I.e., he cannot remember his other sins.
- (12) Everyone would say this in order to clear himself in the eyes of men, and the court would acquire a bad reputation.
- (13) **נָנִי** (I pray thee) in Josh. VII, 19. quoted in the Mishnah.
- (14) Josh. VII, 11.
- (15) Without the testimony of witnesses.
- (16) Surely, a lot is a thing of chance and can in no way be taken as decisive evidence; it might fall on the least likely people.
- (17) Expressed in the word **נָנִי** (I pray thee) in the verse. Hence its meaning of ‘supplication’.
- (18) Num. XXVI, 55.
- (19) Josh. VII, 20.
- (20) Once in the war with the king of Arad, where it is written, And Israel vowed a vow unto the Lord and said . . . then I will utterly destroy their cities (Num. XXI, 2); and a second time in the war between Israel and Sihon, though a ban in that connection is not specifically mentioned, v. J. Sanh. VI, 3.
- (21) I.e., this time.
- (22) I.e., earlier, ‘thus’ and ‘thus’ implying twice apart from this instance.
- (23) In the wars with Arad, Sihon, Og and Midian, (Maharsha and Me’iri).
- (24) This view is based on the number of words in the Hebrew text, five in all.
- (25) Deut. XXIX, 28.
- (26) **לָנוּ וּלְבָנֵינוּ דַע** Fifteen passages in the Bible contain dotted words. Many meanings have been attached to such dots, but the most probable is that they were a device to indicate homiletical explanations which the Rabbis had connected with the words. Cf. C. D. Ginsburg, Introduction to the Massoretic Critical Edition of the Hebrew Bible, p. 331.
- (27) The dots on the words, To us and to our children, denote that corporate responsibility holds good only for revealed or open transgressions, whilst secret offenders have responsibility individually to God alone. But as one might then have inferred that it was so for all time, the **ע** of the word **עַד** (until) is therefore dotted, indicating that it was so only until, i.e., up to the crossing of the Jordan, but not after it, when corporate responsibility was involved also in secret transgressions.
- (28) I.e., even after they crossed the Jordan.
- (29) Translating, To us and our children belong only the revealed or open things; but the secret offender will ‘for ever’ be alone responsible to God, and will not implicate the whole people.
- (30) According to R. Nehemia the absence of corporate responsibility for secret sins, irrespective of peril, is expressly stated in the words for ever. The dot on the **ע** in **עַד** however, indicates a change of responsibility for revealed transgressions in the time they crossed the Jordan.

## Talmud - Mas. Sanhedrin 44a

in the case of Achan, why were they punished? — Because his wife and children knew thereof.<sup>1</sup>

Israel hath sinned. R. Abba b. Zabda said: Even though [the people] have sinned, they are still [called] ‘Israel’.<sup>2</sup> R. Abba said: Thus people say, A myrtle, though it stands among reeds, is still a myrtle, and it is so called.

Yea, they have even transgressed my covenant which I have commanded them, yea, they have even taken of the devoted thing and have also stolen [it], and dissembled also, and they have even put it amongst their own stuff.<sup>3</sup> R. Ile'a said on behalf of R. Judah b. Masparta: This teaches that Achan transgressed the five books of the Torah, [for the word ‘gam’<sup>4</sup> is written there five times].

R. Ile'a also said on behalf of R. Judah b. Masparta; Achan was an epispaetic:<sup>5</sup> Here it is written, They have even transgressed my covenant;<sup>6</sup> and elsewhere<sup>7</sup> it is said, He hath broken my covenant.<sup>8</sup>

But is this not obvious?<sup>9</sup> — I might have thought that he would not practise a licence in respect of a precept which concerned his own body; therefore he (R. Ile'a) informs us otherwise.

And because he hath wrought a wanton deed in Israel.<sup>10</sup> R. Abba b. Zabda said; This teaches that Achan committed adultery with a betrothed damsel: Here it is written, And because he hath wrought a wanton deed in Israel, and elsewhere, it is said, For she hath wrought a wanton deed in Israel.<sup>11</sup> But is this not obvious?<sup>12</sup> — I might have thought that Achan was not so extremely licentious;<sup>13</sup> therefore he gives us this information.<sup>14</sup> Rabina said: He was punished as is a betrothed damsel [who commits adultery], viz., by stoning.<sup>15</sup>

The Resh Galutha once said to R. Huna; It is written, And Joshua took Achan the son of Zerah and the silver and the mantle and the wedge of gold and his sons and his daughters, and his oxen and his asses, and sheep, and his tent and all that he had.<sup>16</sup> If he sinned, wherein did his sons and daughters sin? — He retorted: On your view, [one might ask:] If he sinned, how did all Israel sin, that it is written, And all Israel with him?<sup>17</sup> But it was to overawe<sup>18</sup> them. So here too, it was to overawe them.<sup>19</sup>

And they burned them with fire and they stoned them with stones.<sup>20</sup> By both [forms of death]?<sup>21</sup> — Rabina answered: Those suitable for burning<sup>22</sup> were burned, and those suitable for stoning<sup>23</sup> were stoned.

And I saw among the spoil a goodly mantle of Shinar,<sup>24</sup> and two hundred shekels of silver.<sup>25</sup> Rab said: It was a silk mantle;<sup>26</sup> Samuel maintained: It was a cloak dyed with alum.

And they laid them down<sup>27</sup> before the Lord.<sup>28</sup> R. Nahman said: He [Joshua] came and cast them down before God, exclaiming, 'Sovereign of the Universe! for these shall a [number equal to a] majority of the Sanhedrin he killed?'<sup>29</sup> For it is written, And the men of Ai smote of them about thirty-six men;<sup>30</sup> regarding which it was taught, i.e., literally thirty-six: this is R. Judah's view. R. Nehemia said to him; Were there actually thirty-six? Surely, only about thirty-six men is written. But this refers to Jair the son of Manasseh<sup>31</sup> who was equal [in importance] to the majority of the Sanhedrin.<sup>32</sup> R. Nahman said in Rab's name: What is meant by, The poor useth entreaties, but the rich answereth insolently?<sup>33</sup> — The poor useth entreaties — that refers to Moses;<sup>34</sup> the rich answereth insolently, — to Joshua. Why so? Shall we say, because it is written. And they laid them down before the Lord,<sup>35</sup> which R. Nahman interpreted, He came and cast them down before God,<sup>36</sup> But did not Phinehas do the same? For it is written, Then stood up Phinehas and wrought judgment [wa-yefalle] and so the plague was stayed:<sup>37</sup> whereon R. Eleazar said: Not wayithpallel,<sup>38</sup> but wa-yefallel is written;<sup>39</sup> thus teaching that he had contentions with his Creator: he came and cast them<sup>40</sup> before God and cried out, 'Sovereign of the Universe! because of these, shall twenty-four thousand of Israel fall?' As it is written, And those that died by the plague, were twenty and four thousand?<sup>41</sup> — Nay it is inferred<sup>42</sup> from the following: [And Joshua said, Alas! O Lord,] wherefore hast Thou brought this people over the Jordan.<sup>43</sup> Yet Moses too spake thus: Wherefore hast thou dealt ill with this people?<sup>44</sup> — Nay but it is derived from the following: Would that we had been content and dwelt beyond the Jordan.<sup>45</sup>

And the Lord said unto Joshua, Get thee up.<sup>46</sup> R. Shila expounded this: The Holy One blessed be He, said to him: Thy [transgression] is greater<sup>47</sup> than theirs,<sup>48</sup> for I commanded, And it shall be when ye are passed over the Jordan that ye shall set up [these stones];<sup>49</sup> ye advanced sixty mils however, [into the country before setting them up].<sup>50</sup> But when he [R. Shila] had gone out, Rab<sup>51</sup> set up his interpreter to speak for him, who expounded; As the Lord commanded Moses His servant, so did Moses command Joshua, and so did Joshua; he left nothing undone of all that the Lord commanded Moses.<sup>52</sup> What then do the words, Get thee up,<sup>53</sup> teach us? — The Lord said to him, Thou hast brought [guilt] upon them:<sup>54</sup> and for that reason He said to him with reference to Ai: And thou shalt

do to Ai and her king as thou didst to Jericho and her king, [only the spoil thereof and the cattle thereof shall ye take for a prey.]<sup>55</sup>

And it came to pass when Joshua was by Jericho that he lifted up his eyes and looked . . . And he said, Nay, but I am captain of the host of the Lord, I am now come. And Joshua fell on his face to the earth and bowed down.<sup>56</sup> But how could he do so?<sup>57</sup> Did not R. Johanan say: One may not greet his fellow at night for fear that he may be a demon?<sup>58</sup> There it was different, for he said; I am captain of the host of the Lord, I am now come, etc. But perhaps he lied? — We have a tradition that such do not utter the name of God in vain.

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(1) It was therefore no longer secret.

(2) Israel is the name of honour for the people when faithful to God. Cf. Isa. XLIX, 3.

(3) Josh. VII, 11.

(4) Also, or even. [Ms. M. omits bracketed words. The inference that he transgressed the five books will then be deduced from the verse itself: my covenant, referring in Genesis (XVIII); taken of the devoted thing, to Leviticus (XXVIII, 28); stolen, to Exodus (XX, 15); dissembled, to Numbers (V, 5-10); put it amongst their own stuff, to Deuteronomy (XXIII, 25), v. Yad Ramah.]

(5) I.e., he effaced the sign of the Abrahamic covenant in circumcision.

(6) Josh. VII, 11.

(7) With reference to circumcision.

(8) Gen. XVII, 14. Hence covenant' is assumed to have the same meaning in both verses.

(9) Seeing that R. Ile'a himself said earlier that he had transgressed the five books of the Torah; that includes epispasm.

(10) Josh. VII, 19.

(11) Deut. XXII, 21; this refers to a betrothed maiden who committed adultery.

(12) V. n. 8.

(13) As to make himself despised by men also, for having brought shame (in her family, and having made her ineligible to marry her intended husband.

(14) This was probably intended to teach that there is no limit to licentiousness once a man breaks loose from restraint.

(15) He should legally have been burned for taking of the things under the ban. cf. Josh. VII, 15: He that is taken with the devoted things shall be burned with fire.

(16) Ibid. 24.

(17) Ibid.

(18) Lit., 'chastise'. I.e., all Israel were taken to the place of execution to be overawed by his punishment.

(19) Thus, his family was brought there merely to witness the execution.

(20) Ibid. 25.

(21) Surely they were not executed twice!

(22) The inanimate property.

(23) The livestock.

(24) Babylon. Cf. Gen X, 10; XI, 2.

(25) Josh. VII, 21.

(26) Rashi: Woollen.

(27) Lit., 'poured out'.

(28) Ibid. 23.

(29) I.e., of the great Sanhedrin of seventy one.

(30) Ibid. verse 5.

(31) A contemporary of Moses and a descendant of Manasseh by his grandmother and of Judah by his grandfather. His grandmother was probably an heiress and therefore he is reckoned by the tribe of Manasseh (I Ch. II, 5, 22, 23)

(32) The Heb. is כשלשים, and the כ is translated as a kaf similitatis, 'like,' i.e., one man who was like thirty-six

(33) Prov. XVIII, 23.

(34) Who, when imploring God's mercy for the people, spake humbly. The term 'poor' which is used of Moses in this instance is attributed to the fact that in comparison with Joshua, he was poor in the conquest of the land (Maharsha).

(35) Josh. VII, 23.



- (36) Meaning that Joshua threw them down in a challenging or insolent way.
- (37) Ps. CVI, 30.
- (38) וִיתַפֵּל, 'he interceded', 'prayed'.
- (39) וַיִּפְלֵל, 'he judged'.
- (40) Zimri and Cozbi. Cf. Num. XXV, 7ff.
- (41) Num. XXV, 9.
- (42) That Joshua spoke insolently.
- (43) Josh. VII, 7.
- (44) Ex. V, 22.
- (45) Josh. VII, 7.
- (46) Ibid. 10.
- (47) Lit., 'harder'.
- (48) Deduced from the redundant תָּךְ 'thee', i.e., it is on thy account too that this disaster has happened. 'Theirs' probably refers to Achan's sin.
- (49) Deut. XXVII, 4.
- (50) The distance between the Jordan and the mountains of Gerizim and Ebal, where the stones were set up, is sixty miles. V. Sotah. 36a.
- (51) [Rab was then still in Nehardea, the place of R. Shila.]
- (52) Josh. XI, 15. I.e., Joshua did not sin as suggested above.
- (53) V. p. 288, n. 16.
- (54) By forbidding them the spoil of Jericho.
- (55) Josh. VIII, 2, thus expressly ordering him not to proclaim a ban.
- (56) Josh. V, 13-14. The fact that, as his question implies, he could not distinguish who the other was, shows that it was night time.
- (57) I.e., bow to an unknown man.
- (58) The customary greeting of Shalom (peace) is held in equal esteem with the name of God (v. Shab. 10b), and therefore may not be extended to a demon; whilst bowing to a demon is most certainly forbidden.

## Talmud - Mas. Sanhedrin 44b

He [this stranger] said to him: 'Yesterday evening, ye omitted the evening Tamid,<sup>1</sup> and to-day<sup>2</sup> ye have neglected the study of the Torah.'<sup>3</sup> 'For which of these [offences] hast thou come?' 'I have now come,'<sup>4</sup> he replied. Straightway [we read], And Joshua lodged that night in the midst of the vale'.<sup>5</sup> Whereon R. Johanan observed: It teaches that he spent the night in the profundities<sup>6</sup> of the law.

R. Samuel b. Unia said in the name of Rab: The study of the Torah is more important than the offering of the Tamid, since it is written, I have now come.<sup>7</sup>

Abaye asked R. Dimi.<sup>8</sup> To what do ye in 'the West' relate the following verse: Go not forth hastily to strife, for what wilt thou do in the end thereof when thy neighbour hath put thee to shame. Debate thy cause with thy neighbour, but reveal not the secrets of another?<sup>9</sup> — [He answered]: When the Holy One, blessed be He, said to Ezekiel, Go and say unto Israel, An Amorite was thy father, and thy mother was a Hittite,<sup>10</sup> the intercessory<sup>11</sup> spirit said before the Holy One, blessed be He, 'Sovereign of the Universe! if Abraham and Sarah came and stood before Thee, wouldst Thou say [this] to them and put them to shame?' Debate thy cause with thy neighbour,<sup>12</sup> but reveal not the secret of another!<sup>13</sup> But has he so much license?<sup>14</sup> — Yes, For R. Jose son of R. Hanina said: He has three names: Pisakon, Itamon, and Sigaron.<sup>15</sup> Pisakon, because he argues against the Most High;<sup>16</sup> Itamon, because he hides the sins of Israel, Sigaron, because when he concludes<sup>17</sup> a matter, none can reopen it.<sup>18</sup> Hadst thou prepared thy prayer before thy trouble came?<sup>19</sup> R. Eleazar said: One should always offer up prayer before misfortune comes; for had not Abraham anticipated trouble by prayer between Beth-el and Ai,<sup>20</sup> there would not have remained of Israel's sinners a remnant or a survivor.<sup>21</sup> Resh Lakish said: He who devotes his strength to prayer<sup>22</sup> below,<sup>23</sup> has no enemies [to

overcome] above.<sup>24</sup> R. Johanan said: One should ever implore mercy that all [sc. Heavenly beings] may support his effort [in prayer] so that he may have no enemies on high.<sup>25</sup>

AND WHENCE DO WE KNOW THAT HIS CONFESSIONS MADE ATONEMENT FOR HIM etc. Our Rabbis taught: Whence do we know that his confessions made atonement for him? — From the verse, And Joshua said unto him, Why hast thou troubled us, the Lord shall trouble thee this day: [implying] this day art thou troubled, but thou shalt not be troubled in the next world. And again it is written, And the sons of Zerah: Zimri,<sup>26</sup> and Ethan and Heman and Calcol and Darda,<sup>27</sup> five of them in all.<sup>28</sup> Why the phrase: five of them in all?<sup>29</sup> — Because all five were equally destined for the world to come. Here he is called Zimri, but elsewhere, Achan.<sup>30</sup> Rab and Samuel [differ thereon]: One maintains his real name was Achan; and why was he called Zimri? — Because he acted like Zimri.<sup>31</sup> The other maintains, His real name was Zimri; and why was he called Achan? — Because he wound the sins of Israel about them like a serpent.<sup>32</sup>

AND IF HE KNOWS NOT WHAT TO CONFESS . . . R. JUDAH SAID . . . TO CLEAR HIMSELF. Why not let them clear themselves? — In order that they may not bring discredit upon the Court and the witnesses.

Our Rabbis taught: It happened once that a man who was being taken to be executed said: 'If I am guilty of this sin, may my death not atone for any of my sins; but if I am innocent thereof, may my death expiate all my sins. The court and all Israel are guiltless, but may the witnesses never be forgiven.' Now, when the Sages heard of the matter they said: It is impossible to reverse the decision, since the sentence has been promulgated. He must therefore be executed, and may the chain [of responsibility] ever hang on the neck of the witnesses. But is he to be relied on?<sup>33</sup> — This holds good only where the witnesses have retracted.<sup>34</sup> But even so, of what consequence is it? Once a witness testified — he cannot testify again!<sup>35</sup> It is necessary [to state this] even where they [the witnesses] give a reason for their action,<sup>36</sup> as happened in the case of Ba'ya<sup>37</sup> the tax-collector. MISHNAH. WHEN HE IS ABOUT FOUR CUBITS DISTANT FROM THE PLACE OF STONING, HE IS STRIPPED OF HIS GARMENTS.<sup>38</sup> A MAN IS COVERED IN FRONT AND A WOMAN BOTH IN FRONT AND BEHIND: THIS IS R. JUDAH'S VIEW. BUT THE SAGES SAY: A MAN IS TO BE STONED NAKED BUT A WOMAN IS NOT TO BE STONED NAKED.

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(1) The daily burnt offerings, one of which was sacrificed every morning, and one towards evening. Cf. Num. XXVIII, 3.

(2) Lit., 'now'.

(3) The conversation took place during the night when fighting was at a standstill and they should have been studying the land.

(4) I.e., I have come to you for the present offence.

(5) The ordinary text reads: among the people instead of: in the midst of the vale. Again, verse 13 of the same chapter in which we do find, in the midst of the vale, begins with, And Joshua went, instead of, And Joshua lodged. It is probable that the Rabbis combined the two verses for the purpose of their exegesis, which is not unusual with them. Cf. Tosaf. Meg. 3a. s.v. **וַיֵּן**; Shabb. 128a s.v. **וַנֵּן**. In a parallel passage in 'Er. 63b, the verse quoted conforms to the Biblical text: And Joshua went, and the text further reads: He went into the depths of the study of the law. Bah mentions another version which reads as follows: And Joshua lodged that night amongst the people; further it is written, into the midst of the vale, — this teaches that he went and spent that night in the depths of the study of the law. V.D.S. a.l.

(6) **עמק** means 'valley', as well as 'deep' or 'depth'.

(7) I.e., to reprimand you, not on account of the Tamid, but for the present offence, neglecting the study of the law.

(8) R. Dimi often carried Palestine exegesis to the Babylonian schools.

(9) Prov. XXV, 8-9.

(10) Ezek. XVI, 3.

(11) **פסקונית** lit., 'an arguing spirit, — an additional name of the Angel Gabriel, who always interceded on behalf of Israel. V. however p. 99, n. 6.

- (12) I.e., reproach him alone.
- (13) Do not take up another's shame.
- (14) To reproach God so freely!
- (15) **פִּיִּסְקוֹן** from **פָּסַק** 'to split'; **אִיִּטְמוֹן** from **אָטַם** 'to lock'; and **סִיגְרוֹן** from **סָגַר** 'to close'. So at least according to the Talmudic interpretation which follows.
- (16) Lit., 'he splits words upwards.'
- (17) I.e., when his words are of no effect.
- (18) No others can successfully intercede. Kohut suggests that they are of Arabic origin. **פִּיִּסְקוֹן** denoting shame; **אִיִּטְמוֹן**, sin, and **סִיגְרוֹן**, pain, an angel being in charge of each of these three things. Hence in his opinion, **פִּיִּסְקוֹן** does not denote Gabriel but the Spirit of Shame. V. 'Aruch Completum, vol. I, p. 63.
- (19) **הִיעָרוֹךְ שׁוֹעַד לֹא בָצַר** Job XXXVI, 19 (E.V.: Will thy riches avail that are without stint.) **עָרַךְ** means 'to prepare', as well as 'to estimate'; **שׁוֹעַ** means 'prayer,' or 'wealth'.
- (20) Cf. Gen. XII, 8: He pitched his tent, having Beth-el on his west, and Ai on the east, and he builded an altar to the Lord and called upon the name of the Lord.
- (21) At the Battle of Ai in the days of Joshua.
- (22) Lit., 'who strengthens himself in prayer.'
- (23) I.e., on earth.
- (24) Translating: 'Hadst thou put forth thy prayer (with strength), thou wouldst have had no adversary (above).'
- (25) Translating somewhat similarly: 'When thou canst prepare thy prayer, see that thou hast no enemies (on high, to urge its rejection).'
- (26) According to the Rabbis, he is identical with Achan. Although the latter was a great grandson of Zerah, he is called the son of Zerah in Josh. VII, 24. The four other sons are referred to in I Kings (V, 11) as great men, and the fact that Achan (Zimri) is associated with them is taken as an indication that his confession helped him to enter the world to come in common with the others.
- (27) Dara, in I Chron II, 6.
- (28) I Chron. II, 6.
- (29) Surely the number is obvious and needs no special mention! Therefore it has some other meaning.
- (30) Cf. Josh. VII, 24.
- (31) I.e., he was licentious. Cf. Num. XXV, 14, and supra 44a.
- (32) Cf. Gr. \*\*.
- (33) I.e., is his statement so trustworthy that responsibility may be thrust upon the witnesses? — Such would seem to have been the text before Rashi, v. D.S. a.l. Our reading is: But that is obvious, (for) is he then the sole authority! I.e., why state that the Rabbis did not reverse the sentence! Is he then to have his own way entirely so that we should disbelieve the witnesses.
- (34) After the sentence had been promulgated.
- (35) Witnesses are not permitted to retract their first statement and make another, since they may have been prompted thereto out of pity for the accused.
- (36) In withdrawing their previous statement. E.g., when they say that they have previously testified against him out of hatred. In this case, though the execution is carried out, the witnesses bear responsibility.
- (37) According to Kohut 'Aruch Completum, vol II, p. 140, Ba'ya is derived from the Arabic, meaning an informer. In the case in question he had denounced the tax defaulters in the Government, an act which, of course, aroused the enmity of the people. According in Rashi, the subject matter of the text is connected with this name as follows: The funeral of the said collector coincided with that of a very pious man, but accidentally the coffins were exchanged, so that the honour intended for the Rabbi was paid to the other, and vice versa. An explanation of the happening was given by the Rabbi in a dream to one of his pupils who was disturbed at the occurrence, and he also informed him that severe punishment was in store for Simeon b. Shetah in the world to come for the neglect of his duty in tolerating eighty women in Ashkelon guilty of sorcery. Simeon, on being informed about it, took a serious view of the matter and had them executed. The relatives of these women, however, inflamed with a passion for revenge, plotted against his son, charging him with a capital crime, as a result of which he was sentenced to death. On his way to the place of execution the condemned man protested his innocence so vehemently that even the witnesses were moved to admit the falsity of their evidence, giving as ground for their former act their feelings of enmity against Simeon b. Shetah. Yet their latter statement was not accepted, according to the law expounded in the text, that a witness is not to be believed when be

withdraws a former statement. The source for Rashi's story is found in J. Sanh. VI, 3; 6, and in J. Hag. II, 2, with slight variations.

(38) In order to hasten his death and lessen the pain (Maim.). The Talmud, however, bases it on Scripture.

## Talmud - Mas. Sanhedrin 45a

GEMARA. Our Rabbis taught: One part of a man was covered, [viz.,] in front and two parts of a woman, [viz.,] in front and behind, because she is wholly shameful [when naked]: this is R. Judah's opinion. The Sages said: A man is stoned naked, but not a woman, What is the Rabbis' reason? — Scripture states, And they shall stone otho [him]. Why state 'otho'?<sup>1</sup> Shall we say, 'otho' but not 'othah,' [her]? but it is written, Then shalt thou bring forth that man or that woman!<sup>2</sup> What then is the significance of 'otho'. — That only he<sup>3</sup> [is stoned] without his garments, but she<sup>4</sup> is stoned in her clothes.

R. Judah<sup>5</sup> said: 'Otho' implies without clothes, and there is no distinction of sex.<sup>6</sup> Are we to assume that the Rabbis are apprehensive of unchaste thoughts, and that R. Judah is not? But we know in fact that they both hold the reverse, for we learnt:<sup>7</sup> The Priest seizes her garments,<sup>8</sup> it does not matter if they are rent or torn open, until he uncovers her bosom and unloosens her hair. R. Judah said: If her bosom was beautiful, he did not expose it, and if her hair was comely, he did not loosen it,<sup>9</sup> Rabbah said: In the other case, this was the reason: lest she should come forth from the Beth din innocent and the young priests conceive a passion for her; but here, she is about to be executed! And should you object, But through her their passions might be inflamed for others, Rabbah said: We have it on tradition that evil inclination moves a man only towards what his eyes see.

Raba said: Is there only an inconsistency between R. Judah's two statements and not between those of the Rabbis?<sup>10</sup> — But, said Raba, R. Judah's two statements are not contradictory, even as we have solved the difficulty. And the Rabbis' views are also not opposed: Scripture says, That all women may be warned and not to do after your lewdness:<sup>11</sup> but here, no greater warning is possible than this [sc. the execution].<sup>12</sup> And should you say, Let us wreak both<sup>13</sup> upon her, behold R. Nahman said in Rabbah b. Abbahu's name: Scripture says Love thy neighbour as thyself:<sup>14</sup> choose an easy death for him.<sup>15</sup>

Shall we say that R. Nahman's statement is the subject of a conflict between Tannaim?<sup>16</sup> — No: all agree with R. Nahman, but they differ on the following point: One Master<sup>17</sup> holds that [the avoidance of] personal humiliation is far preferable to lack of bodily pain,<sup>18</sup> and the other holds the reverse.

MISHNAH. THE PLACE OF STONING WAS TWICE A MAN'S HEIGHT.<sup>19</sup> ONE OF THE WITNESSES PUSHED HIM BY THE HIPS, [SO THAT] HE WAS OVERTURNED ON HIS HEART. HE WAS THEN TURNED ON HIS BACK.<sup>20</sup> IF THAT CAUSED HIS DEATH, HE HAD FULFILLED [HIS DUTY];<sup>21</sup> BUT IF NOT, THE SECOND WITNESS<sup>22</sup> TOOK THE STONE<sup>23</sup> AND THREW<sup>24</sup> IT ON HIS CHEST. IF HE DIED THEREBY, HE<sup>25</sup> HAD DONE [HIS DUTY]; BUT IF NOT, HE [THE CRIMINAL] WAS STONED BY ALL ISRAEL,<sup>26</sup> FOR IT IS WRITTEN: THE HAND OF THE WITNESSES SHALL BE FIRST UPON HIM TO PUT HIM TO DEATH, AND AFTERWARDS THE HAND OF ALL THE PEOPLE.<sup>27</sup>

GEMARA. A Tanna taught: And with his own height,<sup>28</sup> there were three [men's heights] in all. Yet do we really require so much height?<sup>29</sup> For the following contradicts it: 'Just as a pit to be reckoned as causing death must be ten handbreadths [deep],<sup>30</sup> so must all other [excavations] be sufficient to cause death, viz., ten handbreadths'<sup>31</sup> — R. Nahman said in Rabbah b. Abbahu's name: Scripture states, Love thy neighbour as thyself;<sup>32</sup> i.e., choose an easy<sup>33</sup> death for him. But if so, it [sc. the place of stoning] should be still higher! — [That, however, is not so] to prevent

disfiguration.<sup>34</sup>

ONE OF THE WITNESSES PUSHED HIM: Our Rabbis taught: Whence do we know that it [the execution]<sup>35</sup> was accomplished by hurling down?<sup>36</sup> — Scripture states, And he shall be cast down.<sup>37</sup> And whence the necessity of stoning? — Scripture states, He shall be stoned.<sup>38</sup> And whence do we know that both stoning and hurling down [were employed]?<sup>39</sup> — From the verse, he shall surely be stoned or thrown down.<sup>40</sup> And whence do we know that if he died through being hurled down, it is enough? — Scripture states, or cast down.<sup>41</sup> Whence do we know the same procedure is to be followed for [all subsequent] generations?

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- (1) In a separate pronoun, instead of using the pronominal suffix.
  - (2) Deut. XVII, 5, with reference to idolatry which is punishable by sinning.
  - (3) I.e., a man.
  - (4) I.e., a woman.
  - (5) Who requires only partial covering of a woman.
  - (6) Since 'Otho' serves for one exclusion, that of clothes — it cannot serve as excluding women from that requirement, v. supra 43a.
  - (7) Sotah 8a.
  - (8) In connection with the procedure for a woman suspected of infidelity (sotah). Cf. Num.V, 11ff.
  - (9) Hence it is R. Judah and not the Rabbis who are apprehensive that the sight of her may incite to unchaste thought.
  - (10) For Rabbah's distinction only reconciled R. Judah's two views, but left the difficulty of the Rabbis' views untouched.
  - (11) Ezek. XXIII, 48. The procedure with the Sotah therefore was only instituted as a deterrent.
  - (12) Hence there is on need to add humiliation.
  - (13) Humiliation and stoning.
  - (14) Lev. XIX, 18.
  - (15) One entailing as little humiliation as possible.
  - (16) R. Judah and the Sages, inasmuch as the former, by requiring only partial covering of the woman and so enhancing her humiliation, does not seem to be of that opinion.
  - (17) I.e., the Sages.
  - (18) Lit., 'bodily ease'. Though being clothed delays death and increases pain, yet the humiliation of nakedness is harder to bear.
  - (19) I.e., six cubits, the normal height of man to the shoulders being three cubits,
  - (20) To see whether the drop brought his death forthwith. [So Abraham de Botton on Maim. Yad, Sanh. XV, 1. Rashi explains: Because it is degrading (for the dead) to be on the face, v. Tosaf. Yom. Tob. The rendering could accordingly be: One of the witnesses pushed him down on the hips. If (however) he overturned (i.e., fell) on his heart, he was turned on his back, v. Hoffmann.]
  - (21) I.e., the witness, the obligation of execution lying primarily upon him.
  - (22) According to the Naples ed. he himself takes etc. and only if that failed to cause death did the second witness take part.
  - (23) 'The' stone, because it was prepared beforehand. This was a very heavy stone, which it required two men to lift.
  - (24) Lit., 'placed'.
  - (25) Sc., the second witness.
  - (26) I.e., all the bystanders.
  - (27) Deut. XVII, 7.
  - (28) He was pushed down from a standing position.
  - (29) To cause instant death.
  - (30) Cf. M. B.K. 50b.
  - (31) Why is the height of three men required in this case?
  - (32) Lev. XIX, 18.
  - (33) I.e., a quick death.
  - (34) A fall from a greater height would unnecessarily disfigure the body.

(35) Of those who approached Mt. Sinai, Ex. XIX, 12ff.

(36) In Scripture stoning is first mentioned, as that was the means of bringing about the actual death. Here hurling down is dealt with first as that is preliminary to the other.

(37) Ex. XIX, 13.

(38) Ibid; cf. Deut. XXII, 24, where stones are expressly mentioned in connection with 'stoning',

(39) In case death did not result from the hurling down alone.

(40) Ibid.

(41) Because if stoning were always necessary in addition to the hurling down, even when the latter alone had caused death, why state or cast down?

## Talmud - Mas. Sanhedrin 45b

— Because Scripture states, He shall surely be stoned.<sup>1</sup>

BUT IF NOT, THE SECOND WITNESS TOOK THE STONE. HE TOOK'?<sup>2</sup> But has it not been taught: R. Simeon b. Eleazar says: 'A stone was there which it took two men to lift, — he lifted that and dropped it on his [the victim's] chest; if it killed him, his duty was fulfilled'?<sup>3</sup> But on your reasoning, that itself is inconsistent! That 'which it took two men to lift' — 'he lifted that and dropped it on his chest!' But it must mean that he lifts it up together with his fellow witness, but drops it [down] by himself in order that it may come down with force.<sup>4</sup> BUT IF NOT, HE WAS STONED BY ALL ISRAEL, etc. But has it not been taught: It [the stoning] was never actually repeated?<sup>5</sup> — Do I then say that it was done? I merely state what might be necessary!

The Master said: 'A stone was there etc.'<sup>6</sup> But has it not been taught: 'The stone with which he [the condemned] was stoned, the gallows on which he was hanged, the sword with which he was beheaded, or the cloth with which he was strangled, are all buried with him'?<sup>7</sup> — It merely means that others were prepared and brought in their place.<sup>8</sup> 'They are all buried with him.' Surely it has been taught: They are not buried with him!<sup>9</sup> — R. Papa explained: What is meant by 'with him?' In the earth surrounding his corpse.<sup>10</sup>

Samuel said: If the hand[s] of the witnesses were cut off,<sup>11</sup> he [the condemned] goes free. Why so? — Because it is necessary that The hand of the witnesses shall be first upon him,<sup>12</sup> which is here impossible. But according to this, if they were without hands from the outset,<sup>13</sup> are they also ineligible?<sup>14</sup> — There<sup>15</sup> it is different, for Scripture states, The hand of the witnesses, implying, the hand which they had previously possessed.<sup>16</sup>

An objection is raised; 'Wherever two witnesses testify, saying, We testify against so and so<sup>17</sup> that he was sentenced by such and such a court, and so and so are his witnesses, he is to be executed'.<sup>18</sup> — Samuel explained this as referring to a case where the same were also the original witnesses.<sup>19</sup> But must [every] verse be [carried out] as written? Has it not been taught: 'He that smote him shall surely be put to death, he is a murderer'?<sup>20</sup> I only know that he may be executed with the death that is decreed for him.<sup>21</sup> But where it is not possible to execute him in the manner prescribed,<sup>22</sup> whence do I know that one may execute him by any means possible? From the verse: He that smote him shall surely be put to death, — in all cases'?<sup>23</sup> — There it is different, for Scripture says, He shall surely be put to death.<sup>24</sup> Then let us draw an inference from it.<sup>25</sup> — Because the references to a murderer, and the 'avenger of blood' are two verses written with the same object, and the teaching of two such verses does not extend to anything else.<sup>26</sup> 'A murderer', as has just been stated. And what is the reference to the 'avenger of blood'? — It has been taught: The avenger of blood shall himself put the murderer to death;<sup>27</sup> it is [primarily] the duty of the avenger of blood [to slay the murderer]. And whence do we know that, if he [the murdered man] has no avenger of blood,<sup>28</sup> the Beth din must appoint one?<sup>29</sup> — From the verse, When he meeteth him,<sup>30</sup> i.e., in all cases.<sup>31</sup>

Mar Kashisha, the son of R. Hisda, said to R. Ashi: But are we really not to interpret the verse literally? Have we not learnt: If either of them<sup>32</sup> has a hand or fingers cut off, or is dumb, lame, blind, or deaf, he does not become a 'stubborn and rebellious son';<sup>33</sup> because it is written, And they shall lay hold on him,<sup>34</sup> — this excludes those with hands or fingers cut off; and they shall bring him out, so excluding lame [parents]; and they shall say, excluding the dumb; this our son,<sup>35</sup> excluding the blind; he will not obey our voice, excluding the deaf.<sup>36</sup> Why so? Surely because a verse must be literally interpreted! — No. There it is different, because the entire verse is superfluous.<sup>37</sup>

Come and hear! If it [the city] has no 'public square',<sup>38</sup> it cannot become a condemned city: this is R. Ishmael's view. R. Akiba said: If it has no public square, one is made for it.<sup>39</sup> Now, they differ only in that one holds that 'the public square thereof'<sup>40</sup> implies, that it must have been there from the outset [i.e., before sentence]; and the other holds that 'the public square thereof', even if it has only now [sc. after sentence] become one, is to be regarded as though it had been one originally. Yet both agree that the verse must be interpreted literally! — It is a point of difference between Tannaim, for we learnt:<sup>41</sup> If he has no thumb or great toe or right ear, he can never obtain cleansing. R. Eliezer said: He [the priest] applies it [the blood] on the corresponding place, and his duty is discharged. R. Simeon said: He applies it on the left side and his duty is discharged.<sup>42</sup>

MISHNAH. ALL WHO ARE STONED ARE [AFTERWARDS] HANGED: THIS IS R. ELIEZER'S VIEW, THE SAGES SAY: ONLY THE BLASPHEMER AND THE IDOLATER ARE HANGED. A MAN IS HANGED WITH HIS FACE TOWARDS THE SPECTATORS, BUT A WOMAN WITH HER FACE TOWARDS THE GALLOWS: THIS IS THE VIEW OF R. ELIEZER. BUT THE SAGES SAY: A MAN IS HANGED, BUT NOT A WOMAN. WHEREUPON R. ELIEZER SAID TO THEM: BUT DID NOT SIMEON B. SHETAH HANG WOMEN AT ASHKELON?<sup>43</sup> THEY RETORTED: [ON THAT OCCASION] HE HANGED EIGHTY WOMEN, NOTWITHSTANDING THAT TWO [MALEFACTORS] MUST NOT BE TRIED ON THE SAME DAY.<sup>44</sup>

GEMARA. Our Rabbis taught: [Scripture states,] And if he be put to death, then thou shalt hang him on a tree:<sup>45</sup> I might think that all who are put to death are to be hanged: therefore Scripture states, For he is hanged [because of] a curse against God.<sup>46</sup> Just as the blasphemer in question is executed by stoning, so all who are stoned [must be subsequently hanged]: this is R. Eliezer's view. But the Sages say: Just as the blasphemer in question denied the fundamental principle [of faith].<sup>47</sup> So all who deny the fundamental principle [of faith].<sup>48</sup> Wherein do they differ?<sup>49</sup> — The Rabbis<sup>50</sup> employ [the rule of] the general and the particular; whilst R. Eliezer employs [the rule of] extension and limitation.<sup>51</sup> 'The Rabbis employ [the rule of] the general and the particular.' [Thus:] And if he be put to death then thou shalt hang him, is a general proposition; for he is hanged [because of] a curse against God is the particular. Now, had these two clauses been placed beside each other,<sup>52</sup> we should have said, the general includes nothing [but] the particular, i.e., only this man<sup>53</sup> and no one else.

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(1) In the future tense. [Ms. M. adds 'or he shall surely be thrown down.']

(2) Was it done by one man alone?

(3) Obviously two people were required to handle it.

(4) Because if two threw it they might not both follow exactly the same direction with a consequent loss of force.

(5) Death having always resulted from the first operation.

(6) Implying that the same stone was regularly employed for stoning.

(7) A.Z. 62b.

(8) I.e., that a stone was lying there in readiness, and not brought just at the moment when it was needed.

(9) Tosef. Sanh. IX.

(10) Which comes to be regarded as part of the body and must be carried with it when moved. Cf. Nazir 64b.

(11) After they testified.

- (12) Deut. XVII, 7.
- (13) Before they testified.
- (14) Seeing that the injunction in Deut. XVII, 7 cannot in their case be applicable.
- (15) In the case dealt with by Samuel.
- (16) But if they lack hands at the outset they are eligible to testify.
- (17) If the condemned person escaped and was recaptured (Mak. 7a).
- (18) Even in the absence of the original witnesses. This proves that the injunction in Deut. XVII, 7 is not indispensably essential, but only desirable when possible.
- (19) Hence the injunction can be carried out.
- (20) Num. XXXV, 21,
- (21) I.e., decapitation by the sword.
- (22) E.g., if he fled, but could be reached by an arrow (Rashi on 72b).
- (23) Infra 53a; 72b. Hence it is not necessary to understand the verse literally.
- (24) **מוֹת יוֹמָת**. The infinitive strengthens the idea of the verb and denotes an inclusion of other modes of execution if necessary.
- (25) That just as there, where he should be decapitated, he is nevertheless executed by any means possible, so here too, where he should be hurled down by the hands of the witnesses, he is still to be executed even if their hands have been cut off.
- (26) V. p. 458, n. 9.
- (27) Num. XXXV, 19, referring to wilful murder. Rashi's interpretation that it refers to accidental homicide where the murderer was found outside the city of refuge is difficult. V. Mishneh Lemelek on Yad, Rozeah I, 2.
- (28) A near kinsman, upon whom devolves the duty of hunting down a murderer to death.
- (29) I.e., the Court is always responsible for prosecuting the murderer, whether there is a relative or not.
- (30) Ibid.
- (31) Thus this verse too shows that the provisions of an avenging kinsman are not limited to the precise statement of the Bible,
- (32) The parents of a 'stubborn and rebellious son'; Deut, XXI, 18ff.
- (33) So the law concerning such is not operative.
- (34) Ibid, 19.
- (35) Showing that they must point him out.
- (36) Who are unable to bear his reply to their orders. V. infra 71a.
- (37) It could have been written thus: 'And they shall bring him unto the elders of his city, and all the men shall stone him with stones,' as is usual with other cases punishable by stoning, without repeating the indictment. Therefore that verse must certainly be understood literally; but it does not prove that all verses are to be understood exactly as they are written.
- (38) Cf. Deut, XIII, 17: And thou shalt gather all the spoil of it into the midst of the public square thereof.
- (39) Infra 112a,
- (40) Cf. n. 5.
- (41) Nazir 46b, with reference to the purification of a leper. Cf. Lev, XIV, 14:
- (42) I.e., the leper becomes clean, This proves that in the opinion of R. Eliezer and R. Simeon a verse need not be understood literally, whilst the first Tanna maintains that it must be so interpreted. Hence Samuel agrees with the latter.
- (43) Though this southern coastal city was never for any length of time populated by Jews, a fact which makes such an execution most unusual, it was twice surrendered to Jonathan the Maccabee (cf. Mace. X, 36; XI, 60) and later to Alexander Jannaeus (Simeon's brother-in-law). It is therefore not improbable that Jews made their home there, despite the view of Schurer. [V. Klausner, **היסטוריה ישראלית** II, 134. Derenbourg, however, op. cit., p. 69, n. 1, maintains that Simeon Maccabeus has been here confused with Simeon b. Shetah, as it was only in the days of the former that Ashkelon had a large Jewish population, and it is also known from other sources that he visited Ashkelon several times.]
- (44) Hence this occurrence cannot be brought forward as a valid precedent, owing to its extraordinary nature. Witchcraft amongst Jewish women prevailed at that time to an alarming extent, and in order to prevent a combined effort on the part of their relations to rescue the culprits, he had to execute all of them at once. He hanged them, then, to prevent such practices and to avoid rescue, but his action is no precedent, and in itself was actually illegal, as the Sages pointed out.



(45) Deut. XXI, 22.

(46) קללת אלהים (E.V. For he that is hanged is a reproach unto God,) is so interpreted by the Mishnah, i.e., he was a blasphemer.

(47) I.e., the unity of God.

(48) Are to be hanged. 'All' can only mean an idolater.

(49) On what principle of exegesis — the practical difference, of course, being obvious,

(50) The Sages.

(51) These two hermeneutical rules form one of R. Ishmael's thirteen principles by which the law is expounded. The former rule ככלל ופרט means that when a general term (which may denote an indefinite number of things) is followed by a particular (specifying a definite thing), the law is restricted to the specified thing alone. A particular is then regarded, not as an illustrative example of the preceding general, but as its explanation, so indicating that the content of the general is restricted solely to that of the particular. According to the other theory רבוי ומיעוט, the general retains its significance as applying to many things, but the particular limits the scope of the preceding general so as to include in it only things which are similar and to exclude such as are not similar thereto. The application of these exegetical principles, however, is dependent on the two terms following each other in the same passage. If they are found in two different passages, the rule is somewhat varied, as explained here in the Talmudic discussion.

(52) I.e., in the same verse.

(53) The blasphemer.

### Talmud - Mas. 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>24</sup> MISHNAH. HOW IS HE HANGED?<sup>26</sup> — THE POST IS SUNK INTO THE GROUND WITH A [CROSS-] PIECE BRANCHING OFF [AT THE TOP].<sup>27</sup> AND HE<sup>28</sup> BRINGS HIS HANDS TOGETHER<sup>29</sup> ONE OVER THE OTHER AND HANGS HIM UP [THEREBY]. R. JOSE SAID: THE POST IS LEANED AGAINST THE WALL,<sup>30</sup> AND HE HANGS HIM UP AFTER THE FASHION OF BUTCHERS. HE IS IMMEDIATELY AFTERWARDS LET DOWN. 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>31</sup> — AS IF TO SAY WHY WAS HE HANGED? — BECAUSE HE CURSED THE NAME [OF GOD]; AND SO<sup>32</sup> THE NAME OF HEAVEN [GOD] IS PROFANED.<sup>33</sup>

R. MEIR SAID<sup>34</sup> WHEN MAN SUFFERS,<sup>35</sup> WHAT EXPRESSION DOES THE SHECHINAH<sup>36</sup> USE? — MY HEAD IS TOO HEAVY FOR ME, MY ARM IS TOO HEAVY FOR ME.<sup>37</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>38</sup> BUT WHOSOEVER LETS HIS DEAD LIE OVER NIGHT TRANSGRESSES A NEGATIVE COMMAND.<sup>39</sup> IF HE KEPT HIM OVER NIGHT FOR THE SAKE OF HIS<sup>40</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>41</sup> THE RELATIVES THEN<sup>42</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.

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(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.
- (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. (11) I.e., loose morals prevailed at the time.
- (26) After being stoned.
- (27) 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.
- (28) The first witness, Krauss, loc. cit.
- (29) [מקיף, Me'iri reads סומך]
- (30) And not fixed into the ground.
- (31) Deut. XXI, 23. קללת אלהים is interpreted by the Mishnah as an objective genitive — 'a curse against God'.
- (32) If his body be left hanging a considerable time, thus reminding men of his blasphemy.
- (33) Man's sin reflecting, in a manner of speaking, on God.
- (34) In interpretation of the words קללת אלהים.
- (35) In consequence of sin, as those are who are executed in this instance.
- (36) The word שכינה is omitted in most editions of the Mishnah. Where it is omitted, the definite article is added to the word לושן, 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", כביכול.]
- (37) 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.
- (38) I.e., that the corpse must not be left hanging over night.
- (39) Mentioned above.
- (40) 'HIS' is ambiguous, and the Talmud on 47a discussed to whom it refers.
- (41) I.e., the family vault.
- (42) Soon after the execution.

## Talmud - Mas. Sanhedrin 46b

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 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 honour 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 honour of the living: in that case for Abraham's honour he delayed Sarah's [burial]! — [There] Sarah herself was pleased that Abraham should attain honour through her.

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 honour 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 honoured 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 honoured 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 honour of the living, of what consequence was this to him?<sup>53</sup> — He spoke this to him: Israel will be honoured through thee, as they were honoured through thy parents.<sup>54</sup>

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(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, קבר תקברנו, 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 קללת.
- (14) קל לית.
- (15) Using the positive adjective כבד 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. מקלל).
- (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) קלת; '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) קבור תקברנו, 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 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. ארגו.
- (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 honour 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 honour 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 honour of the living, why were the righteous who survived them deprived of that honour?

(52) Jer. XXXIV, 5; a prophecy to Zedekiah, the last king of Judah.

(53) Zedekiah, that Israel would be honoured.

(54) It may be observed, both here and in the following passage, that if the deceased is a king, the honour 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.

## Talmud - Mas. Sanhedrin 47a

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 honour 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 honour of Israel! — Israel itself was pleased to have its honour 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 honour of the living, what did it matter to him? — He wished that Israel might be honoured 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 honour of the dead?<sup>8</sup> — No: for the honour of the living. And for the sake of the honour 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 honour, so as to inform the [neighbouring] 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 honour of the deceased!<sup>13</sup> — What he [the Tanna] means is this: Nothing that is done for the honour of the living involves dishonour 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 honour 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 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 sepulchre 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 fulfil [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?

(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 honour, 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 honour 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 honour.

(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 fulfilment! 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 cognisant 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.

## **Talmud - Mas. 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: **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 [levitically] 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) **רלל** from **רלל** ‘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 (אש) (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 (אש) 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.

## Talmud - Mas. 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 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 any one 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 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) **מדרם**, a technical term in the laws of purity, from **דרם** '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) **נפש**. 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 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?

## **Talmud - Mas. 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 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,' — 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 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.

## Talmud - Mas. Sanhedrin 49a

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 Zeruiah 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.'

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>

## CHAPTER VII

- (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 shew 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-defence. 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-defence, but kills him instead, he is guilty of murder.
- (8) II Sam. II, 23 חוּמֵשׁ '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) אֲךְ, 'but'; רַק, 'only', both denoting limitation.
- (12) The men of Judah.
- (13) Josh. I, 18.
- (14) Rak intimating a limitation. Hence the duty to fulfil 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) אֵי צַמְגֵי נִי (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.

(27) בּוֹר 'well', hence container of water, a pitcher.

(28) סִרְהָה 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 endeavoured 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 nought 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 בְּשֵׁלִי is here derived from נָשַׁל 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) יְהִיָּה 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.

## Talmud - Mas. Sanhedrin 49b

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 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 blaspheme<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>

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(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 (\*\*\*\*\*) is correctly translated 'nitre' 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 'nitre' now denotes saltpetre, 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.
- (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', 'יהיו'.
- (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 shewing 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.

## Talmud - Mas. 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 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 honour 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 shewn 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, shews 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 honour 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 honour 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 Israelites' 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 honour 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 inhabitants of a seduced city, the gravity of whose offence is shewn by the fact that their property is destroyed? Now consider, whose offence is greater: that of the seducer or of the seduced?

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(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. Honour thy father and thy mother (Ex. XX, 12) with Honour 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.

## **Talmud - Mas. 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 shewn], 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 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 honour 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 shew? — 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 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':

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(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 be 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 Baraitha (Rashi).

(6) 'The Hebrew נערה na'arah denotes a damsel between twelve years and a day and twelve and a half years of age. Before that she is a minor (קטנה), after that an adult, 'entering maturity', bogereth (בוגרת).

(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 neighbour'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,9 (quoted on p. 335, n. 3) refer both to a nesu'ah and an arusah. This Baraitha 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 **תהל** tehel, 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 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.

### **Talmud - Mas. 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, 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 Baraita 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.
- (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 favour 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 (הַנְּהוּא 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 (הַנְּהוּא hennah) are her near kinswomen: it is wickedness (זִמְמָה 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 (זִמְמָה 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 shews 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 shew 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 Baraita 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.

## Talmud - Mas. 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 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 neighbour'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 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 shewing 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 (ו) 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 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.

## **Talmud - Mas. 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 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, shews that the fire commenced from within, as in normal death. For it has been taught: Abba Jose b. Doseithai 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 neighbour 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 neighbour 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:

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(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 misdemeanours.

(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 Eleazer the priest took 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.

(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.

## **Talmud - Mas. 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 Baraita] 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 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 honour 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 neighbour 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 neighbour 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 neighbour'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 neighbour'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 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.

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(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 centred chiefly in the political, not the religious life, of the people. Their origin is wrapped in obscurity (Weiss, *Dor*, 1, 100); but Halevy, *Doroth Voi*. III: 'The Sadducees and Boethusians', regards them as the children of the Hellenizing Jews in the days of the Maccabees; 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', shews 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 practised 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 stigmatises beheading by the sword as a Roman practice, and prefers the axe instead, though that too was formerly employed by the Romans.

(10) \*\*

(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 honour of kings. The pyre consisted of the royal bed and his general utensils. The same honour was paid to Patriarchs, and the greater the value of the things burnt, the greater the honour. A.Z. 11a. (The A. V. of *Jer.* XXXIV, 5, 'so shall they burn odours 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.  
 (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.

### **Talmud - Mas. 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 favour 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 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.

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(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. **מוֹת יוֹמָת** 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.7) 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 favour 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.

(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.

### Talmud - Mas. 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 penalise 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 utilise 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 penalise 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 penalise 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 H[IS 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 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>

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(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 *Baraitha*, 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 shewn 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 penalised 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.



## Talmud - Mas. 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 Rab 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 utilises 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 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 Baraita.

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 utilises 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.

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(1) Lev. XX, 11.

(2) In a *gezerah shawah*, the word used as a basis of deduction must be otherwise redundant (*מופנה*), 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.

(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' shews 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 **זכר מישכב** 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.

## Talmud - Mas. Sanhedrin 54b

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> you must regard it as applying to the person permitting himself to be thus abused.<sup>9</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 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;**

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- (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, תשנב and תשנב.
- (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 shewn, 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.

## Talmud - Mas. Sanhedrin 55a

[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 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 neighbour 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 shewed 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 shewed 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 WHICH SO AND SO WAS STONED. Now surely,

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(1) (Rashi reads זכור instead of the זכר 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 **הערה**) 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 shewn 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 Eban, 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 unsavoury 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.

(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. **קִלְבֵּי**) 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.

## **Talmud - Mas. 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 shewed 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 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 shew 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 authorise 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.
- (20) I.e., the Tetragrammaton.

## **Talmud - Mas. 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 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-shewing 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. **כִּיְנוּי**, the first Jose **יוֹסִי** stands for Jesus (\*\*, son), and the second is an abbreviation of **יוֹסֵף**, 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) **נִקְבַּ**

(5) **אִקְבַּ**

(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) **וִיקְבַּ**

(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) **נִקְבּוּ**

(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) **וִיקְבַּ**

(18) Lev. XXIV, 11.

(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, **אִישׁ אִישׁ**

(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 recognises 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.

## Talmud - Mas. 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 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 honouring 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 honouring 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, ploughing, 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, 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 authorisation-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 labours 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, shewn 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 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 honour 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.

## Talmud - Mas. 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 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 labourer’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 neighbour 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],

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- (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) ג"ש"ר: a mnemonic is given to facilitate the remembering of the subjects of a discussion. Here it stands for Gilluy 'Aryoth — adultery; Shefikuth damin — murder; and birkath ha-shem — blasphemy.
  - (25) Gen. IX, 6.
  - (26) That as bloodshed was forbidden on pain of death, so were the others too.
  - (27) Heb. ישׁ ישׁ ish ish. Lev. XXIV, 15: Any man (ish ish) that curseth his God shall bear his sin. Ibid. XVIII, 6: No man (ish ish) 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 (gazal), to stealing by open violence.
  - (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 shewed mercy by sparing the murderer.

## Talmud - Mas. Sanhedrin 57b

he is executed for his death.<sup>1</sup>

R. 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 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. Hammuna 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

how  
"shows"  
?

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 Baraitha 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 recognise 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 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,

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(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 recognise this as a capital offence, he is judged by our law. This statement supports R. Johanan's contention.

"I" in Gn9:5 is of God.  
Is one jewish judge same as God ?!

## Talmud - Mas. 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 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 neighbour'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 neighbour'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 neighbour'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 neighbour'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 neighbour'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 recognised 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 recognise 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.
- (5) This is explained in Yeb. 98b as referring to those relations whom, as stated above, he may retain
- (6) Now in this Baraita 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 Beza 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 Baraita 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.

## Talmud - Mas. 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 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 neighbour's wife unnaturally is free from punishment — Why so? — [Scripture saith:] To his wife, but not to his neighbour'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 neighbour, 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, shewing 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 recognised 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 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 neighbour'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' יָלָא is here derived from loa' לֹא 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.
- (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.

## Talmud - Mas. 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>

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 as Sinai, and we find that the Noachides were punished for practising 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 authorised 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]'.

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(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 מורשה), in accordance with the Scriptural text. Another version is Moses commanded us a law for a betrothal (reading me'orasah מורשה = מארסה i.e., as something betrothed, consecrated to us, from ארש = ארם). 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.

(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.

### Talmud - Mas. 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 éeans 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 S:nai] 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 generation],<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 soa]? — For in Isaac shall thy seed be called.<sup>13</sup> Then should not the children of Esau be bound to practise 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 otheÛs 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 brokeÉ my covenant<sup>16</sup> — this extends the precept [of circumcision] to the children of K½turah?<sup>17</sup>

; Rab Judah said in Rab's name: Adam was not permitted to eat flesh, for it is written, [Behold I ave 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 ou.<sup>19</sup> But wi+h 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'he'b 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 witóthe 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 shews 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 waggon] 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 fowø be made to work? — Yes, even as Rabbah, ðon of R. Huna propounded: According to the 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 tught: — 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 shew 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. בִּיצְחָק the ב (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. **אך** akh. It is a principle of Talmudic hermeneutics that the particles akh (but) and 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. **חיה** translated 'living creature', denotes literally a wild animal, which cannot be put to service, but can only be caught and eaten.

(31) Heb. **סנדל בונים** from \*\* (Levy) or \*\* (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.

## Talmud - Mas. 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>9</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 parlour, 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 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> [

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(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 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, shewing 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 resewn; 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.

## **Talmud - Mas. 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 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, shewing 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 colouring from the rites of some heathen or antinomian-Gnostic sects is shewn by the fact that the worship of Peor is ridiculed, but nowhere stigmatised 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.
- (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 עָבַד (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 honour to an idol in any shape one is liable to death, why should sacrificing have been singled out too, since thereby one certainly honours 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.

## Talmud - Mas. 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 honour, so every act [to be punishable] must be one of honour! — 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 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  $\emptyset$  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,

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(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 shewn 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.

(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.

## Talmud - Mas. 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 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, not 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;

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(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) **ישתחוה עבד למשיח** 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.

(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 statues 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.

## Talmud - Mas. Sanhedrin 62a

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 labour 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, 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 labour 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:

- (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 shew 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 offences, 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) **מִאֶחַת הֶנְהָ**. 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 **שמעון** SHime'on in Hebrew, and only wrote the first two letters thereof, viz., Shem, **שם**, 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) Labour forbidden on the Sabbath is divided into two categories: (1) 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., 'offsprings'. E.g., Sowing, ploughing, 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 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 labour 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 honour 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.

## **Talmud - Mas. Sanhedrin 62b**

## Talmud - Mas. 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 `aster 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 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 labour 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:

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(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 labour 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 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.

## Talmud - Mas. 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 the Rabbis? But it has been taught: He [the idolator] 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 fire.<sup>23</sup> Now, the Scripture follows up a negative

precept with a positive one,

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- (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 honour, but not prostration. Since the latter too is an act of honour, 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 **העלוך** lit., 'they have brought thee up', is in the plural, the sign of which is a waw (ו). By using the plural, they shewed that they did not recognise the molten calf as the sole god, but admitted the divinity of the Almighty too. This circumstance in their favour 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 neighbours, 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.

### Talmud - Mas. Sanhedrin 63b

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 neighbour '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, 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 recognising 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] honours 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 dunghill. On questioning him as to the family to which he 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, \*\* translated out of thy mouth is taken in an instrumental sense. Cf. Gen. XLI, 40, \*\*]

(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 (\*\*), 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) \*\* instead of \*\* 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. \*\* = 'to bark' (instead of Nibhaz), hence taken to be a dog.)

(23) Ibid.

(24) Adar, Heb. hadar \*\* = 'to honour', and melech (melek) = king, master.

(25) (I.e., the mule honours its master by carrying his load.)

(26) 'Ana, Heb. \*\* = '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.

## Talmud - Mas. 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 four hundred parasangs. [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>5</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>6</sup> Then they said, 'What shall we do? Shall we pray that his power be but partially destroyed?'<sup>7</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>8</sup> were not so [as it is written, Slay ye every one his men) that were joined unto Baal Peor:<sup>9</sup> ye were attached to it like an air-tight lid.<sup>10</sup> Whereas, Whilst ye that did cleave unto the Lord your God,<sup>11</sup> implies merely like two dates sticking to each other.<sup>12</sup> In a Baraita it has been taught: that were joined unto Baal Peor: [loosely] like a bracelet on the hands of a woman;<sup>13</sup> whereas Whilst ye that did cleave unto the Lord your God indicates that they were firmly attached.<sup>14</sup>

Our Rabbis taught: Sabta, a townsman of Avlas,<sup>15</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>16</sup> On the way he was told, 'An idol stands here.' He 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>17</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>18</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>19</sup> teaches idolatry and giving to Molech.<sup>20</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>21</sup> Rabina<sup>22</sup> said: The difference between them is in respect of a temporary Molech.<sup>23</sup>

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(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.

(5) Zech. V. 8.

(6) Through the imprisonment of the Tempter sexual lust was dormant throughout creation.

(7) Lit.. 'half and half'. That it may arouse only legitimate sexual desire.

(8) This is Rab's comment.

(9) Num. XXV, 5.

(10) This connects the Heb. **הנצמדִים** hanizmadim, who cleaved, with zamid, an exactly fitting lid.

(11) Deut. IV, 4.

(12) **דבק, הדבקים**, 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.

(13) Deriving hanizmadim from zamid, a bracelet.

(14) This reverses Rab's interpretation.

(15) 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.).

(16) 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).

(17) **למורקולִים** i.e., as act of worship.

(18) [He was told that the reading in the Mishnah is **במרקוליס** AT MERCULIS, implying even as a gesture of contempt.]

(19) On 53a.

(20) 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.

(21) Molech is connected with the idea of kingship. This shows that he too regards any fetish as a Moloch.

(22) In his view they did not say the one and the same thing.

(23) 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.

## **Talmud - Mas. Sanhedrin 64b**

R. 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 man . . . that giveth any of his seed unto Molech; he shall he 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 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>22</sup> why is extinction stated for it?<sup>25</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>

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(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 Moloch, but was not burnt. The statement that Hezekiah was smeared with the blood of the salamander to render him fireproof (63b), shewing that the victim was actually burnt, does not refer to Moloch, 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. **עֲשֵׂה** efes, 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.

(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, **הכרת תכרת**

(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) **הכרת**

(32) **תכרת**

(33) In ordinary human speech, such repetition is quite common.

## **Talmud - Mas. 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 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>

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(1) Lev. XIX, 31. ‘He that hath a familiar spirit’.

(2) \*\* 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’, וְ 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.

## Talmud - Mas. Sanhedrin 65b

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 yidoea<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>9</sup> — No. It ascends and seats itself between his joints and speaks. Come and hear: And the woman said 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 the 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 the 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 ma'at,<sup>23</sup> and sent him to R. ZeGa. 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'oner<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 worthy.

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 comjorable 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 plough with an ox and an ass together.

(5) Hence we see that R. Johanan considers voice an action?

(6) I.e., they offend byö 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.

(9) I.e., the dead actually speaking out of the ground.

(10) I Sam. XXVIII, 13.

(11) [זכור from Syriac זכר 'to divine'. Rashi connects it with זכרות, 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 unnavigable, 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 Yeziroh, Book of Creation. V. next note.

(24) The Book of Creation, Heb. Sefer Yeziroh, 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 utilised 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 ploughed 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.

## Talmud - Mas. Sanhedrin 66a

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 practise 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.

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>9</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. Joshiah'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 they 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 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’, **אִישׁ אִישׁ**

(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, shewing 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 shew 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 shall 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.

## Talmud - Mas. 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 connexion 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. Joshiah'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. Joshiah] — 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> —

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- (1) תקלל tekallel, though having the same meaning as תקל 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) קטנה before the age of twelve.
- (9) V. Keth. 29a.
- (10) He is not punished until she is (Heb. עד שתהא 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 connexion 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 מעשה הורדום 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) תהל
- (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.

## Talmud - Mas. Sanhedrin 67a

. That is merely a mnemonical sign.<sup>1</sup>

MISHNAH. A MESITH IS A [SEDUCING] LAYMAN<sup>2</sup> AND HE WHO SEDUCES AN INDIVIDUAL<sup>3</sup> SAYING, 'THERE IS AN IDOL IN SUCH AND SUCH A PLACE; IT EATS THUS, IT DRINKS THUS, IT DOES SO MUCH GOOD AND SO MUCH HARM. FOR ALL WHOM THE TORAH CONDEMNS TO DEATH NO WITNESSES ARE HIDDEN TO ENTRAP THEM, EXCEPTING FOR THIS ONE. IF HE INCITED TWO [TO IDOLATRY], THEY THEMSELVES ARE WITNESSES AGAINST HIM, AND HE IS BROUGHT TO BETH DIN AND STONED. BUT IF HE ENTICED ONE, HE MUST REPLY, I HAVE FRIENDS WHO WISH TO DO SO LIKEWISE [COME AND PROPOSE IT TO THEM TOO].' BUT IF HE WAS CUNNING AND DECLINED TO SPEAK BEFORE THEM, WITNESSES ARE HIDDEN BEHIND A PARTITION, WHILST HE WHO WAS INCITED SAYS TO HIM, MAKE YOUR PROPOSAL TO ME NOW IN PRIVATE. WHEN THE MESITH DOES SO, THE OTHER REPLIES, HOW SHALL WE FORSAKE OUR GOD IN HEAVEN TO GO AND SERVE WOOD AND STONES?' SHOULD HE RETRACT, IT IS WELL. BUT IF HE ANSWERS, 'IT IS OUR DUTY [TO WORSHIP IDOLS], AND IS SEEMLY FOR US, THEN THE WITNESSES STATIONED BEHIND THE PARTITION TAKE HIM TO BETH DIN, AND HAVE HIM STONED. IF HE SAYS, 'I WILL WORSHIP IT', OR, 'I WILL GO AND WORSHIP', OR, 'LET US GO AND WORSHIP'; OR, 'I WILL SACRIFICE [TO IT]', 'I WILL GO AND SACRIFICE', 'LET US GO AND SACRIFICE'; 'I WILL BURN INCENSE, 'I WILL GO AND BURN INCENSE'. 'LET US GO AND BURN INCENSE'; 'I WILL MAKE LIBATIONS TO IT', 'I WILL GO AND MAKE LIBATIONS TO IT', LET US GO AND MAKE LIBATIONS, 'I WILL PROSTRATE MYSELF BEFORE IT', 'I WILL GO AND PROSTRATE MYSELF'. 'LET US GO AND PROSTRATE OURSELVES'. (GUILT IS INCURRED).<sup>4</sup>

GEMARA. A MESITH IS A LAYMAN. Thus, only because he is a layman [is he stoned]; but if a prophet, he is strangled. WHO SEDUCES AN INDIVIDUAL: thus, only if he seduces an individual; but if a community, he is strangled. Hence, who is [the Tanna of] the Mishnah? — R. Simeon. For it has been taught: A prophet who entices [people to idolatry] is stoned; R. Simeon said: He is strangled.<sup>5</sup> Then consider the second clause.<sup>6</sup> A maddiah<sup>7</sup> is one who says: 'Let us go and serve idols': whereon Rab Judah observed in Rab's name: This Mishnah teaches of those who lead astray a seduced city. Thus it agrees with the Rabbis [who maintain that these too are stoned, not strangled]. Hence, the first clause is taught according to R. Simeon; the second according to the Rabbis! — Rabina said: Both clauses are based on the Rabbis' ruling, but proceed from the universally admitted to the disputed.<sup>8</sup> R. Papa said: When the Mishnah states A MESITH IS A HEDYOT,<sup>9</sup> it is only in respect of hiding witnesses.<sup>10</sup> For it has been taught: And for all others for whom the Torah decrees death, witnesses are not hidden, excepting for this one. How is it done? — A light is lit in an inner chamber, the witnesses are hidden in an outer one [which is in darkness], so that they can see and

hear him,<sup>11</sup> but he cannot see them. Then the person he wished to seduce says to him, 'Tell me privately what thou hast proposed to me'; and he does so. Then he remonstrates; 'But how shall we forsake our God in Heaven, and serve idols'? If he retracts, it is well. But if he answers: 'It is our duty and seemly for us', the witnesses who were listening outside bring him to the Beth din, and have him stoned.<sup>12</sup> MISHNAH. A MADDIAH IS ONE WHO SAYS, 'LET US GO AND SERVE IDOLS'. A SORCERER, IF HE ACTUALLY PERFORMS MAGIC, IS LIABLE [TO DEATH]. BUT NOT IF HE MERELY CREATES ILLUSIONS.<sup>13</sup> R. AKIBA SAID IN R. JOSHUA'S NAME: OF TWO WHO GATHER CUCUMBERS [BY MAGIC] ONE MAY BE PUNISHED AND THE OTHER EXEMPT: HE WHO REALLY GATHERS THEM IS PUNISHED: WHILST HE WHO PRODUCES AN ILLUSION IS EXEMPT.

GEMARA. Rab Judah said in Rab's name: This Mishnah teaches of those who lead astray a seduced city.<sup>14</sup>

A SORCERER, IF HE ACTUALLY PERFORMS MAGIC etc. Our Rabbis taught: [Thou shalt not suffer] a witch [to live]:<sup>15</sup> this applies to both man and woman. If so, why is a [female] witch stated? — Because mostly women engage in witchcraft. How are they executed? — R. Jose the Galilean said: Here it is written, Thou shalt not suffer a witch to live; whilst elsewhere is written, Thou shalt not suffer anything that breatheth to live.<sup>16</sup> Just as there, the sword is meant, so here is the sword meant too. R. Akiba said: It is here stated, Thou shalt not suffer a witch to live; whilst elsewhere it is said, [There shall not a hand touch it, but he shall surely be stoned, or shot through;] whether it be beast or man, it shall not live.<sup>17</sup> Just as there, death by stoning is meant, so here too. R. Jose said to him, I have drawn an analogy between 'Thou shalt not suffer to live' written in two verses, whilst you have made a comparison between 'Thou shalt not suffer to live', and 'It shall not live'. R. Akiba replied: I have drawn an analogy between two verses referring to Israelites, for whom the Writ hath decreed many modes of execution,<sup>18</sup> whilst you have compared Israelites to heathens, in whose case only

(1) I.e., in both the reference is to something done for the first time: there to coition; here to profanation. But the similarity ceases at this point.

(2) Heb. hedyot. As opposed to a prophet.

(3) Heb. hedyot. But not a whole community. On the Heb. term hedyot, v. p 456, nn. 2 and 3.

(4) The seducer by using any one of those expressions incurs guilt and is executed; v., Rashi (supra, 661a) who refers it to the seduced person.

(5) V. infra 84a.

(6) I.e., the next Mishnah, which is really part of this.

(7) Who is stoned, as stated in the Mishnah on 53a, "of which all the subsequent Mishnahs, in this chapter after aru explanations.

(8) Lit., 'nor only this, but that also).' When the Mishnah says, [HE] WHO SEDUCES AN INDIVIDUAL, it is not intended to exclude a multitude, but merely to commence with the universally agreed law. Then the next Mishnah adds that the same applies to the seduction of a multitude, though this is not admitted by all.

(9) לַיְזָן, rendered in Mishnah, 'LAYZAN', also means ignorant, ignoble.

(10) I.e., hedyot is not used in the sense of a layman as opposed to a prophet, but in the sense of ignoble; so dastardly in his action, that he is not shown the same consideration as other malefactors, but hidden witnesses are set to entrap him. There is no dispute between Rabina and R. Papa, both teaching that the two clauses agree with the Rabbis; but Rabina explains the phrase, 'HE WHO SEDUCES AN INDIVIDUAL', whilst R. Papa deals with 'A MADDIAH IS A HEDYOT'.

(11) Otherwise, they could not testify.

(12) In the uncensored editions of the Talmud there follows this important passage (supplied from D.S. on the authority of the Munich and Oxford Mss. and the older editions) 'And this they did to Beš Stada in Lydda (בֵּשׁ סְטָדָא), and they hung him on the eve of Passover. Ben Stada was Ben Padira. R. Hisda said: 'The husband was Stada~ the paramour Padira. But was not the husband Pappos b. Judah? — His mother's name was Stada. But his mother was Miriam, a dresser of

woman's hair? (מגדלא נשיא megaddela neshayia): — As they say in Pumbeditha, This woman has Yurned away (sath da) from her husband, (s.e., committed adultery). T. Herford, in 'Christianity in the Talmud', pp. 37 seqq, 344 seqq, identifies this Ben Stada with Jesus of Nazareth. As to the meaning of the name, he connects it with \*\* 'seditious', and suggests (p. 345 n.1) that it originally denoted 'that Egyptian' (Acts XXI 38, Josephus, Ant. XX, 8, 6) who claimed to be a prophet and led his followers to the Mount of Olives, where he was routed by the Procurator Felix, and that in later times he might have been confused with Jeshua ha-Notzri. This hypothesis, however, involves the disregard of the Talmudic data, for Pappos b. Judah lived a century after Jesus (Cit. 90a), though the mother's name, Miriam (Mary), would raise no difficulty, as מגדלא נשיא megaddla neshayia may be the result of a confusion with Mary Magdalene (v. also Box, The Virgin Birth of Jesus, pp. 201f, for other possible meanings of Ben Stada and Ben Pandira) Derenbourg (Essai note 9, pp. 465-471) rightly denies the identity of Ben Stada with Jesus, and regards him simply as a false prophet executed during the second century at Lydda.

(13) I.e., the illusion of doing something, whereas in fact he does nothing.

(14) Cf. supra 53a.

(15) Ex. XXII, 17.

(16) Deut. XX, 17. This refers to the war of extermination against the seven races inhabiting Canaan before the Conquest by Joshua. They would naturally be killed by the sword.

(17) Ex. XIX, 13. This refers to the taboo placed upon Mount Sinai before the Theophany.

(18) And yet at Sinai stoning was chosen.

## Talmud - Mas. Sanhedrin 67b

one death penalty is decreed.<sup>1</sup> Ben 'Azzai said:<sup>2</sup> It is here written, Thou shalt not suffer a witch to live, whilst [immediately after] it is said, Whosoever lieth with a beast shall surely be put to death.<sup>3</sup> Now, this is placed in proximity, teaching that just as the latter is stoned, so is the former. Thereupon R. Judah said to him: Shall we, because of this proximity, exclude the former [from the easier death implied by an unspecified death sentence] changing it to stoning?<sup>4</sup> But [reason this:] The ob and yidde'oni were included among other sorcerers.<sup>5</sup> Why were they singled out?<sup>6</sup> That other sorcerers may be assimilated to them, and to teach thee, just as the ob and yidde'oni are stoned, so are all other sorcerers stoned. But even according to R. Judah, are not ob and yidde'oni two statements teaching the same thing, and two statements teaching the same thing cannot throw light upon anything else?<sup>7</sup> — R. Zechariah answered: For this very reason R. Judah is generally said to maintain that even two statements singled out for the same purpose illumine the proposition as a whole.<sup>8</sup>

R. Johanan said: Why are they [sorcerers] called Kashshafim?<sup>9</sup> — Because they lessen the power of the Divine agencies.<sup>10</sup>

There is none else besides Him:<sup>11</sup> R. Hanina said: Even by sorcery.<sup>12</sup> A woman once attempted to take earth from under R. Hanina's feet.<sup>13</sup> He said to her, 'If you succeed in your attempts, go and practise it [sc. sorcery]: it is written, however, There is none else beside him'. But that is not so, for did not R. Johanan say: Why are they called mekashshafim?<sup>14</sup> Because they lessen the power of the Divine agencies? — R. Hanina was in a different category, owing to his abundant merit.<sup>15</sup>

R. Abaye b. Nagri said in the name of R. Hiyya b. Abba: Belatehem refers to magic through the agency of demons, belahatehem to sorcery [without outside help].<sup>16</sup> And thus it is also said, And the flame [Heb. lahat] of the sword that turns of itself.<sup>17</sup>

Abaye said: The sorcerer who insists on exact paraphernalia<sup>18</sup> works through demons; he who does not works by pure enchantment.

Abaye said: The laws of sorcerers are like those of the Sabbath: certain actions are punished by stoning, some are exempt from punishment, yet forbidden, whilst others are entirely permitted. Thus:

if one actually performs magic, he is stoned; if he merely creates an illusion, he is exempt, yet it is forbidden; whilst what is entirely permitted? — Such as was performed by R. Hanina and R. Oshaia, who spent every Sabbath eve in studying the Laws of Creation, by means of which they created a third-grown calf and ate it.<sup>19</sup>

R. Ashi said: I saw Karna's father<sup>20</sup> blow his nose violently and streamers of silk issued from his nostrils.

Then the magicians said unto Pharaoh, This is the finger of God:<sup>21</sup> R. Eleazar, said: This proves that a magician cannot produce a creature less than a barley corn in size. R. Papa said: By God! he cannot produce even something as large as a camel; but these [larger than a barley corn] he can [magically] collect [and so produce the illusion that he has magically created them], the others he cannot.

Rab said to R. Hiyya: 'I myself saw an Arabian traveller take a sword and cut up a camel; then he rang a bell, at which the camel arose.' He replied, 'After that, was there any blood or dung? But that was merely an illusion.'

Ze'iri happened to go to Alexandria in Egypt and bought an ass. When he was about to water it, it dissolved, and there stood before him a landing board.<sup>22</sup> The vendors then said to him; 'Were you not Ze'iri, we would not return you [your money]: does anyone buy anything here without first testing it by water?'<sup>23</sup>

Janna<sup>24</sup> came to an inn. He said to them, 'Give me a drink of water,' and they offered him shattitha.<sup>25</sup> Seeing the lips of the woman [who brought him this] moving,<sup>26</sup> he [covertly] spilled a little thereof, which turned to snakes. Then he said, 'As I have drunk of yours, now do you come and drink of mine.' So he gave her to drink, and she was turned into an ass he then rode upon her into the market. But her friend came and broke the charm [changing her back into a human being], and so he was seen riding upon a woman in public.

And the frog came up, and covered the land of Egypt.<sup>27</sup> R. Eleazar said: It was one frog, which bred prolifically and filled the land. This is a matter disputed by Tannaim. R. Akiba said: There was one frog which filled the whole of Egypt [by breeding]. But R. Eleazar b. Azariah said to him, 'Akiba, What hast thou to do with Haggadah?<sup>28</sup> Cease thy words and devote thyself to 'Leprosies' and 'Tents.'<sup>29</sup> One frog croaked for the others, and they came'.

#### R. AKIBA SAID, etc.

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(1) Viz., decapitation. Consequently, no true analogy is possible.

(2) His full name was Simeon b. 'Azzai. There were four companions each named Simeon, so for short they were referred to by their patronym (Rashi in Ab. IV, 1).

(3) Ex. XXII, 19.

(4) R. Judah does not regard the proximity of two subjects, **סמוכין** as a method of exegesis.

(5) I.e., in the verse, Thou shalt not suffer a sorcerer to live.

(6) In Lev. XX, 27.

(7) This is in accordance with the exegetical principle that if a general proposition is stated, and then one part thereof is singled out for special mention, the latter illumines the former; but not if two are singled out. For if they were intended to convey a teaching with respect to the proposition as a whole, only one should have been singled out, from which the second (together with the rest of the general statement) would be derived.

(8) R. Judah does not agree with the limitation expressed above, and it is precisely from this verse that he deduces that even two statements may be singled out to convoy a teaching for the whole; v. Kid. 35a.

(9) **כשפים**

(10) I.e., making incantations of death against those for whom Heaven has decreed life (Rashi); and in general seeking to interfere with the course of events as decreed from above. The word is treated as an abbreviation, thus Keshafim, Kahash, Famalia, Ma'alah. (Lessens [the] Family on High).

(11) Deut. IV, 35.

(12) I.e., not even sorcerers have power to oppose His decree.

(13) To perform magic against him.

(14) **מכשפים** Hebrew form of Kashshafim.

(15) Therefore God should certainly not permit any sorcerer to harm him.

(16) In the references to Pharaoh's magicians, two words are employed to denote their art: belatehem, (**בלטיהם**) e.g., Ex. VII, 22 (with their enchantments); and belahatehem (**בלהטיהם** v. **להט**) Ex. VII, 11.

(17) Gen. III, 24, thus lahat is referred to an action taking place of itself; similarly, belahatehem connotes sorcery performed without extraneous aid.

(18) Demanding particular properties for different kinds of magic.

(19) V. p 446, nn. 9, 10. It thus all depends as to whose help is invoked in performing the miraculous.

(20) He was a magician.

(21) Ex. VIII, 19; this refers to the plague of lice, which they could not imitate.

(22) The ass had been a product of sorcery, created out of a landing board. Things thus created reverted to their original form when brought into contact with water.

(23) The scholars of the first century referred frequently to Egypt as the original home of magic arts (Blau, *Das aljudische Zauberesen*, pp. 37-49). Sorcery was very rife in Alexandria, and was practised by Jews too, who were more influenced by pagan ideas in this city than in any other place of their dispersion. Among the less intelligent, Jewish and pagan, witchcraft were freely indulged in (Schurer, *Geschichte*, 3rd ed., III, 294-304). It is not clear in this passage whether Ze'iri had bought the ass from a Jew or Gentile, but the fact that such particular respect was shewn to him would seem to indicate that the vendor was a Jew.

(24) Rashi observes that this is the reading, not R. Jannai; for a scholar would not practise witchcraft.

(25) A drink prepared of flour and water. Cf. Lat. ptisanarium, a decoction of barley groats

(26) By this he recognised her to be a witch, probably muttering a charm.

(27) Ex. VIII, 6.

(28) Haggadah, also aggadah, from Nagad, to narrate, denotes the narrative, and homiletical portions of the Talmud.

(29) [Nega'im and Ohaloth, two subjects in the Talmud and name of two tractates dealing respectively with uncleanness of a corpse and leprosy, subjects of extreme difficulty and thus suited to R. Akiba's keen dialectics.]

## **Talmud - Mas. Sanhedrin 68a**

But did R. Akiba learn this from R. Joshua? Surely it has been taught: When R. Eliezer fell sick, R. Akiba and his companions went to visit him. He was seated in his canopied four-poster, whilst they sat in his salon.<sup>1</sup> That day was Sabbath eve, and his son Hyrcanus went in to him to remove his phylacteries.<sup>2</sup> But his father rebuked him, and he retreated crestfallen. 'It seems to me,' said he to them, 'that my father's mind is deranged'.<sup>3</sup> But R. Akiba said to them, 'his mind is clear, but his mother's [sc. of Hyrcanus] is deranged:<sup>4</sup> how can one neglect a prohibition which is punished by death, and turn his attention to something which is merely forbidden as a shebuth?'<sup>5</sup> The Sages, seeing that his mind was clear, entered his chamber and sat down at a distance of four cubits.<sup>6</sup> 'Why have ye come?' said he to them. 'To study the Torah', they replied; 'And why did ye not come before now', he asked? They answered, 'We had no time'. He then said, 'I will be surprised if these die a natural death'. R. Akiba asked him, 'And what will my death be?' and he answered, 'Yours will be more cruel than theirs'. He then put his two arms over his heart, and bewailed them, saying, 'Woe to you, two arms of mine, that have been like two Scrolls of the Law that are wrapped up.'<sup>7</sup> Much Torah have I studied, and much have I taught.<sup>8</sup> Much Torah have I learnt, yet have I but skimmed from the knowledge of my teachers as much as a dog lapping from the sea. Much Torah have I taught, yet my disciples have only drawn from me as much as a painting stick from its tube. Moreover, I have studied three hundred laws on the subject of a deep bright spot,<sup>9</sup> yet no man has ever asked me about them. Moreover, I have studied three hundred, (or, as others state, three

thousand laws) about the planting of cucumbers [by magic] and no man, excepting Akiba b. Joseph, ever questioned me thereon. For it once happened that he and I were walking together on a road, when he said to me, "My master, teach me about the planting of cucumbers". I made one statement, and the whole field [about us] was filled with cucumbers. Then he said, "Master, you have taught me how to plant them, now teach me how to pluck them up". I said something and all the cucumbers gathered in one place'. His visitors then asked him, 'What is the law of a ball, a shoemaker's last, an amulet, a leather bag containing pearls, and a small weight?'<sup>10</sup> He replied, 'They can become unclean, and if unclean, they are restored to their uncleanness just as they are.'<sup>11</sup> Then they asked him, 'What of a shoe that is on the last?'<sup>12</sup> He replied, 'It is clean;' and in pronouncing this word his soul departed. Then R. Joshua arose and exclaimed, 'The vow is annulled, the vow is annulled!'<sup>13</sup> On the conclusion of the Sabbath R. Akiba met his bier being carried from Caesarea to Lydda. [In his grief] he beat his flesh until the blood flowed down upon the earth — Then R. Akiba commenced his funeral address, the mourners being lined up about the coffin, and said: 'My father, my father, the chariot of Israel and the horsemen thereof;<sup>14</sup> I have many coins, but no money changer to accept them.'<sup>15</sup> Thus from this story we see that he learned this [sc. the producing of cucumbers by magic] from R. Eliezer? — He learned it from R. Eliezer, but did not grasp it, then he learned it from R. Joshua, who made it clear to him.

But how might R. Eliezer do so?<sup>16</sup> Did we not learn, IF HE ACTUALLY PERFORMS MAGIC, HE IS LIABLE? — If it is only to teach, it is different. For it has been said, Thou shalt not learn to do after the abominations of these nations:<sup>17</sup> thou mayest not learn in order to practise, but thou mayest learn in order to understand.<sup>18</sup> [

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(1) טרקלין triclinium.

(2) For the Sabbath was drawing near, when the phylacteries are not to be worn.

(3) Since he would not let me remove his phylacteries.

(4) (So Bah in his marginal glosses: printed texts read 'His mind and that of his mother's etc.]

(5) An occupation forbidden only by the Rabbis, not by the Bible, because it does not harmonize with the nature of the Sabbath. R. Eliezer had observed that his wife had not yet kindled the Sabbath lights, nor put away the Sabbath meal to keep it hot. Both of these, if done on the Sabbath, are punishable by stoning, whereas the wearing of phylacteries indoors are forbidden merely by a Rabbinical ordinance, lest one forget himself and go out in the street with them, which is biblically forbidden. Therefore he rebuked his son and wife.

(6) Because R. Eliezer had been placed under the ban; v. B.M. 59b.

(7) So that they cannot be read. So had his knowledge been, none learning from it, because he had been under a ban.

(8) Before the ban.

(9) One of the forms of leprosy, Lev. XII, 2.

(10) All these were made of leather, stuffed with hair or cottonwool. No leathern utensil can become unclean unless it has a receptacle, i.e., a hollow in which something can be placed. Now, the Sages maintain that since the hollow in these is made in the first place in order to be filled up, it is not a receptacle, and hence cannot become unclean. But R. Eliezer held that as they do, in fact, contain a hollow, though now filled up, they can become unclean. There is another dispute, with respect to the first two, if their outer covering was torn. It is then admitted by all that they are liable to become unclean, but there is a conflict with respect to tebilah (i.e. immersion in a ritual bath to restore them to cleanliness. It is a general law that when anything is put into a ritual bath, no foreign matter may adhere to it, lest it prevent the water from getting to it. Now the Sages maintain that the stuffing is to be regarded as such, and hence must be removed before the immersion, which is otherwise ritually invalid. But R. Eliezer ruled that in this respect the stuffing is regarded as integrally part of themselves, and hence does not render the immersion invalid. Now that he was on his death-bed, thy asked him whether he still adhered to his ruling. The amulet was a charm, containing some mystic verses, worn about the neck to prevent or cure illness. A leather bag containing pearls (probably imitation, or of a very cheap kind) was worn by cattle for the same purpose. Small weights were inclosed in leather, to prevent from becoming worn.

(11) I.e., the filling is not to be regarded as foreign matter, which must be removed. Thus he told them that he adhered to his views.

(12) No utensil or garment could become unclean until it was quite ready for use. R. Eliezer and the Sages dispute with

reference to a new shoe, ready for wear, but not yet removed from the last upon which it was made. The Rabbis maintained that it was a completely finished article, and hence liable to uncleanness: whilst R. Eliezer held that until removed from its last it was not regarded as completely finished.

(13) I.e., the ban is now lifted from him. This declaration was made on account of the funeral, for had it not been annulled, a stone would have been placed upon his coffin. v. 'Ed. V, 6.

(14) II Kings II, 12.

(15) I.e., I have many questions on Torah, but no one to answer them.

(16) Cause cucumbers to grow by magic.

(17) Deut. XVIII, 9. This introduces the prohibitions of necromancy and witchcraft.

(18) R. Eliezer's action was likewise merely in order to teach.

## **Talmud - Mas. Sanhedrin 68b**

### CHAPTER VIII

MISHNAH. 'A STUBBORN AND REBELLIOUS SON'<sup>1</sup> WHEN DOES HE BECOME LIABLE TO THE PENALTY OF A STUBBORN AND REBELLIOUS SON'? FROM THE TIME THAT HE PRODUCES TWO HAIRS UNTIL HE GROWS A BEARD RIGHT ROUND (BY WHICH IS MEANT THE HAIR OF THE GENITALS, NOT THAT OF THE FACE, BUT THAT THE SAGES SPOKE IN POLITE TERMS), FOR IT IS WRITTEN, IF A MAN HAVE A STUBBORN AND REBELLIOUS SON:<sup>2</sup> 'A SON', BUT NOT A DAUGHTER; 'A SON', BUT NOT A FULL-GROWN MAN. WHILST A MINOR IS EXEMPT, SINCE HE DOES NOT COME WITHIN THE SCOPE OF THE COMMANDMENTS.<sup>3</sup>

GEMARA. Whence do we know that A MINOR IS EXEMPT? (Whence do we know? The Mishnah states the reason, viz that HE DOES NOT COME WITHIN THE SCOPE OF THE COMMANDMENTS. Moreover, where else do we find that Scripture prescribed a penalty [for a minor], that a verse should be necessary here to exempt him? — This is our question: Now, is then a 'STUBBORN AND REBELLIOUS SON' executed for his actual iniquity? Surely he is rather slain on account of his ultimate end;<sup>4</sup> and that being so, even a minor should be executed? Moreover, [the interpretation,] 'a son', but not a man, implies a minor?) Rab Judah said in Rab's name: Scripture saith, If a man have a son [that is stubborn and rebellious], implying, a son near to the strength of manhood.<sup>5</sup>

UNTIL HE GROWS A BEARD RIGHT ROUND, etc. R. Hiyya taught: Until he grows a beard round the corona. When R. Dimi came,<sup>6</sup> he explained it thus: It means, until the hair surrounds the membrane, but not until it grows round the testicles.<sup>7</sup>

R. Hisda said: If a minor begot a son, the latter does not come within the category of a stubborn and rebellious son, for it is written, If a man have a son, but not if a son [i.e., one who has not reached manhood] have a son. But is not that verse needed for the deduction made by Rab Judah in Rab's name?<sup>8</sup> — If so, the verse should read, If there be a son to a man: why state, If a man have a son? — To teach R. Hisda's dictum.<sup>9</sup> Then let us say that the entire verse teaches this?<sup>10</sup> — If so, Scripture should have said, 'If there be the son of a man who [sc. the son] is stubborn,' etc.: Why state, If a man have a son etc.? Hence both are deduced.<sup>11</sup>

Now, R. Hisda's statement conflicts with Rabbah's. For Rabbah said: A minor cannot beget children, for it is written, But if the man hath no kinsman [to recompense the trespass unto].<sup>12</sup> Now, is there any man in Israel that has no kinsman?<sup>13</sup> Hence the Writ must refer to the robbery of a proselyte,<sup>14</sup>

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(1) This chapter continues the exposition of the Mishnah on 53a.

(2) Deut. XXI, 18.

(3) I.e., the stage of moral responsibility involved on reaching the age of 13 years and one day; v. Ab. V, 24.

(4) V. infra 72a.

(5) The interpretation is based on the fact that 'son' is stated (in the Heb.) in immediate proximity to 'man' —  
בן אִישׁ

(6) V. p. 390, n. 1.

(7) The other occurs much later. But once the former has taken place, he is a man, and no longer liable.

(8) v. supra.

(9) For if the verse merely teaches that the son must be just before the age of manhood, son should have immediately preceded man. By reversing the order, the manhood of the father (when begetting the son) is emphasized: only if a man beget a son but not if a minor beget one, though he is already a man when his son transgresses.

(10) Hence, how is Rab's dictum deduced?

(11) For if the verse wished to intimate only the manhood of the father, 'son' should have been in the weak, construct form (i c) so that the entire emphasis should be upon 'man'. By putting son in the absolute form (i c) and in immediate proximity to 'man', the manhood of both is emphasised, as taught in the dicta of Rab and b. Hisda.

(12) Num. V, 8.

(13) Since all Israel are related, being the descendants of Abraham, Isaac, and Jacob.

(14) Who died before it could he returned. A proselyte has no relationship whatever with his pre-conversion relations; v. p. 394. n. 1.

## Talmud - Mas. Sanhedrin 69a

and the Divine Law states, But if the man etc.,<sup>1</sup> teaching that only in the case of a man must thou seek whether he has kinsmen or not, but not in the case of a minor, for it is obvious that he can have none.

Abaye objected. [It has been taught: And If any man lieth carnally with a woman that is a bondmaid].<sup>2</sup> 'A man': from this I know the law only with respect to a man: whence do I know it of one aged nine years and a day who is capable of intercourse? From the verse, And 'if a man'?<sup>3</sup> — He replied: Such a minor can produce semen, but cannot beget therewith; for it is like the seed of cereals less than a third grown.<sup>4</sup>

The School of Hezekiah taught: But if a man came presumptuously [yazid] upon his neighbour to slay him with guile:<sup>5</sup> a man can inflame [his genital] and emit semen, but not a minor.<sup>6</sup> R. Mordechai asked of R. Ashi: Whence do we know that mezid denotes heating? — From the verse, And Jacob sod [wa-yazed] pottage.<sup>7</sup>

But this is not so.<sup>8</sup> For the School of Ishmael<sup>9</sup> taught: If a man have a son:<sup>10</sup> implying, a son but not a father.<sup>11</sup> Now, how is this possible? Shall we say that he impregnated [his wife] after producing two hairs, and begot before the hair was fully grown<sup>12</sup> — but can there be such a long interval [between these, as to allow for complete gestation]? Did not R. Kerespedai say: The extreme limits of a 'stubborn and rebellious' son are only three months?<sup>13</sup> Hence he must have caused conception before producing two hairs, and begot the child before the hair was fully grown; [and in that case he is excluded from the operation of the law] thus proving that a minor can beget children! — No. In truth, this refers to one who impregnated [his wife] after the appearance of two hairs, and begot [the child] after his hair was fully grown. But as for the difficulty raised by R. Kerespedai's dictum, — when R. Dimi came, he said: In the West [i.e.. Palestine], they explain [the deduction of the School of Ishmael] thus; a son, but not one who is fit to be called a father.<sup>14</sup>

To revert to the above text: 'R. Kerespedai said in R. Shabbethai's name: The extreme limit of a "stubborn and rebellious son is only three months'. But did we not learn, FROM THE TIME THAT HE PRODUCES TWO HAIRS UNTIL HE GROWS A BEARD RIGHT ROUND? — If he grew a



beard, even if three months have elapsed, or if three months elapsed, even if he did not grow a beard [he is no longer liable].<sup>15</sup>

R. Jacob of Nehar Pekod<sup>16</sup> sat before Rabina, and said thus in the name of R. Huna the son of R. Joshua: From the dictum of R. Keruspedai in R. Shabbethai's name one may deduce that if a woman bears at seven months, her pregnancy is not discernible at a third of its course; for if it is, why three months: two and a third are sufficient?<sup>17</sup> He demurred: In truth, it may be that her pregnancy becomes manifest at a third of its course, but we must regard the majority.<sup>18</sup> Now, this was repeated before R. Huna the son of R. Joshua, whereupon he remarked: But can we consider the majority [only, disregarding the majority entirely] in capital charges; did not the Torah say, Then the congregation shall judge . . . and the congregation shall deliver the slayer?<sup>19</sup> Yet you say, regard the majority! This was reported back to Rabina. He replied: Do we then not follow the majority in capital charges? But we learnt: If one witness testified that the crime was committed on the second day of the month, and one on the third, their testimony is valid; for one knew that the past month had been full, and the other did not.<sup>20</sup> But if you maintain that we do not follow the majority, should we not say that these witnesses testify exactly,<sup>21</sup> and thus contradict each other? Hence it surely must be that we follow the majority who are wont to err with respect to the fulness of the month.

R. Jeremiah of Difti said: We also learnt the following: A maiden aged three years and a day may be acquired in marriage by coition, and if her deceased husband's brother cohabited 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]. If she married a priest, she may eat of terumah; if any unfit person cohabits with her, he disqualifies her from the priesthood. If any of the forbidden degrees had intercourse with her, they are executed on her account, but she is exempt.<sup>22</sup>

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(1) 'Man' is superfluous, as the verse could have read, But if he hath no kinsman . . .

(2) Lev. XIX, 20.

(3) 'And' (ו) indicates an extension of the law, and is here interpreted to include a minor aged nine years and a day.

(4) Such cereals contain seed, which if sown, however, will not grow.

(5) Ex XXI, 14.

(6) Hif 'il, ו' י' (come presumptuously), is here derived from צ' י', to seethe, Hif'il, hezid, to cook, boil, the technical terms for the excitation producing semen. Rashi states that this interpretation is placed upon the word, for if mere wanton wickedness were referred to, Scripture should have written Yarshia' רש'יע from רשע, a wicked man. Thus, by this exegesis, a minor is excluded from the scope of the law.

(7) ו' י' Gen. XXV, 29.

(8) Thus the text as reconstructed by Rashal. This is an objection to the view that a minor cannot beget children.

(9) V. p. 387 n. 7. Similarly the 'School of Ishmōel' refers to his successors long after him; Weiss, Dor, 11. p. 93, 94 (where he implies that some teachings introduced by this caption would not really originate with him, or were such of which he would not have approved).

(10) Deut. XXI, 18.

(11) I.e. if the son is himself a father already, this law does not apply.

(12) Since these are the limits between which the law operates.

(13) Whilst the fetus needs at least six months to develop.

(14) I.e., once his wife is impregnated he is already fit to be called a father. But it is unnecessary to exclude him when he is already a father, for by then this hair must be fully grown, and he is automatically excluded by the limitations expressed in the Mishnah.

(15) I.e., whichever period is shorter.

(16) [A town in the vicinity of Nehardea; v. Obermeyer, Die Landschaft Babylonien, 27iff.]

(17) For the fetus being then discernible, the son is fit to be called a father, and is no longer liable, as stated above. v. Yeb. 35a.

(18) Whose pregnancy lasts nine months, the fetus thus not being discernible before three months, when the son

bäcomes fit to be called a father and no longer lia"le to the law of a rebe-lious son.

(19) Num. XXXV, 25f; this  
אֲזַכְּמֶקֶנָּה קִיָּא מְקַהֲזַע קֵנָּה גְּקֻדּוּבָּה קִיָּא אַנּוּסָּג מִן אִשִּׁיָּא תְּמַשְׁקֵצ אַּא מִ לְשֵׁא דִּן  
יָּשׁ 40 שְׂרִפּוּד יָּזָּה (20)

מִסְּנֵאֲשֵׁרוּג דְּטִשְׁג טַאֲרִיָּא רַם קְמוּנ־טַאֲלָקָּה, קִיָּאֲזֵק כֶּם קִרְשׁ דִּיאַמְסֵצ יִדְוֶקָּה (21)  
קָּא אֲבִקְרוּגָּה קִיָּא מִם גְּקֻמְקֻפְקֻג יֵאֲמֵסֵצ, קִמָּה קִיָּא כֶּם מִ□ֻזְּאִשְׁבֻּכְזֻאֲבִמְשֵׁד קִיָּא דִּשׁ יָּן  
קִימְשֵׁד קִיָּא טֵנָּה גְּקֻצֻשְׁדְּכִסְרֵפ עִמּוּקֵנָּה יֵאֲמֵסֵצ, קִמָּה יִבְשֵׁק תְּדִקְדֻדְקָּמָּה יָּן, כֶּם טִמְסֻצֻזְאֵד  
רֵפָּה קִיָּא אִשִּׁיָּא מִסְּמֵל אִסְמָּה גִּשִׁי דְּדִקְמַאֲזָּה, שׁ אִשִּׁיָּא מְקַפְפֵּשִׁי אִיעֻזֻצ דְּדָּקָּה, אִין יָּמְזֻרָּג  
אִשִּׁיָּא אִיעֻוֹסִיָּא קִבְּמֻקִּי גִּמְשׁ תְּדִטִּשְׁג טַאֲרִיָּא כֶּם גְּקַאֲדֻמְסֵב גִּשִׁי יֵאֲמֵסֵצ עִמּוּגְקֻבְקָּה  
קִיָּא כֶּם תְּגִמְסֵבְקֵד קִיָּא כֶּם גְּצֻקַּאֲדֻמֵּן תְּגִרְיָּא קִיָּא דִּשׁ, קֻצְוֹרֵב קִיָּא כֶּם טִשְׁג קִיָּא  
יָּיֵאֲמֵסֵצ, קִמָּה

קִפְּדֻקֵּר מִן רִמְק אִסְמָּה דְּקִסָּג אִשִּׁיָּא טַאֲזֻרְסִמְזֻצ שׁ דִּן קִרְקִיָּא קִבְּמֻזְד אִשִּׁיָּא יָּקֻזְיָּי (22)  
דְּ קִיָּי דְּסְמֵל יִבְשֵׁק אִשִּׁיָּא קֻצֻדֻדִּשׁ אִסְמָּה טִי, תִּיאַמְסֵצ קִיָּא כֶּם יֵאֲעִמְקֵד קִיָּא כֶּם אֲב  
יֵאֲמֵסֵצ עִמּוּגְקֻבְקֵרֵפ קִיָּא כֶּם יֵאֲעִמָּה.

### Talmud - Mas. Sanhedrin 69b

But why sll: may she not prove <sup>1</sup> to be barren, her husband not having married her zn such a condition?<sup>2</sup> Hence it must be that we take into account only the majority, and the majority of women are not constitutionally barren! No. The penalty incurred on her account is a sacrifice, [but not death]. But it is explicitly stated, ‘They are executed on her account?’ — That refers to incest by her father. But the statement is, If any of the forbidden degrees had intercourse with her?<sup>3</sup> — Hence this [Mishnah] refers to a husband who explicitly accepted her under all conditions.

Our Rabbis taught: If a woman sported lewdly with her young son [a minor], and he committed the first stage of cohabitation with her, — Beth Shammai say, he thereby renders her unfit to the priesthood.<sup>4</sup> Beth Hillel declare her fit. R. Hiyya the son of Rabbah b. Nahmani said in R. Hisda's name; others state, R. Hisda said in Ze'iri's name: All agree that the connection of a boy aged nine years and a day is a real connection; whilst that of one less than eight years is not:<sup>5</sup> their dispute refers only to one who is eight years old, Beth Shammai maintaining, We must base our ruling on the earlier generations, but<sup>6</sup> Beth Hillel hold that we do not.

Now, whence do we know that in the earlier generations [a boy of eight years] could beget children? Shall we say since it is written: [i] [And David sent and inquired after the woman, And one said:] Is not this Bath Sheba, the daughter of Eliam, the wife of Uriah the Hittite?<sup>7</sup> And it is written, [ii] Eliam, the son of Ahitophel the Gilonite;<sup>8</sup> and it is written, [iii] And he sent by the hand of Nathan the prophet; and he called his name Jedidiah [afterwards Solomon] because of the Lord;<sup>9</sup> and it is written, [iv] And it came to pass, after two full years [after Solomon's birth], that Absalom had sheepshearers;<sup>10</sup> and it is written, [v] So Absalom fled and went to Geshur and was there three years;<sup>11</sup> and it is written [vi] So Absalom dwelt two full years in Jerusalem, and saw not the king's face;<sup>12</sup> and it is written, [vii] And it came to pass after forty years, that Absalom said unto the king, I pray thee, let me go and pay my vow, which I have vowed unto the Lord in Hebron; and it is written,<sup>13</sup> [viii] And when Ahitophel saw that his counsel was not followed, he saddled his ass, and arose, and got him home to his house, to his city and put his household in order, and hanged himself;<sup>14</sup> and it is written, [ix] Bloody and deceitful men shall not live out half their days.<sup>15</sup> And it has been taught: Doeg lived but thirty-four years, and Ahitophel thirty-three. Hence deduct seven years, Solomon's age when [Ahitophel] committed suicide,<sup>16</sup> which leaves [Ahitophel] twenty-six years old at his birth. Now deduct two years for the three pregnancies, leaving each eight years old when he begot a child.<sup>17</sup> But why so? Perhaps both [Ahitophel and Eliam] were nine years old [at conception], Bath Sheba being only six years when she conceived, because a woman has more [generative] vitality; the proof being that she bore a child before Solomon?<sup>18</sup> — But it is deduced from the following: Now these are the generations of Terah: Terah begat Abram, Nahor and Haran.<sup>19</sup>

Now Abraham must have been [at least] one year older than Nahor, and Nahor one year older than Haran;<sup>20</sup> hence Abraham was two years older than Haran. And it is written, And Abram and Nahor took them wives: the name of Abram's wife was Sarai,' and the name of Nahor's wife Milcah, the daughter of Horan, the father of Milcah, and the father of Iscah.<sup>21</sup> Whereon R. Isaac observed: Iscah was Sarai, and why was she called Iscah? Because she foresaw [the future] by holy inspiration;<sup>22</sup> hence it is written, In all that Sarah hath said unto thee, hearken unto her voice.<sup>23</sup> Another reason is, that all gazed at her beauty. It is also written. Then Abraham fell upon his face, and laughed and said in his heart, shall a child be born unto him that is on hundred years old? and shall Sarah, that is ninety years old bear?<sup>24</sup> Hence, Abraham was ten years older than Sarah, and two years older than her father [Haran]. Therefore, Sarah must have been born when Haran was eight years old. But why so: perhaps Abram was the youngest of the brethren, the Writ giving them in order of wisdom? In proof of this contention, it is written, And Noah was five hundred years old, and Noah begat Shem, Ham and Japheth; hence [if the order is according to age], Shem was at least a year older than Ham, and Ham a year older than Japheth, so that Shem was two years older than Japheth. Now, it is written, And Noah was six hundred years old when the flood of water was upon the earth;<sup>25</sup> and it is written, These are the generations of Shem. Shem was a hundred years old, and begat Arphaxad two years after the flood.<sup>26</sup> But was he a hundred years old? He must have been a hundred and two years old?<sup>27</sup> Hence thou must say that they are enumerated in order of wisdom [not age];<sup>28</sup> then here too [in the case of Terah's sons], they are stated in order of wisdom.

R. Kahana said: I repeated this discussion before R. Zebid of Nahardea. Thereupon he said to me: You deduce [that the order is according to wisdom] from these verses, but we deduce it from the following: Unto Shem also, the father of all the children of Eber, the brother of Japheth the elder, even unto him were children born;<sup>29</sup> this means that he was the eldest of the brothers.

Then [the difficulty remains,] whence do we know it?<sup>30</sup> — From this; [i] And Bezaleel the son of Uri, the son of Hur, of the tribe of Judah;<sup>31</sup> and it is written, [ii] And when Azubah [Caleb's wife] was dead, Caleb took unto him Ephrath, which bore him Hur.<sup>32</sup> Now, how old was Bezaleel when he made the Tabernacle? Thirteen years, for it is written, [iii] And all the wise men, that wrought all the work of the Sanctuary, came every man from his work which they made.<sup>33</sup> And it has been taught: [iv] In the first year after the Exodus, Moses made the Tabernacle; in the second, he erected it and sent out the spies. And it is written, [v] [And Caleb . . . said . . .] Forty years old was I when Moses the servant of the Lord sent me from Kadesh-barnea to espy out the land,<sup>34</sup> . . . and now lo, I am this day fourscore and five years old.<sup>35</sup> Now, how old was he when sent as a spy? Forty. Deduct fourteen, Bezaleel's age at the time,<sup>36</sup> this leaves twenty-six [as Caleb's age at Bezaleel's birth]. Now, deduct two years for the three pregnancies; hence each must have begotten at the age of eight.<sup>37</sup>

A SON', BUT NOT A DAUGHTER. It has been taught: R. Simeon said, Logically, a daughter should come within the scope of a 'stubborn and rebellious child',

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(1) V. supra 55b.

(2) In which case the marriage is null.

(3) This includes the violation of the marriage bond.

(4) I.e., she becomes a harlot, whom a priest may not marry (Lev. XXI, 7).

(5) So that if he was nine years and a day or more, Beth Hillel agree that she is invalidated from the priesthood; whilst if he was less than eight, Beth Shammai agree that she is not.

(6) When a boy of that age could cause conception.

(7) II Sam. XI, 3.

(8) Ibid. XXIII, 34.

(9) Ibid. XII, 25.

(10) Ibid. XIII, 23.

(11) Ibid. 38.

(12) Ibid. XIV, 28.

(13) Ibid. XV, 7.

(14) Ibid. XVII, 23.

(15) Ps. LV, 24. This is quoted in support of the next statement that Ahitopel did not reach thirty-five, half the normal span.

(16) This is arrived at by comparing verses iv, v and vi: Absalom slew Amnon two years after Solomon's birth (iv); he was exiled for three years (v); he then lived two years in Jerusalem before his rebellion (vi), in consequence of which Ahitopel hanged himself soon after (viii). Hence, Solomon was seven years old at the time.

(17) For Ahitopel begat Eliam (ii), Eliam begat Bath Sheba (i), and Bath Sheba begat Jedidiah, i.e., Solomon (iii). Now even allowing only seven months for each pregnancy, these three must have taken nearly two years (Rashi tries to prove that it would take exactly two years, by allowing an additional month in each case for pre-conception menstruation and purification; but this is difficult, and it is preferable to assume with Tosaf. that the two years are approximate). Thus twenty four years are left for the three generations, giving eight years for each: Ahitopel must have been eight years at the conception of Eliam; Eliam eight years at the conception of Bath Sheba; Bath Sheba eight years at the conception of Solomon.

(18) So that in any ease we are bound to assume a lower age for her conception.

(19) Gen. XI, 27.

(20) On the assumption that they are stated according to seniority.

(21) Ibid. 29.

(22) **סַכַּח** is derived from the Aramaic root **סכא** to gaze, to look.]

(23) Ibid XXI, 12.

(24) Ibid. XVII, 17.

(25) Ibid. VII, 6.

(26) Ibid. XI, 10.

(27) Since Noah was five hundred years old when Shem was born, and six hundred when the flood commenced, Shem must have been a hundred then. Consequently, two years later he was a hundred and two years old.

(28) So that Shem as the youngest, not the eldest.

(29) Ibid. X, 21.

(30) That in the earlier generations, a boy of eight could beget child.

(31) Ex. XXXVIII, 22.

(32) Chron. II, 19.

(33) Ex. XXXVI, 4; In the Heb. 'every man' is expressed by ish ish, the doubling of the word emphasising that he had just reached manhood.

(34) Josh. XIV, 7.

(35) Ibid. 10.

(36) Deduced from iii and iv.

(37) i shews that Caleb was Bezaleel's great-grandfather, and iii and iv shew that he was twenty-six at Bezaleel's birth, within which three generations were born.

## **Talmud - Mas. Sanhedrin 70a**

since many frequent her in sin,<sup>1</sup> but that it is a divine decree: 'a son', but not a daughter.

MISHNAH. WHEN DOES HE BECOME LIABLE? — WHEN HE EATS A TARTEMAR<sup>2</sup> OF MEAT AND DRINKS HALF A LOG<sup>3</sup> OF ITALIAN WINE.<sup>4</sup> R. JOSE SAID: A MINA<sup>5</sup> OF FLESH AND A LOG OF WINE. IF HE ATE IT IN A COMPANY [CELEBRATING] A RELIGIOUS ACT, OR GATHERED FOR THE PURPOSE OF INTERCALATING THE MONTH;<sup>6</sup> IF HE ATE THE SECOND TITHE<sup>7</sup> IN JERUSALEM;<sup>8</sup> IF HE ATE THE NEBELOTH<sup>9</sup> OR TEREFOTH,<sup>10</sup> ABOMINABLE AND CREEPING THINGS,<sup>11</sup> OR TEBEL,<sup>12</sup> OR THE FIRST TITHE FROM WHICH TERUMAH HAD NOT BEEN SEPARATED,<sup>13</sup> OR UNREDEEMED SECOND TITHE,<sup>14</sup> OR UNREDEEMED SACRED FOOD;<sup>15</sup> IF HIS EATING INVOLVED A RELIGIOUS ACT OR A TRANSGRESSION;<sup>16</sup> IF HE ATE ANY FOOD BUT MEAT OR DRANK

ANY DRINK BUT WINE, HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON THEREBY, UNLESS HE EATS MEAT AND DRINKS WINE, FOR IT IS WRITTEN, [THIS OUR SON IS STUBBORN AND REBELLIOUS, HE WILL NOT OBEY OUR VOICE;] HE IS A GLUTTON [ZOLEL] AND A DRUNKARD [WE-SOBE].<sup>17</sup> AND THOUGH THERE IS NO ABSOLUTE PROOF, THERE IS A SUGGESTION FOR THIS, AS IT IS WRITTEN, BE NOT AMONG WINEBIBBERS [BE-SOBE]; AMONG GLUTTONOUS EATERS OF FLESH [BE-ZOLELE].<sup>18</sup> GEMARA. R. Zera said: I do not know what is this tartemar; but since R. Jose doubled the measure of wine, he must have doubled that of meat too; hence the tartemar is half a mina.

R. Hanan b. Moladah said in R. Huna's name: He is not liable unless he buys meat and wine cheaply and consumes them,<sup>19</sup> for it is written. He is a Zolel.<sup>20</sup> R. Hanan b. Moladah also said in R. Huna's name: He is not liable unless he eats raw meat and drinks undiluted wine.<sup>21</sup> But that is not so, for did not Rabbah and R. Joseph both say: If he ate raw meat or drank undiluted wine, he does not become a 'stubborn and rebellious son'? — Rabina answered, by 'undiluted wine' insufficiently diluted wine is meant, and raw meat means only partially cooked, like charred meat eaten by thieves.<sup>22</sup> Rabbah and R. Joseph both said: If he eats pickled meat or drinks 'wine from the vat', [i. e., new wine before it has matured], he does not become a stubborn and rebellious son'.<sup>23</sup>

We learnt elsewhere: On the eve of the ninth of Ab<sup>24</sup> one must not partake of two courses, neither eat meat nor drink wine.<sup>25</sup> And a Tanna taught: But he may eat pickled meat and drink new wine.<sup>26</sup> Now, what length of time must elapse before it is regarded as pickled meat [as opposed to fresh meat]? — R. Hanina b. Kahana said: As long as the flesh of the peace offering may be eaten.<sup>27</sup> And how long is it called new wine? — As long as it is in its first stage of fermentation; and it has been taught: wine in the first stage of fermentation does not come within the prohibition against uncovered liquid.<sup>28</sup> and how long is this first stage? — Three days. Now, what is the law here? — There [the prohibition of eating meat on the eve on the month of Ab] is on account of joy: as long as it is as the flesh of a peace offering, it yields the joy of meat eating. Here, however, it is on account of its seductiveness, and when a short period has passed, it no longer attracts, whilst wine is unattractive until it is forty days old.<sup>29</sup>

R. Hanan said: The only purpose for which wine was created was to comfort mourners and requite the wicked,<sup>30</sup> for it is written, Give strong drink unto him that is ready to perish [i. e., the wicked], and wine unto those that be of heavy hearts.<sup>31</sup> R. Isaac said: what is meant by, Look not thou upon the wine when it is red?<sup>32</sup> — Look not upon the wine, which reddens the faces of the wicked in this world and makes them pale [with shame] in the next. Raba said: Look not thou upon the wine ki yith'addam: look not upon it, for it leads to bloodshed [dam]<sup>33</sup>.

R. Kahana raised a difficulty; The Bible writes tirash [for wine], but the word is read tirosh.<sup>34</sup> — If one has merit, he becomes a leader, if not, he becomes impoverished. Raba raised a difficulty: The Bible writes, [and wine] yeshammah [the heart of man], but it is read yesammah.<sup>35</sup> — If one has merit, it gladdens him; if not, it saddens him.<sup>36</sup> And thus Raba said: wine and spices have made me wise.

R. Amram the son of R. Simeon b. Abba said in R. Hanina's name: What is meant by, Who hath woe? who hath sorrow? who hath contentions? who hath babbling? who hath wounds without cause? who hath redness of eyes? They that tarry long at the wine; they that go to seek mixed wine?<sup>37</sup> — When R. Dimi came,<sup>38</sup> he said: In the West it is said, In these verses, the second may be interpreted as explanatory of the first, or vice versa.<sup>39</sup>

'Ubar the Galilean gave the following exposition: The letter waw [and]<sup>40</sup> occurs thirteen times in the passage dealing with wine: And Noah began to be an husbandman, and he planted a vineyard:

And he drank of the wine and was drunken; and he was uncovered within his tent. And Ham the father of Canaan, saw the nakedness of his father, and told his two brethren without. And Shem and Japheth took a garment, and laid it upon their shoulders, and went backward and covered the nakedness of their father, and their faces were backward, and they saw not their father's nakedness. And Noah awoke from his wine, and knew what his younger son had done unto him.<sup>41</sup> [With respect to the last verse] Rab and Samuel [differ,] one maintaining that he castrated him, whilst the other says that he sexually abused him. He who maintains that he castrated him, [reasons thus:] Since he cursed him by his fourth son,<sup>42</sup> he must have injured him with respect to a fourth son.<sup>43</sup> But he who says that he sexually abused him, draws an analogy between 'and he saw' written twice. Here it is written, And Ham the father of Canaan saw the nakedness of his father; whilst elsewhere it is written, And when Shechem the son of Hamor saw her [he took her and lay with her and defiled her].<sup>44</sup> Now, on the view that he emasculated him, it is right that he cursed him by his fourth son; but on the view that he abused him, why did he curse his fourth son; he should have cursed him himself? — Both indignities were perpetrated.<sup>45</sup>

And Noah began to be a husbandman, and he planted a vineyard, — R. Hisda said in R. 'Ukba's name, and others state, Mar 'Ukba said in R. Zakkai's name: The Holy One, blessed be He, said unto Noah: 'Noah, shouldst thou not have taken a warning from Adam, whose transgression was caused by wine?' This agrees with the view that the [forbidden] tree from which Adam ate was a vine. For it has been taught: R. Meir said: That [forbidden] tree from which Adam ate was a vine,

(1) I.e., in her 'ultimate end' she may become a harlot, and cause many to err. V. infra 72a, cf. supra 65b.

(2) \*\*, a weight; v. note 11.

(3) A liquid measure equal to the contents (or space occupied by) six eggs.

(4) Italian wine was particularly choice (and strong) and drinking such a quantity thereof, might lead him to drunkenness and its consequent vices. But this measure of any other (inferior) wine would be neither so potent nor seductive.

(5) The mina, sometimes called the Italian mina, was the equivalent of 1 1/2 Roman pounds. The Roman pound contained 288 scruples, the mina 300 scruples = 12 1/2 ounces. According to the Gemara below, the tartemar was half a mina. The word really means a third, and probably indicated 1/3 Alexandrian mina, which contained 150 denarii, whilst the Hebrew mina (maneh) was only 100 denarii. Cf. Zuckermann: Ueber Talmudische Gewichte und Munzen, p. 8.

(6) A religious feast was eaten on such occasions.

(7) One tithe of the crops was to be eaten by its owners in Jerusalem; this was called the second tithe (the first being the tithe given to the Levites. cf. Deut. XIV, 26).

(8) I.e. if he stole money of the second tithe and purchased meat and wine, which he ate in Jerusalem.

(9) Nebelah, pl. nebeloth, is the technical term for an animal that came to its death by any but the prescribed method of slaughter.

(10) Terefah, plural terefoth, denotes an animal which having been ritually slaughtered, is found to have been suffering from certain diseases, which render it unfit for food.

(11) Which are forbidden, v. Lev. XX, 15, and XI, 10ff, 41ff.

(12) Tebel, the crops before the terumoth (v. Glos.) and tithes had been separated.

(13) The Levite, to whom the first tithe was given, had to separate a tithe thereof, called the terumah of the tithe, for the priest.

(14) If one lived at a distance from Jerusalem, he redeemed the second tithe by setting aside its value, plus a fifth, to be expended in Jerusalem. The second tithe then lost its sanctity and might be eaten anywhere.

(15) Food dedicated to sanctuary which had to be redeemed, Lev. XXVII, 19.

(16) V. infra 70b.

(17) זולל וסובא Deut. XXI, 20. Gluttony applies to meat, and drunkenness to wine.

(18) בסבאי יין בזללי בשר, Prov. XXIII, 20.

(19) For if he has to pay a high price, he may find it difficult to procure them, and is therefore not likely to be led into the evil ways for fear of which he is punished — a striking example of the influence of economics on morals.

(20) זולל glutton; by a play on words, this is connected with זול cheap. This does not really prove the point, but is merely adduced as a support.

- (21) This is discussed below.
- (22) Thieves, always fleeing, have no time for properly cooked meat, so they place it hastily on a very hot fire, with the result that it is partly burnt and partly raw. Eating such meat and drinking strong drink is a sign of a voraciousness and drunkenness which justifies fear for his future.
- (23) V. p. 476. n. 2.
- (24) The great fast held in memory of the destruction of the Temple.
- (25) Ta'an. 26b.
- (26) Ibid. 30a.
- (27) I.e., two days, which includes that of slaughter. Even if meat was salted for preserving immediately after slaughter, it has the taste of fresh meat for the first two days.
- (28) For whilst it thus bubbles, it repels snakes. The prohibition of drinking liquid left overnight uncovered was through the fear that a snake might have drunk thereof and in so doing injected some of its poison into it.
- (29) Since his sin lies not in that he actually eats and drinks, but because he is thereby drawn into evil ways, he is liable only for eating and drinking such food as can have a strong attraction for him. Meat more than a day, and wine less than forty days old, lack that attraction.
- (30) The wicked are thereby rewarded for the little good they do in this world (Rashi).
- (31) Prov. XXXI, 6.
- (32) Ibid. XXIII, 31.
- (33) **כִּי יִתְאֲדָם** translated 'when it is red,' is taken as reflexive of **דָּם** 'blood'.
- (34) **תִּירֶשׁ** may mean 'thou shalt become impoverished': **תִּירֶשׁ** 'thou shalt become a leader', a contraction of **תִּהְיֶה רֹאשׁ**. Thus the written word and the actual reading are contradictory.
- (35) **יִשְׂמַח** means 'maketh glad'; **יִשְׂמַח** a play on the word **יִשְׂמַח** (**שְׂמַח**) maketh desolate.
- (36) I.e. in moderation it is good; in excess, it wastes one's life.
- (37) Prov. XXIII. 29f.
- (38) V. p. 390, n. 1.
- (39) The second as explanatory of the first: who have all these evils? — Those who tarry long etc., the second being the cause, the first the effect. Vice versa: for whom is it fitting to tarry long over wine? — For the wicked only (i.e.. those who have the woes, and contentions of a life of wickedness).
- (40) V. following note.
- (41) Gen. IX, 20-24. In this passage, the conversive waw occurs thirteen times, in each case followed by the yod of the imperfect. The combination waw yod, (**וַי**) means 'woe' in Heb. Thirteen woes: so great are the sorrows caused by drunkenness.
- (42) The sons of Ham were Cush and Mizraim, and Phut and Canaan. Gen. X, 7. Noah cursed Canaan, his fourth son. Ibid. IX, 25ff
- (43) I.e., by emasculating him, he deprived Noah of the possibility of a fourth son.
- (44) Ibid. XXXIV, 2.
- (45) He both castrated and abused his father.

## Talmud - Mas. Sanhedrin 70b

for nothing else but wine brings woe to man. R. Judah said: It was the wheat plant,<sup>1</sup> for an infant cannot say 'father' and 'mother' until it has tasted of wheat.<sup>2</sup> R. Nehemiah said: It was the fig tree, for whereby they transgressed, they were taught to make amends, as it is written, And they sewed fig leaves together.<sup>3</sup>

The words of King Lemuel, the burden wherewith his mother admonished him.<sup>4</sup> R. Johanan said in the name of R. Simeon b. Yohai: This teaches that his mother thrust him against a post<sup>5</sup> and said to him, What my son? and what, the son of my womb? and what, the son of my vows? 'What my son?' All know that thy father was a God-fearing man, and therefore they will say that thou inheritest [thy sinfulness] from thy mother.<sup>6</sup> 'And what, the son of my womb?' All the women of thy father's harem, as soon as they conceived, no longer saw the king, but I forced myself in, so that my child might be vigorous and fair-skinned.<sup>7</sup> 'And what, the son of my vows?' All the women of thy

father's household made vows [praying] that they might bear a son fit for the throne, but I vowed praying that I might bear a son zealous and filled with the knowledge of the Torah and fit for prophecy. It is not for Kings, O Lemuel, it is not for kings to drink wine, nor for princes [to say,] Where is strong drink?<sup>8</sup> She spoke thus to him: What hast thou to do with kings who drink wine and say, 'What need have we of God?'<sup>9</sup> R. Isaac said: whence do we know that Solomon repented and confessed to his mother [the justice of her rebukes]? — From the verse, Surely, 'I am more brutish than man, and' have not the understanding of a man.<sup>10</sup> I am more brutish than a man [ish].<sup>11</sup> — that is, than Noah, of whom it is written, And Noah began to be an husbandman [ish];<sup>11</sup> 'and have not the understanding of a man' [adam]<sup>12</sup> — of Adam.<sup>13</sup>

IF HE ATE IT IN A COMPANY [CELEBRATING] A RELIGIOUS ACT. R. Abbahu said: He is not liable unless he eats in a company consisting entirely of good-for-nothings. But did we not learn, IF HE ATE IT IN A COMPANY [CELEBRATING] A RELIGIOUS ACT, . . . HE DOES NOT BECOME A REBELLIOUS SON THEREBY. Hence, it is only because they were celebrating a religious act, but otherwise, [he becomes a rebellious son] even if they are not all wastrels? — The Mishnah teaches that even if they were all wastrels, yet if they were celebrating a precept, he is not punished.<sup>14</sup>

OR GATHERED FOR THE PURPOSE OF INTERCALATING THE MONTH.

Shall we say that they ate<sup>15</sup> meat and wine [on such occasions]? But it has been taught: They ascended<sup>16</sup> for it with a meal consisting only of wheat bread and beans. — The Mishnah teaches thus; Though they normally ascended only with wheat bread and beans, whilst he brought up meat and wine and ate, Yet since they were engaged in a religious act, he would not be led astray.

Our Rabbis taught; Not less than ten ascend for the purpose of proclaiming the month a full one,<sup>17</sup> nor do they ascend for it except with a meal consisting of wheat bread and beans; they ascend only on the evening following the intercalated day, and at night, not by day.<sup>18</sup> But has it not been taught: They may not ascend for it by night, but only by day? — It is even as R. Hiyya b. Abba said to his sons: 'Go up there early, and come out early, so that the people may learn of your celebration.'<sup>19</sup>

IF HE ATE THE SECOND TITHE IN JERUSALEM.

For since he eats it in the normal way [i.e. in Jerusalem] he is not drawn [to wickedness].

IF HE ATE NEBELOTH OR TEREFOH, ABOMINABLE OR CREEPING THINGS.

Raba said: If he eats the flesh of fowl, he does not become a 'stubborn and rebellious son'. But did we not learn: IF HE ATE NEBELOTH OR TEREFOH, ABOMINABLE OR CREEPING THINGS<sup>20</sup> . . . HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON' THEREBY. [This implies;] but if he ate [the flesh of] clean [fowl], he does? — The Mishnah refers only to the completion [of the necessary amount].<sup>21</sup>

IF HIS EATING INVOLVED A RELIGIOUS ACT OR A TRANSGRESSION.

By a RELIGIOUS ACT is meant the meal for comforting mourners;<sup>22</sup> A TRANSGRESSION mean  
 2 4 מוסד ק קיא דן א י, גמש 2 3 ימשג אדשכ בךנופ ש מם עמזאהק  
 קנם ג ד גוךבסק דיא 2 5 :קבזסה רום טקנם אסמ דך, קי תיאף ד קדנז קיב  
 2 6 יקבזסה ד'גסע כם קתמקזג

יבאקדקמ , אונ ל זרג טמש למשרג רסל שקצ ונ גססכ טמש קן קי כן



סרכ ד זכ גקדדקרפ מקוק דוגודבמן דניא פאשקצ אונ גססכ טמש קאש קי כן  
 זו/סך מקוק דקגודבמן דניא קמון, אונ למזרג טמש למשרג רם 7 2 ין שדוקל צ  
 כ דעזכ גקדדקרע אה קמם כן :א עושא מק ז דתמ אן רסכ ילדוקצ גמש ט מי  
 mi"k and Êheû eÚtered the Sanctuary,

(1<sup>a</sup> In which case, \$g\$á (tree) in õhe Heb. must be unde[stood as aygenµric noun for plant life. There is also a legend that Æi£ the distant future the wheat sµall gro^ a° tall as a Valm tree;Úin tB! Garden of sden story it is therefore c lled alltree on account of its future state.

(2) Thus, wheat is the first@thing llo induce knowledge.

(3) Gen. III, 7.

(4) Prov. XXXI,11.

(5) To have hiÚ flagellated for his ovet-indulgencĪ in worldly p<sup>TM</sup>asures (RHshi)..(6e #.e.,úwhy should 'ou thus —e called m<sup>a</sup> son?

(7) And ná= he was employing µis very strength andábeauty in evil courses.

(8) Ibid.3.

(9) By a play on words al לא meaning 'not' is HonneÊteh with 'to God', Lemuel read as Immo-el, (למו-אל למואל), 'to !od', the He\ letters being the same, "ifferring only in -he vowel£

(10) =bid. XXX, 2.

(11) איש

(12) אדם

(13) Both of whom were ensnared by wine, yet have I drank more than they.

(14) For in that case, the company will not cause him to err, seeing that they are thus engaged. But on the other hand, even if not engaged in celebrating a prec.pt, if there is a single decent man among א מןשראדקי טשצ יבוי, תקבמקודכמן טרשאודשד ש קדןברקס טשצ קי תצקיא א יןןהק כם קדרוסב עמסדגשקי ש צ רכ רסדדקרעדמשרא דני

(15) ין פו איעוסרנ יןאנד

(16) יקאסמ אסקמ יזה

(17) דשצרסכ ש כם דספרופ קיא רסכ אסמ דש, דניא ידטשג טארניא כם תיקקין  
 סאשמזרגקימשד קיא כם מסדןבקג קיא מ.סמל עמזלשצ כם אונ תמסזאשרשדבקג  
 מש מן קמסג דש,דניא דךש תטאזבדנופ אן קהזע סא רקגרם מן יקדפסקפ קיא  
 א גקדספסק מקי, גקמקבדש נרזה קיא כם קדו קיא קבמקי תרקנצשיב רקפפו  
 ין,קזה בודנופ קיא ס

(18) קדן,רקיאם איעוצ אן אשיא דמזשפסק יכשדסא ין 0 ודכרקפוד דצקקד דניא  
 ש קיא עמון,סדךסכ עמזמקהק קיא מם טךמם גמקבדש טקיא ישיא איעוסיא קנ  
 עמזמקהק קיא מם קנ אסמ אדוצ אן אשיא דקדןדשיפצק טךקרקצ טשג דשמסזאזג  
 יןאיעושיא טךרשדובזארשפ אסמ דן כדקדאן עמזמקהק אשיא אוס תעמזגקבקרפ

(19) ון/ דש, אן דןאמו אןש, סא אסמ קרק, טקיא תיקקין יטסס רשקי תיןאנד  
 קרק, טקיא קרסכקרקיא תגקארקדקג קרש דאקקראד קיא מקיא טנ דש תלרשג קא  
 שדפ לססא טמסצקרקב דשזאמקדדק קיא אונ יטשג אקט דש, אן אדדני, פו סע סא  
 מרסי קיא מן טךרש/ רקנצשיב קיא קהש ד סא סדךש קרק, טקיא יןאיעזמ אש קב  
 ו קיא מן איעזמ קיא אמקפד טקיא אשיא אמקגזהק קצשבקנ אן עמזסג סד טנ :עמן  
 אונ יןאמקגזהק קצשבקנ סדךש פו עמזסע מן קדספרופ רןקיא גמש רקנצשיב רקפפ  
 מן טךמם פו קמסע גשי טקיא אשיא איעום א קנ איעוצ אן תגקזררשא טקיא כן  
 ין,קזה מן קדספרופ רקיאם קצסד גשי גמש עמזמרסצ קיא

(20) י כן תוקקין (21) יככ 13 תזם ינהקד יזה פדך,סכ משקדבמו סדךש עמזאסמקג  
 ו גקאקדפצסב גמשוניתידקדכ גקאאזצרקפ כם רשצקארשא ש משיא דדקד קאש ק  
 קארש קדסי, קיא כן אונ יןגקידזמופ אסמ דן קי יבאק יאסדקנקמ עמ אשק טנ א  
 יןאפצקסמ קנ סדךש גדום, קי ד,סכ משקדב כם ידק כ קיא דש, רשצ

(22) רקן רשק קיא רסכ יןאמקצאבשמק דשבזמזננשר ש טךמם דש, דניא יעוסיא  
 עזקר ש (עמזאשרנקדקב)טטמש צסב ש מן קאש קי כן ישמידוקצ קיא כם קדושדב  
 תאפקבקרפ דשבזדנזן ש סא עמזררקקד דש גקאקרפרקאמן קנ איעוצ אבש דוסן

יקבוצר בשד רקהסדדשפ קיא כם עמזאשק קיא עיזק  
 זגרם דשבזמזננשר ש טדמם דן ססא דזיא יעוסיא ידזננשר טנ גקצזשדכסרפ (23)  
 יקבמזשז  
 דדקנקר ש קמם רקגמקר אסמ דקסג גססכ מקגגנרסכ כם עמזאשק קיא אשיא (24)  
 יזמסד דוסן  
 יז 20 תזסם יזאוקג (25)  
 יז יז יזה אמקדקרפזמזם קבשדפ קיא תצסלשז כם קבזסה קיא תזאזד (26)  
 יזככ 225 יזפפ תזזה מזרזידקה תזבדרי  
 קרק, דעזכ גקדדקרפ קדקיא יזשקגזח כם אבזראדזג גמשד,סד קיא מז מ,סא ש (27)  
 ד דוסדדקנקר ש צזי רקגמקר אסמ סג טקיא תדדקדקיארקקמ תעמזאשכזססאזן  
 יזמם

## Talmud - Mas. Sanhedrin 71a

he is punished.<sup>1</sup>

HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON,' UNLESS HE EATS MEAT AND DRINKS WINE.

Our Rabbis taught: If he ate any food but meat, and drank any drink but wine, he does not become a stubborn and rebellious son' — unless he eats meat and drinks wine, for it is written. He is a glutton and a drunkard; and though there is no absolute proof, there is a suggestion for this, as it is written, Be not among the winebibbers, among gluttonous eaters of flesh.<sup>2</sup> And it is also said, For the drunkard and glutton shall come to poverty; and drowsiness shall clothe a man with rags.<sup>3</sup> R. Zera said: whoever sleeps in the Beth Hamidrash,<sup>4</sup> his knowledge shall be reduced to tatters,<sup>5</sup> for it is written, and drowsiness shall clothe a man with rags. MISHNAH. IF HE STOLE OF HIS FATHER'S AND ATE IT IN HIS FATHER'S DOMAIN, OR OF STRANGERS AND ATE IT IN THE DOMAIN OF THE STRANGERS, OR OF STRANGERS AND ATE IN HIS FATHER'S DOMAIN, HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON,' — UNTIL HE STEALS OF HIS FATHER'S AND EATS IN THE DOMAIN OF STRANGERS. R. JOSE, SON OF R. JUDAH SAID: UNTIL HE STEALS OF HIS FATHER'S AND MOTHER'S.

GEMARA. IF HE STOLE OF HIS FATHER'S AND ATE IT IN HIS FATHER'S DOMAIN: though this is easily within his reach, he is afraid;<sup>6</sup> OR OF STRANGERS AND ATE IT IN THE DOMAIN OF STRANGERS: though he is not afraid, yet it is not easily within his reach; how much more so IF HE STOLE OF STRANGERS AND ATE IN HIS FATHER'S DOMAIN, this not being easily attainable, and he, in addition, is afraid. UNTIL HE STEALS OF HIS FATHER'S AND EATS IT IN THE DOMAIN OF STRANGERS, which is easily within his reach and does not cause him fear.

R. JOSE, SON OF R. JUDAH SAID: UNTIL HE STEALS OF HIS FATHER'S AND MOTHER'S.

But how can his mother possess aught, seeing that whatever a woman acquires belongs to her husband? — R. Jose. son of R. Hanina answered: It means that he steals from a meal prepared for his father and mother. But did not R. Hanan b. Molad say in R. Huna's name: He is not liable unless he buys meat and wine cheaply and consumes them? — But say thus: from the money set aside for a meal for his father and mother.<sup>7</sup> An alternative answer is this: a stranger had given her something and said to her, 'I stipulate that your husband shall have no rights therein.'

MISHNAH. IF HIS FATHER DESIRES [TO HAVE HIM PUNISHED], BUT NOT HIS MOTHER; OR THE REVERSE, HE IS NOT TREATED AS A 'STUBBORN A REBELLIOUS

SON', UNLESS THEY BOTH DESIRE IT. R. JUDAH SAID: IF HIS MOTHER IS NOT FIT FOR HIS FATHER, HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON'.

GEMARA. What is meant by 'NOT FIT'? Shall we say that she is forbidden to him under penalty of extinction or capital punishment at the hand of Beth din,<sup>8</sup> but after all, his father is his father, and his mother is his mother? — But he means not physically like his father. It has been taught likewise: R. Judah said: If his mother is not like his father in voice, appearance and stature, he does not become a rebellious son. Why so? — The Writ saith, he will not obey our voice,<sup>9</sup> and since they must be alike in voice, they must be also in appearance and stature. With whom does the following Baraitha agree: There never has been a 'stubborn and rebellious son',<sup>10</sup> and never will be. Why then was the law written? That you may study it and receive reward. — This agrees with R. Judah.<sup>11</sup> Alternatively, you may say it will agree with R. Simeon. For it has been taught: R. Simeon said: Because one eats a tartemar of meat and drinks half a log of Italian wine, shall his father and mother have him stoned? But it never happened and never will happen. Why then was this law written? — That you may study it and receive reward. R. Jonathan said: 'I saw him<sup>12</sup> and sat on his grave'.

With whom does the following agree? Viz., It has been taught: 'There never was a condemned city, and never will be.' — It agrees with R. Eliezer. For it has been taught, R. Eliezer said: No city containing even a single mezuzah<sup>13</sup> can be condemned. Why so? Because the Bible saith [in reference thereto], And thou shalt gather all the spoil of it in the midst of the street thereof and shalt burn [them].<sup>14</sup> But if it contains a single mezuzah, this is impossible, because it is written, [And ye shall destroy the names of them — i.e., the idols — . . .] Ye shall not do so unto the Lord your God.<sup>15</sup> R. Jonathan said: I saw it, [a condemned city] and sat upon its ruins.

With whom does the following agree: There never was a leprous house [to need destruction], and never will be?<sup>16</sup> Then why was its law written? — That you may study it and receive reward. With whom does it agree? — With R. Eliezer son of R. Simeon. For we learnt: R. Eliezer son of R. Simeon said: A house never becomes unclean unless a plague spot appears, the size of two beans, on two stones in two walls, and at the angle of the walls; It must be two beans in length, and one in breadth. Why so? Because the Bible refers to the walls [of the house]<sup>17</sup> and also to the wall:<sup>18</sup> where is one wall as two? At its angle.<sup>19</sup>

It has been taught: R. Eliezer son of R. Zadok said: There was a place within a Sabbath's walk<sup>20</sup> of Gaza, which was called the leprous ruins. R. Simeon of Kefar Acco<sup>21</sup> said: I once went to Galilee and saw a place, which was marked off, and was told that leprous stones were thrown there!

MISHNAH. IF ONE OF THEM [HIS FATHER OR HIS MOTHER] HAD A HAND OR FINGERS CUT OFF, OR WAS LAME, DUMB, BLIND OR DEAF, HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON', BECAUSE IT IS WRITTEN, 'THEN SHALL HIS FATHER AND HIS MOTHER LAY HOLD ON HIM', — THIS EXCLUDES THOSE WITH HANDS OR FINGERS CUT OFF; 'AND BRING HIM OUT', EXCLUDING LAME PARENTS; 'AND THEY SHALL SAY', EXCLUDING THE DUMB; 'THIS OUR SON', EXCLUDING THE BLIND;<sup>22</sup> 'HE WILL NOT OBEY OUR VOICE, EXCLUDING THE DEAF.<sup>23</sup> HE IS ADMONISHED IN THE PRESENCE OF THREE AND FLAGELLATED. IF HE TRANSGRESSES AGAIN AFTER THIS, HE IS TRIED BY A COURT OF TWENTY THREE, AND CANNOT BE SENTENCED TO STONING UNLESS THE FIRST THREE ARE PRESENT, BECAUSE IT IS WRITTEN, 'THIS OUR SON', IMPLYING, 'THIS ONE WHO WAS WHIPPED IN YOUR PRESENCE'.

GEMARA. This proves that the Bible must be taken literally as it is written!<sup>24</sup> — [No; for] here it is different,

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- (1) This refers to a priest, who was forbidden to enter the Sanctuary after indulging in strong drink (Lev. X, 9).
- (2) Prov. XXIII, 20.
- (3) Ibid. 21.
- (4) V. Glos.
- (5) I.e., he shall forget most of it, retaining only scraps — perhaps R. Zera found an inclination among his disciples to dose off whilst he was teaching.
- (6) To do this often, and hence will not be led into evil ways.
- (7) [In which money the mother has an exclusive share, as alimention is part of the husband's obligations to the wife.]
- (8) E.g., if his mother was his father's sister or daughter.
- (9) Deut. XXI, 20. Since 'voice' is in the singular, they must both have a similar voice, so that they sound as one,
- (10) In the Biblical sense, to be executed.
- (11) Since it is obviously impossible that his father and mother should be so exactly alike.
- (12) A rebellious son who was executed at his parents' demand.
- (13) **מזוזה** an encased strip of parchment, on which is written the first two sections of the Shema' (v. Glos.). This is fixed to the doorpost.
- (14) Deut. XIII, 17.
- (15) Ibid. XII, 4.
- (16) V. Lev. XIV, 34 et seq.
- (17) Lev. XIV, 37.
- (18) Ibid. 37.
- (19) Such a combination of circumstances must be so rare as to amount to an impossibility.
- (20) 2000 cubits out of town.
- (21) [Caphare Accho in lower Galilee, v. Hildesheimer, Beitrage, p. 81.]
- (22) 'This our son' implies that they see him.
- (23) For when they order him, and he replies, they cannot say for certain that he declined to obey them when ordered, even if they subsequently see that their order was disregarded.
- (24) V. supra 45b.

## **Talmud - Mas. Sanhedrin 71b**

since the entire verse is superfluous.<sup>1</sup>

HE IS ADMONISHED IN THE PRESENCE OF THREE.

Why so? Are not two sufficient? — Abaye answered: The Mishnah means this: He is admonished in the presence of two,<sup>2</sup> and ordered lashes by a court of three.<sup>3</sup>

Where are lashes stated for a stubborn and rebellious son? — As in R. Abbahu's exegesis. For R. Abbahu said: we draw an analogy between and they shall chastise him, written twice;<sup>4</sup> and [the meaning of] and they shall chastise him is deduced from [the fact that] ben<sup>5</sup> [occurs in this passage], and then a further analogy is drawn between the word ben written here and in And it shall be if the wicked man be worthy<sup>6</sup> to be beaten.<sup>7</sup>

IF HE TRANSGRESSES AGAIN AFTER THIS, HE IS TRIED BY A COURT OF TWENTY THREE etc.

But is not this verse [sc. This our son] needed to teach, 'This', excluding blind parents?<sup>8</sup> — if so, the Bible should have written, 'He is<sup>9</sup> our son'. Why state, This our son?<sup>10</sup> [Hence] deduce there from both.

MISHNAH. IF HE [THE REBELLIOUS SON] FLED BEFORE HIS TRIAL WAS COMPLETED, AND THEN HIS NETHER HAIR GREW ROUND,<sup>11</sup> HE IS FREE. BUT IF HE

FLED AFTER HIS TRIAL WAS COMPLETED, AND THEN HIS NETHER HAIR GREW ROUND, HE REMAINS LIABLE.

GEMARA. R. Hanina said: A Noachide who blasphemed the Divine Name and then became a proselyte, escapes punishment, since the judicial procedure and death are [thereby] changed.<sup>12</sup> Shall we say that [the Mishnah] supports him? IF HE FLED BEFORE HIS TRIAL WAS COMPLETED AND THEN HIS NETHER HAIR GREW ROUND, HE IS FREE. Why so? Surely because since he has changed [in age] he has [also] changed [in liability]!<sup>13</sup> — No, here [in the Mishnah] it is different, for should he transgress now, he is not liable at all.<sup>14</sup>

Come and hear: BUT IF HE FLED AFTER HIS TRIAL WAS COMPLETED, AND THEN HIS NETHER HAIR GREW ROUND, HE REMAINS LIABLE.<sup>15</sup> — You speak of one who is actually sentenced! But once sentenced, he is [already] as dead.<sup>16</sup>

Come and hear: A Noachide who slew his neighbour [likewise a gentile] or violated his wife, and then became converted, is exempt. But if he did this to an Israelite, he is punished. But why so? Should we not say: Since he is changed [in respect of judicial procedure] he is changed [in respect of liability too]? — The change must be in respect of both the judicial procedure and the death penalty: but this Noachide's status has altered only in respect of the former, but not of the latter. Granted that this is true of a murderer: before [conversion] his penalty was decapitation, and it is so now too. But [the violation of] a married woman was punishable before [conversion] by decapitation, but now by strangulation? — [This refers to] the violation of a betrothed maiden, for which stoning is decreed in both cases. But 'if he did this to an Israelite' is parallel to 'or violated his neighbour's wife!'<sup>17</sup> — The lesser [punishment] is included in the greater.<sup>18</sup> Now this agrees with the view of the Rabbis that decapitation is severer [than stoning]; but on the view of R. Simeon that stoning is the greater punishment, what can you say? — R. Simeon concurs with the Tanna of the School of Manasseh, who says that wherever death is decreed for the Noachide, it is by strangulation. Now, this is true of adultery, the penalty for which both before and after [conversion] is strangulation.<sup>19</sup> But murder was punishable before by strangulation; now by decapitation! — The lesser is included in the greater.<sup>20</sup>

Shall we say that the following supports him? [For it was taught:] If she [sc. a betrothed maiden] sinned [by committing adultery], and then attained puberty [becoming a bogereth], she is strangled.<sup>21</sup> Now, why not stoned?<sup>22</sup> Surely, because since she is changed [physiologically], she is likewise changed [in respect of punishment];<sup>23</sup> how much more so in this case,<sup>24</sup> where a complete change has taken place? — [This does not support him,] for R. Johanan said to the tanna:<sup>25</sup> Read, she is stoned.

MISHNAH. A 'STUBBORN AND REBELLIOUS SON' IS TRIED ON ACCOUNT OF HIS ULTIMATE DESTINY: LET HIM DIE INNOCENT AND LET HIM NOT DIE GUILTY. FOR THE DEATH OF THE WICKED BENEFITS THEMSELVES AND THE WORLD;<sup>26</sup> OF THE RIGHTEOUS, INJURES THEMSELVES AND THE WORLD. WINE AND SLEEP OF THE WICKED BENEFIT THEMSELVES AND THE WORLD;<sup>27</sup> OF THE RIGHTEOUS, INJURE THEMSELVES AND THE WORLD.<sup>28</sup> THE SCATTERING OF THE WICKED BENEFITS THEMSELVES AND THE WORLD;<sup>29</sup> OF THE RIGHTEOUS, INJURES THEMSELVES AND THE WORLD. THE ASSEMBLING OF THE WICKED INJURES THEMSELVES AND THE WORLD; OF THE RIGHTEOUS, BENEFITS THEMSELVES AND THE WORLD. THE TRANQUILLITY OF THE WICKED INJURES THEMSELVES AND THE WORLD;<sup>30</sup> OF THE RIGHTEOUS, BENEFITS THEMSELVES AND THE WORLD.

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(1) For the Bible could have written, 'And ye shall bring him out unto the gate of that city, and stone him.' Hence, the rest must have been inserted as limiting clauses. But if a verse is not superfluous in itself, it may be that it need not be literally interpreted.

- (2) So that they may be witnesses thereof since he cannot be executed on his parents' testimony alone.
- (3) As all who are sentenced to lashes; v. supra 2a.
- (4) R. Abbahu said this in reference to the slanderer of a woman's honour: whence do we know that he is punished by lashes? Because the Bible writes, And they (the elders) shall chastise him. Deut. XXII, 18. By analogy with And they shall chastise him, said with reference to a rebellious son (ibid. XXI, 18), we learn that the same treatment is meted out to both.
- (5) בן 'son'.
- (6) בן Heb. bin — the letters do not differ from ben, the meaning is the same.
- (7) Deut. XXV, 2. There, flagellation is explicitly prescribed. By analogy, the same applies to a rebellious son, and by a further analogy, to the slanderer.
- (8) V. Mishnah.
- (9) That would imply, 'he who was lashed in your presence.'
- (10) Which implies that they actually point to him (Rashi). [Yad Ramah reverses the interpretation].
- (11) So that he is beyond the age limit; v. supra 68b.
- (12) A Noachide is tried by one judge, and on the testimony of one witness only, and is executed even if no formal admonition preceded his offence; a Jew is tried by a court of twenty three, on the testimony of at least two, and only after formal admonition. Moreover, a gentile is decapitated, whereas a Jew is stoned.
- (13) Hence, the same principle holds good here.
- (14) But in the case under discussion, blasphemy after conversion is also punishable, though the procedure differs.
- (15) In spite of his changed status. This refutes R. Hanina's dictum.
- (16) Therefore his altered status does not free him.
- (17) 'His neighbour's wife' must refer to a nesu'ah, since the sacredness of betrothal alone is not recognised by heathens. Consequently, 'if he did this to an Israelite must also refer to a nesu'ah.
- (18) I.e., this does refer to a nesu'ah, whose violation before conversion is punished by decapitation; after conversion, by stoning. But the latter being more lenient than the former, it is regarded as included therein; hence his death has not changed. But in blasphemy, the change is from decapitation to stoning. Which is the reverse.
- (19) According to the last answer.
- (20) Decapitation being more lenient than strangulation.
- (21) V. Keth. 45a.
- (22) In accordance with the penalty of a na'arah.
- (23) Though here it does not exempt her entirely, since strangulation, to which a bogereth is liable, is included in stoning, the punishment of a na'arah.
- (24) Of blasphemy.
- (25) [R. Shila, who recited the Baraita, Keth. 45a.]
- (26) It benefits them, in that they sin no more.
- (27) For whilst drinking and sleeping they can do no evil.
- (28) Because their time can be better spent, with greater advantage to themselves and to others.
- (29) Being scattered, they cannot take counsel together for evil.
- (30) As it gives them the opportunity of devising evil.

## Talmud - Mas. Sanhedrin 72a

GEMARA. It has been taught: R. Jose the Galilean said: Did the Torah decree that the rebellious son shall be brought before Beth din and stoned merely because he ate a tartemar of meat and drank a log of Italian wine? But the Torah foresaw his ultimate destiny. For at the end, after dissipating his father's wealth, he would [still] seek to satisfy his accustomed [gluttonous] wants but being unable to do so, go forth at the cross roads and rob.<sup>1</sup> Therefore the Torah said, 'Let him die while yet innocent, and let him, not die guilty.' For the death of the wicked benefits themselves and the world; of the righteous, injures themselves and the world. Sleep and wine of the wicked benefit themselves and the world; of the righteous, injure themselves and the world. The tranquillity of the wicked injures themselves and the world; of the righteous, benefits themselves and the world. The scattering of the wicked benefits themselves and the world; of the righteous, injures themselves and the world.

MISHNAH. [THE THIEF] WHO BURROWS HIS WAY IN<sup>2</sup> IS JUDGED ON ACCOUNT OF ITS PROBABLE OUTCOME. IF HE BROKE THROUGH AND BROKE A JUG, SHOULD THERE BE 'BLOOD-GUILTINESS FOR HIM,'<sup>3</sup> HE MUST PAY [FOR THE JUG], BUT IF THERE IS NO 'BLOOD-GUILTINESS FOR HIM,'<sup>4</sup> HE IS NOT LIABLE.<sup>5</sup>

GEMARA. Raba said: what is the reason for the law of breaking in? Because it is certain that no man is inactive where his property is concerned; therefore this one [the thief] must have reasoned, 'If I go there, he [the owner] will oppose me and prevent me; but if he does I will kill him.' Hence the Torah decreed, 'If he come to slay thee, forestall by slaying him'.

Rab said: If one broke into a house, and stole some utensils and departed, he is free [from making restitution] — Why? Because he has purchased them with his blood.<sup>6</sup> Raba<sup>7</sup> said: It would logically appear that Rab's dictum holds good only if he broke the utensils, so that they are not in existence; but not if he merely took them [and they are still intact]. But in truth,<sup>8</sup> Rab's dictum applies even if he merely took them. For [even] where there is 'blood-guiltiness for him', if the utensils are injured, he is liable. This proves that they stand under his [the thief's] ownership; so here too, they are under the thief's ownership.<sup>9</sup> But it is not so.<sup>10</sup> The Divine Law placed it under the thief's control only in respect of injury;<sup>11</sup> but as to ownership, it remains the property of the first owner,<sup>12</sup> just as in the case of a borrower.<sup>13</sup>

We learnt: IF HE BROKE THROUGH AND BROKE A JUG, SHOULD THERE BE BLOOD-GUILTINESS FOR HIM', HE MUST PAY [FOR THE JUG]; BUT IF THERE IS 'NO BLOOD-GUILTINESS FOR HIM', HE IS NOT LIABLE. Thus, it is only because he broke it that he is exempt when there is no blood-guiltiness for him, but if he only took it, he is not exempt?<sup>14</sup> — The same law [of exemption] applies even if he merely took it, and the reason it states, 'AND BROKE A JUG' is to show that if there is blood-guiltiness for him, he is liable even if he broke it. But is this not obvious, since he damaged it? — We are thereby informed that [he is liable] even if he broke it unintentionally. What does this teach us? That a man is always regarded as forewarned?<sup>15</sup> But we have already learnt this: A man is always regarded as forewarned, whether [he did damage] unwittingly or wittingly accidentally or deliberately. This is a difficulty!<sup>16</sup>

R. Bibi b. Abaye objected: [We learnt:] If one steals a purse on the Sabbath, he is bound to make restitution, since the liability for theft arose before the desecration of the Sabbath. But if he drags it out of the house, he is exempt, since they are simultaneous!<sup>17</sup> — [No]. This ruling holds good only, if he threw it into the river.<sup>18</sup>

Raba was robbed of some rams through a thief breaking in. Subsequently they [the thieves] returned them, but he refused to accept them, saying. 'Since Rab has thus ruled,<sup>19</sup> [I abide by his decision]'.

Our Rabbis taught: [If a thief be found breaking up, and be smitten that he die], there shall no blood be shed for him, if the sun be risen upon him.<sup>20</sup> Now, did the sun rise upon him only? But [this is the meaning: 'If it is as clear to thee as the sun that his intentions are not peaceable, slay him; if not, do not slay him.' Another [Baraitha] taught: If the sun be risen upon him, there shall be blood shed for him. Now, did the sun rise upon him alone? But if it is as clear to thee as the sun that his intentions are peaceable, do not slay him; otherwise, slay him. These two unnamed [Baraithas] contradict each other.<sup>21</sup> — This is no difficulty:

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(1) Evil habits, even if not actually sinful, very rapidly lead to sin. 'For precept draws precept in its train, and transgression, transgression; for the recompense of a precept is a precept, and the recompense of a transgression, a transgression' (Aboth IV. 2).

- (2) V. Ex. XXII, 1. He may be killed by the occupier of the house with impunity.
- (3) I.e., if his death is punishable.
- (4) I.e., if he may be killed with impunity.
- (5) V. infra. Not in every circumstance was the house owner allowed to kill him.
- (6) Since he risked his life, which the owner could have taken with impunity.
- (7) The Rashal reads 'Rabbah'.
- (8) Lit., 'Oh God!' — an oath.
- (9) The reasoning is as follows: when something is stolen, it loses its first ownership, and passes into that of the thief, who is therefore liable for having removed it from its owner's control as for an ordinary debt. Consequently, he is liable even if it is broken. For if it theoretically remained in its first ownership, the thief would not be liable for any injury to it. Hence in this case, since the thief, by his act of breaking in, became liable to death, restoration cannot be demanded even if it is intact, for liability to monetary restoration is cancelled in the face of the greater liability to death.
- (10) Raba (or Rabbah), having proved that Rab's dictum holds good even if the utensils are intact, now demolishes the theory upon which it is based.
- (11) As explained in note 1.
- (12) And if intact, the thief cannot retain the stolen article and offer the value instead.
- (13) If one borrows (not hires) an article, and it is damaged in his possession, he must make it good, though it really remains the property of the first owner, who can claim the return of it intact, if available. So he is liable too.
- (14) This contradicts Rab's ruling.
- (15) I.e., lack of intention or an accident, does not free him from his full liabilities.
- (16) Nevertheless, it does not altogether refute Rab's ruling, since the Mishnah can be interpreted as holding good even if he looks at it, though as shown above, such interpretation is not very plausible (Rashi).
- (17) Lit., 'The prohibition of stealing and the prohibition involving stoning came together'. But 'stealing' is meant that he took it in his hand, thereby lifting it up from its place. Lifting up is a method of final acquisition, and as soon as he does this with felonious intent he has stolen it, and hence is liable for theft. But the Sabbath is violated until he takes it into the street, the violation consisting of the carrying of the purse from a private domain (the house) into a public domain (the street). But if he draws it along the floor of the house, not lifting it up, the act of theft is committed only when it leaves the house; simultaneously with this, the Sabbath is desecrated. Since he is liable to stoning for the latter he is exempt on account of the former, it being a principle that if a person simultaneously commits two wrongs, the greater only is punished. Hence we see that though the purse is still in existence, he is not bound to return it. This refutes Rab's ruling. (18) I.e., destroyed it. But if it is intact, he is bound to return it.
- (19) Lit., 'Since the matter came out from the mouth of Rab'. (20) Eo. XXII, 1 f. The clauses here thus coupled in this Baraita, the Massoretic punctuation... being disregarded.
- (21) The first implying that in doubt thou mayest not slay him; the second, that in doubt thou mayest.

## Talmud - Mas. Sanhedrin 72b

The first [Baraita] refers to a father [robbing] his son, the second to a son [robbing] his father. <sup>1</sup>

? Rab said: 'Any man that broke into my house, I would kill, excepting R. Hanina b. Shila.' Why? Shall we say because he is righteous [and therefore certain not to kill me]? Surely he has broken in!<sup>2</sup> — But because I am assured that he would have pity upon me, like a father for his son.

Our Rabbis taught: [If the sun be risen upon him,] there shall be blood [damim] shed for him: both on a week day, and on the Sabbath. [If the thief be found breaking up, . . .] there shall no blood [damim] be shed for him:<sup>3</sup> neither on week days, nor on the Sabbath. Now, granted that the exegesis of 'there shall be no blood be shed for him', as including both week days and the Sabbath, is necessary, for I might think that this case is similar to that of those who are executed by Beth din, who may not be executed on the Sabbath:<sup>4</sup> we are therefore told that [the thief] may be slain [even on the Sabbath].<sup>5</sup> But why deduce 'there shall be blood shed for him', neither on a week day nor on the Sabbath? If he may not be slain on a week day, he may surely not be slain on the Sabbath? — R.



Shesheth replied: This is necessary only to teach that a pile [of debris] must be removed for his sake.<sup>6</sup>

Our Rabbis taught: [If a thief be found breaking up,] and be smitten, — by any man; that he die, — by any death wherewith you can slay him. Now, [the exegesis] ‘And be smitten, — by any man’ is rightly necessary; for I might think that only the owner may be assumed not to remain passive. [Whilst his money is being stolen, but not a stranger:<sup>7</sup> it is therefore taught that he is regarded as a potential murderer<sup>8</sup>, whom even a stranger may kill [in defence of the owner]. But what need of ‘that he die’, — by any death wherewith you can slay him’; can this not be deduced from a murderer? For it has been taught: He that smote him shall surely be put to death; for he is a murderer.<sup>9</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, that 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>10</sup> — There it is different, because Scripture writes, He shall surely be put to death. Then why not derive this from it? Because the murderer and the avenging kinsman are two verses with the same object, and the teaching of such two verses does not extend to anything else.<sup>11</sup>

Our Rabbis taught: If a thief be found breaking in:<sup>12</sup> from this I know that law only for breaking in [through the wall]: whence do we know it if he be found on the roof, in the court, or in an enclosure [attached to the house]? — From the verse, If the thief be found, implying, wherever he is [found as thief].<sup>13</sup> If so, why state ‘breaking in’? — Because most thieves enter by breaking in.

Another [Baraita] taught: if a thief be found breaking in: from this I know the law only for breaking in: whence do I know it if he be found on the roof, in the court, or an enclosure? From the verse, ‘If the thief be found,’ implying. Wherever he is found as thief. If so, why state ‘breaking in’? — Because his breaking in constitutes a formal warning.<sup>14</sup>

R. Huna said: A minor in pursuit may be slain to save the pursued.<sup>15</sup> Thus he maintains that a pursuer, whether an adult or a minor, need not be formally warned. R. Hisda asked R. Huna: we learnt: Once his head has come forth, he may not be harmed, because one life may not be taken to save another.<sup>16</sup> But why so? Is he not a pursuer?<sup>17</sup> — There it is different, for she is pursued by heaven.<sup>18</sup>

Shall we say that the following supports him? [Viz.,] If a man was pursuing after his fellow to slay him, he (observer) says to him, ‘See, he is an Israelite, and a son of the covenant, whilst the Torah hath said, Whosoever would shed the blood of a man, [to save] that man shall his own blood be shed,<sup>19</sup> meaning, save the blood of the pursued by the blood of the pursuer’!<sup>20</sup> — That is based on the ruling of R. Jose son of R. Judah. For it has been taught; R. Jose son of R. Judah said: A haber<sup>21</sup> need not be warned, because a warning is necessary only to distinguish between ignorance and presumption.<sup>22</sup>

Come and hear: If a man was pursuing his neighbour to slay him, the observer says to him ‘See he is an Israelite, and a son of the Covenant, whilst the Torah hath taught, Whosoever would shed the blood of a man, to save that man, shall his blood be shed’. If he [the pursuer] replied. ‘I know that it is so’, he is not liable to be slain; but if he replied. ‘I do it even on such a condition’,<sup>23</sup> he is liable!<sup>24</sup> — This is only if they are standing on two opposite sides of the river, so that he cannot save him. Hence what is [to be done]? To bring him before Beth din! But [punishment] by Beth din must be preceded by a warning. An alternative answer if you wish is this: R. Huna can tell you: My ruling agrees with the Tanna of ‘breaking in’, who held that his breaking in constitutes a formal warning.<sup>25</sup>

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(1) A father has more compassion for his son than a son for his father. Hence, if a father robs his son, the latter must assume that he will not go to extremes if he defends his property. Consequently, he may kill him only if he is certain

thereof. But if a son robs his father (and even more so, when he robs a stranger), he may assume that he is prepared to kill him, unless certain that he will not. Therefore, if he has any doubt, he may take his life.

(2) Which disposes of his righteousness.

(3) Ex. XXII,1-2. Damim is plural, teaching that this law holds good on more than one occasion and is therefore interpreted as referring to Sabbaths and week days.

(4) For this is really execution, the house owner standing in lieu of Beth din: hence, just as the latter may not execute on the Sabbath, so the former too.

(5) Since it is self-defence.

(6) If, in burrowing his way in, he dislodged a pile of masonry, which fell upon him, it must be removed even on the Sabbath, and if the owner does not, he is guilty of bloodshed.

(7) For it is only because of that assumption that his death is regarded as self-defence. But a stranger might not be assumed (by the thief) actively to interfere; therefore the thief is not likely to slay him, and hence his death at the hands of a stranger is not in self-defence.

(8) Lit., 'pursuer'.

(9) Num. XXXV, 21.

(10) V. p. 358, n. 2.

(11) V. supra 45b. Hence the need of a special verse here.

(12) Ex. XXII, 1.

(13) Since the writ does not state, If he be found, etc., but if the thief be found, which is superfluous, being understood from the context, it shows that if he is at all seen to be a thief, no matter what his position, the law applies.

(14) I.e., the owner need not warn him before killing him, as in the case elsewhere.

(15) Lit. 'the pursued is to be saved by his (the pursuer's) blood'.

(16) This refers to a woman giving birth, whose life is endangered. Now, if the fetus put forth any limb but the head, it may be cut off, so as to facilitate delivery, and save the mother. But if his head issued, it is regarded as alive, and the mother may not be saved at his expense.

(17) I.e., in seeking to be born, he is as a pursuer. endangering his mother's life.

(18) I.e. it is an 'act of God'.

(19) Gen, IX, 6.

(20) Though the pursuer did not accept the warning, as is normally necessary in a formal admonition, he may be slain, which proves that a warning is unnecessary in his case.

(21) Lit., 'associate', fellow student; it was also a scholar's title (Fellow), and is employed in this sense here.

(22) Hence a scholar who knows what is forbidden need not be warned, even if his crime is punished by Beth din. Likewise, the above Baraitha is on the same basis. But on the opposing view that all transgressors, including scholars, must be formally warned, and the warning accepted, it may be that the same applies to a pursuer. Therefore this does not support R. Huna.

(23) I.e., even if I am to be slain for it.

(24) The latter formula is the acceptance of a warning. This proves that the pursuer must be formally warned, and thus refutes R. Huna.

(25) V. p. 494, n. 1. Because by breaking in he is really a pursuer, needing no warning.

## **Talmud - Mas. Sanhedrin 73a**

**MISHNAH. THE FOLLOWING MUST BE SAVED [FROM SINNING] EVEN AT THE COST OF THEIR LIVES: HE WHO PURSUES AFTER HIS NEIGHBOUR TO SLAY HIM, [OR] AFTER A MALE [FOR PEDERASTY]. [OR] AFTER A BETROTHED MAIDEN [TO DISHONOUR HER].<sup>1</sup> BUT HE WHO PURSUES AFTER AN ANIMAL [TO ABUSE IT]. OR WOULD DESECRATE THE SABBATH, OR COMMIT IDOLATRY, MUST NOT BE SAVED [FROM SINNING] AT THE COST OF HIS LIFE.**

**GEMARA.** Our Rabbis taught: whence do we know that he who pursues after his neighbour to slay him must be saved [from sin] at the cost of his own life? From the verse, Thou shalt not stand by the blood of thy neighbour.<sup>2</sup> But does it come to teach this? Is it not employed for the following

[Baraita] that has been taught: Whence do we know that if a man sees his fellow drowning, mauled by beasts, or attacked by robbers, he is bound to save him? From the verse, Thou shalt not stand by the blood of thy neighbor! — That in truth is so. Then whence do we know that [the pursuer] must be saved at the cost of his own life? — It is inferred by an *ad majus* reasoning from a betrothed maiden. If a betrothed maiden, whom he wishes merely to dishonour, yet the Torah decreed that she may be saved by the life of her ravisher, how much more so does this hold good for one who pursues his neighbour to slay him. But can punishment be inflicted as a result of an *ad majus* conclusion?<sup>3</sup> — The School of Rabbi taught, It is derived by analogy:<sup>4</sup> For as when a man riseth against his neighbour, and slayeth him, even so in this matter.<sup>5</sup> But what do we learn from this analogy of a murderer?<sup>6</sup> Thus, this comes to throw light, and is itself illumined.<sup>7</sup> The murderer is compared to a betrothed maiden; just as a betrothed maiden must be saved [from dishonour] at the cost of his [her violater's] life, so in the case of a murderer, he [the victim] must be saved at the cost of his [the attacker's] life. And whence do we know this of betrothed maiden? — As was taught by the School of R. Ishmael. For the School of R. Ishmael taught; [The betrothed damsel cried]; and there was none to save her,<sup>8</sup> but, if there was a rescuer, he must save her by all possible means [including the death of her ravisher].

[To revert to] the above text: 'Whence do we know that if a man sees his neighbour drowning, mauled by beasts, or attacked by robbers, he is bound to save him? From the verse, Thou shalt not stand by the blood of thy neighbour.' But is it derived from this verse? Is it not rather from elsewhere? *Viz.*, Whence do we know [that one must save his neighbour from] the loss of himself? From the verse, And thou shalt restore him to himself!<sup>9</sup> — From that verse I might think that it is only a personal obligation,<sup>10</sup> but that he is not bound to take the trouble of hiring men [if he cannot deliver him himself]: therefore, this verse teaches that he must.

Our Rabbis taught: He who pursues after his neighbour to slay him, he who pursues a male [for sexual abuse], or a betrothed maiden, a woman forbidden to him on pain of death at the hands of Beth din, or one forbidden on pain of extinction<sup>11</sup> — these are saved [from sin] at the cost of their own lives. But a High Priest in pursuit of a widow, and an ordinary priest in pursuit of a divorcee or a haluzah, may not be saved at the cost of their lives. If [the betrothed maiden] has been ravished previously, she may not be saved by her pursuer's death, likewise, if she can be otherwise rescued. R. Judah said: This applies also if she said [to her rescuers]. 'Let him be,' lest he slay her.<sup>12</sup>

Whence do we know all this? — But unto the damsel *na'ar[ah]* thou shalt do nothing there is in the damsel no sin worthy of death.<sup>13</sup> *Na'ar* refers to a male, *na'arah* to a betrothed maiden;<sup>14</sup> sin — to women forbidden on pain of extinction; death — to those forbidden on pain of death at the hands of Beth din.<sup>15</sup> Why are all these needed?<sup>16</sup> — They are necessary. For had the Divine Law written *na'ar* [a youth], I would have thought that he must thus be saved because it is unnatural lust; but since connection with a maiden is natural, I would think that she may not be saved thus. Whilst if *na'arah* [damsel] were written, I would think that the law applies only to her, because he destroys her virginity; but not to a youth, who is not thus injured. And had these [only] been stated,

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(1) These must be slain, rather than be allowed to carry out their intention.

(2) Lev. XIX, 16. Stand not idly by, but save him from committing such a great sin.

(3) v. *supra* 54a.

(4) A *hekkesh*, v. *Glos.*,

(5) Deut. XXII, 26. This refers to the ravishing of a betrothed maiden.

(6) For the simile itself is superfluous, since the Torah explicitly states that the maiden is not punished. Hence it implies that a certain feature of the law of a murderer holds good here too, and vice versa.

(7) I.e., the verse shows that the case of a murderer throws light upon that of a betrothed maiden (v. *infra* 74a), but is it itself also illumined thereby.

(8) *Ibid.* 27.

(9) Ibid. 2. The passage refers to restoring a neighbour's lost property. This interpretation extends it to his own person. e.g. if he has lost himself, he must be helped to find his way again. Hence it also applies to the rescuing of one from danger.

(10) Because, 'thou shalt restore' . . . implies thou in person.

(11) To commit incest or adultery.

(12) Before they reach her.

(13) Ibid. 26.

(14) The second half of the verse is superfluous, since the first half states, 'but unto the damsel thou shalt do nothing'. Hence each part thereof is separately interpreted. Though the verse as read (Kre) is na'arah, (נַעֲרָה damsel), the written text (Kethib) is na'ar, (נַעַר a youth). Hence both the written and the read word are interpreted.

(15) And those deduced from the verse must be saved at the cost of their pursuer's life.

(16) Could not the Torah have taught it of one, from which the others might be deduced?

## Talmud - Mas. Sanhedrin 73b

I would think that it is because the one is unnatural, and the other is deprived of her virginity; but other consanguineous relations, cohabitation with whom is both natural and does not inflict a great loss,<sup>1</sup> might not be thus saved: therefore the Divine Law writes 'sin'.<sup>2</sup> Now, had the Divine Law written 'sin' [only], I would have thought it applies even to those who are forbidden merely by a negative precept: therefore the Divine Law wrote 'death'. And had the the Divine Law written 'death' [only], I would have thought the law applies only to those forbidden on pain of death by Beth din, but not on pain of extinction: therefore the Divine Law writes 'sin'. Then why did the Divine Law not write merely there is no sin worthy of death, na'ar [youth] and na'arah [a damsel] being superfluous?<sup>3</sup> — That is so. But as for na'ar and na'arah, one teaches the exclusion of an idolater, and the other, the exclusion of bestiality and the [desecration of the] Sabbath.<sup>4</sup> But on the view of R. Simeon b. Yohai that an idolater must be saved [from sin] at the cost of his life, why are these verses necessary? — One excludes bestiality, and the other excludes the [desecration of the] Sabbath; for I would [otherwise] think, that the Sabbath is included through an analogy with idolatry, since 'profanation' is written in both.<sup>5</sup> But on the view of R. Eleazar son of R. Simeon, that he who desecrates the Sabbath must be saved [from sin] by death, because an analogy is drawn with idolatry, on account of profanation being written in both, what can you say? — One excludes bestiality; and as for the other, since the Divine Law wrote na'ar, it also wrote na'arah.<sup>6</sup>

'R. Judah said: The same applies if she said [to her rescuer] "Let him be", lest he slay her.'<sup>7</sup>

In which case do they<sup>8</sup> differ?—Raba said: when she objects to dishonour, yet permits him, so that he should not slay her. The Rabbis maintain, The Divine Law was insistent for her honour, and since she too is particular about it. [her pursuer may be slain]. But R. Judah maintains that the reason that the Divine Law decreed that he should be slain is because she is prepared to give her own life [rather than be violated]; but this one is not prepared to do so.

R. Papa said to Abaye: But does not a High Priest dishonour a widow?<sup>9</sup> — He replied, The Divine Law sought to protect her from great dishonour, but not from little dishonour.<sup>10</sup>

'Sin — refers to women forbidden on pain of extinction.

The Scholars objected: [We learnt,] Fine is imposed for the violation of the following maidens:<sup>11</sup> he who outrages his sister.<sup>12</sup> — The Rabbis explained this before R. Hisda: Once he has committed the first stage, thereby dishonouring her, he may no longer be slain;<sup>13</sup> whereas monetary liability is not contracted until the completion of cohabitation.<sup>14</sup> Now, this agrees with the view that the first stage [which dishonours her] is contact with her sexual organ; but on the view that the first stage is the insertion of the membrum, what can you say?<sup>15</sup> But R. Hisda answered thus: This refers to

unnatural followed by natural cohabitation.<sup>16</sup> Raba said: This applies where she allows him [to have his will] so that he shall not slay her, and is based on the ruling of R. Judah.<sup>17</sup>

- (1) For if they are unbetrothed, there is no arus (a betrothed husband) in whom the loss of virginity will rankle deeply; whilst if they are married, her virginity has already gone.
- (2) Teaching that it applies to those who are forbidden on pain of execution.
- (3) Since the violation of a betrothed maiden and the abuse of a male are punishable by death, they are included in the exegesis of 'death'.
- (4) That one must not be prevented from sinning in respect of these by killing him.
- (5) v. *Infra* 74b.
- (6) In fact, it is not a double redundancy, for though na'ar is written, the context demands that na'arah be read, since the entire passage refers to a maiden.
- (7) In the Baraita quoted above,
- (8) R. Judah and the Rabbis.
- (9) By violating her he disqualifies her from marrying a priest; why then should she not be saved at the cost of his life?
- (10) I.e., the Torah authorised the extreme measure of slaying the ravisher only when he would inflict great dishonour, e.g., in the case of incest forbidden on pain of extinction, as a result of which she becomes a harlot (zonah) and the child a bastard. But here (a widow, violated by a High Priest), she is merely profaned (halalah).
- (11) The reference is to Deut. XXII, 28f. The fifty shekels are regarded as a fine.
- (12) Keth. 29a. I.e., even his sister, though and she shall be his wife is inapplicable. But if she might be saved by his life, he should not be fined, in accordance with the principle stated on p, 490, n. 1. In the case of the death penalty, this principle holds good even if the offender is not actually executed, or, as in this case, slain by the rescuers,
- (13) By her rescuers in order to save her, for the extreme measure is permitted only if she is as yet untarnished,
- (14) Consequently, the two penalties are not incurred simultaneously, and the principle is inoperative. By 'completion' the destruction of her virginity is meant,
- (15) Since then dishonour and destruction of virginity are simultaneous.
- (16) Since she has been unnaturally violated before, whether by her brother or another, she may not be saved now by his life. Therefore he is fined for destroying her virginity.
- (17) V. *supra* 73a.

## **Talmud - Mas. Sanhedrin 74a**

R. Papa said: This refers to seduction [not outrage], and therefore agrees with all.<sup>1</sup> Abaye said: This applies where she could have been saved at the cost of one of the limbs [of the violator].<sup>2</sup> and agrees with R. Jonathan b. Saul. For it has been taught: If one was pursuing his fellow to slay him, and he could have been saved<sup>3</sup> by maiming a limb [of the pursuer] but did not thus save himself [killing him instead], he is executed on his account.<sup>4</sup>

What is R. Jonathan b. Saul's reason? — Because it is written, if men strive [and hurt a woman . . . ] he shall be surely punished . . . and pay as the judges determine. And if any mischief follow, then thou shalt give life for life.<sup>5</sup> Whereon R. Eleazar said: The verse refers to attempted murder,<sup>6</sup> for it is written, And if any mischief follow, then thou shalt give life for life<sup>7</sup> and yet the Divine Law states, If no mischief follows, he shall surely be punished. Now this is correct if you say that where the pursued can be saved at the cost of one limb [of the pursuer] the latter may not be slain: hence it is conceivable that he shall be punished [by paying monetary compensation]. But if you maintain that he may be slain, how is it possible for him to be punished!<sup>8</sup> Perhaps it is different here, because his liability to death is incurred on account of one person, but his monetary obligation on account of another?<sup>9</sup> — That makes no difference. For Raba<sup>10</sup> said: If a man was pursuing after his fellow [to slay him]. and broke some utensils, whether of the pursued or of some other person. he is free from liability. Why so? Because he is liable to be killed. If the pursued broke some articles: if they belonged to the pursuer, he is not liable for them; if to someone else, he is. 'If they belonged to the pursuer he is not liable', — because his property is not more precious than his own person.<sup>11</sup> But 'if

to someone else, he is' , — because he saved himself at his neighbour's expense. But if one pursuer was pursuing another pursuer to save him [the latter's victim] and broke some utensils, whether of the pursuer. or the pursued. or of any other person, he is not liable for them. This should not be so in equity<sup>12</sup> but if thou wilt not rule thus, no man will save his neighbour from a pursuer.<sup>13</sup>

#### BUT HE WHO PURSUES AN ANIMAL [TO ABUSE IT].

It has been taught: R. Simeon b. Yohai said: An idolater may be saved [from sin] at the cost of his own life. This is deduced by reasoning from the minor to the major: If the dishonouring of a human<sup>14</sup> being must be averted even at the cost of [the violator's] life, how much more so the dishonouring of the All-Highest.<sup>15</sup> But can we punish<sup>16</sup> as a result of an *ad majus* conclusion? — He maintains that we can.

It has been taught: R. Eliezer, son of R. Simeon, said: He who desecrates the Sabbath may be saved [from sin] by his own life. He agrees with his father, that punishment is imposed as a result of an *ad majus* conclusion, and then he deduces the Sabbath from idolatry by [a *gezerah shawah* based on the use of] 'profanation' in connection with the Sabbath and idolatry.<sup>17</sup>

R. Johanan said in the name of R. Simeon b. Jehozadak: By a majority vote, it was resolved in the upper chambers of the house of Nithza in Lydda<sup>18</sup> that in every [other] law of the Torah, if a man is commanded: 'Transgress and suffer not death' he may transgress and not suffer death, excepting idolatry, incest, [which includes adultery] and murder.<sup>19</sup> Now may not idolatry be practised [in these circumstances]? Has it not been taught: R. Ishmael said: whence do we know that if a man was bidden, 'Engage in idolatry and save your life', that he should do so, and not be slain? From the verse, [Ye shall therefore keep my statutes and my judgements,' which if a man do] he shall live in them:<sup>20</sup> but not die by them. I might think that it may even be openly practised. but Scripture teaches, Neither shall ye profane my holy name; but I will be hallowed?<sup>21</sup> — They<sup>22</sup> ruled as R. Eliezer. For it has been taught, R. Eliezer said: And thou shalt love the Lord thy God with all thy heart and with all thy soul, and with all thy might.<sup>23</sup> Since 'with all thy soul' is stated, why is 'with all thy might' stated? Or if 'with all thy might' be written, why also write 'with all thy soul'? For the man to whom life is more precious than wealth, 'with all thy soul' is written;<sup>24</sup> whilst he to whom wealth is more precious than life is bidden, 'with all thy might' [i.e., substance].<sup>25</sup>

Incest and murder [may not be practised to save one's life], — even as Rabbi's dictum. For it has been taught: Rabbi said, For as when a man riseth against his neighbour, and slayeth him, even so is this matter.<sup>26</sup> But what do we learn from this analogy of a murderer? Thus, this comes to throw light and is itself illumined. The murderer is compared to a betrothed maiden: just as a betrothed maiden must be saved [from dishonour] at the cost of his [the ravisher's] life, so in the case of a murderer, he [the victim] must be saved at the cost of his [the attacker's] life. Conversely, a betrothed maiden is compared to a murderer: just as one must rather be slain than commit murder, so also must the betrothed maiden rather be slain than allow her violation. And how do we know this of murder itself? — It is common sense. Even as one who came before Raba<sup>27</sup> and said to him, 'The governor of my town has ordered me, "Go and kill so and so; if not, I will slay thee"'. He answered him, 'Let him rather slay you than that you should commit murder; who knows that your blood is redder? Perhaps his blood is redder.'<sup>28</sup>

When R. Dimi came,<sup>29</sup> he said: This was taught only if there is no royal decree,<sup>30</sup> but if there is a royal decree, one must incur martyrdom rather than transgress even a minor precept. When Rabin came, he said in R. Johanan's name: Even without a royal decree, it was only permitted in private; but in public one mÖst be martyred even for a minor precept rather than violate it. What is meant by a 'minor precept'? — Raba son of R. Isaac said in Rab's name:

- (1) For if she is seduced of her own consent, she may not be saved at the cost of her seducer's life, nevertheless, the fine is imposed.
- (2) without killing him.
- (3) Here Rashi explains, either by the pursued, or by another person. On 57a he states, 'by the pursued'.
- (4) Hence, in such circumstances the violator is not liable to death, and consequently liable to the fine.
- (5) Ex. XXI. 22ff.
- »6) I.e., he who injured the woman was striving to kill his opponent.
- (7) Ibid. The extreme penalty, though the murder of the woman is unintentional, is explicable only on the above assumption.
- (8) V. p. 490, n. 1.
- (9) I.e., he is liable to be slain because he seeks to slay his combatant; but the monetary liability arises through his injury to the woman. Where, however, these liabilities are incurred on account of two different persons it may be that the one does not cancel the other.
- (10) In B.K. 117b the text is Rabba's.
- (11) And just as he would not have been punished had he killed him, so he is not liable for destroying his property.
- (12) For if he who saves himself at another's expense is liable «or the damage, how much more so when one saves another at a third party's expense»
- (13) Lest in doing so he causes damage for which he will have to pay. Hence reverting to the subject under discussion, in the case of one man striving to kill another and injuring a woman, it must be assumed that he was not liable to be slain, and this is only possible if his opponent could be saved by a limb of the murderer, which proves R. Jonathán b. Saul's assertion.
- (14) Viz., that of a betrothed maiden.
- (15) Idolatry, by recognizing a divine power in addition to God's, dishonours Him, conceding to another that which is His alone.
- (16) In this case, indemnify his slayer.
- (17) The Sabbath: Everyone that profaneth it shall surely be put to death (Ex. XXXI, 14) idolatry: And thou shalt not let any of thy seed pass through the fire to Moloch, neither shalt thou profane the name of the Lord thy God, (Lev. XVII, 21).
- (18) A town in South Palestine (Roman name Diospolis).
- (19) According to Grœtz, Geschichte, IV, p.p. 155 and 428ff this took place during the Hadrianic persecutions consequent upon the failure of the revolt of Bar Cochba 132-135 C.E. [According to Halevy Doroth i.e., p. 371. before the Fall of Bether].
- (20) Lev. XVIII, 5.
- (21) Lev. XXII & 32., (22) The Sages that met at the house of Nithza.
- (23) Deut, VI. 5.
- (24) I.e., even to give thy soul (life) in His service.
- (25) This proves that one must incur a martyr's death rather than practice idolatry, for 'and thou shalt love the Lord thy God' means that we must not worship any other in His place.
- (26) Deut. XXII, 26.
- (27) Var. lec., R7bbah.
- (28) I.e., you have no right to murder him to save yourself: his life is not less valuable than your own.
- (29) V. p. 3a n. 1.
- (30) Forbidding the practice of Judaism, the action being by an individual.

## Talmud - Mas. Sanhedrin 74b

Even to change one's shoe strap.<sup>1</sup> And how many make it public? — R. Jacob said in R. Johanan's name: The minimum for publicity is ten.

It is obvious that Jews are required [for this publicity], for it is written. But I will be hallowed among the children of Israel.<sup>2</sup> R. Jeremiah propounded: What of nine Jews and one Gentile? — Come and hear: For R. Jannai, the brother of R. Hiyya b. Abba learned: An analogy is drawn from

the use of tok [‘among’] in two passages. Here is written, But I will be hallowed among [be-tok] the children of Israel; and elsewhere, separate yourselves from among [mi-tok] this congregation:<sup>3</sup> just as there the reference is to ten, all Jews, so here too — ten, all Jews.<sup>4</sup> But did not Esther transgress publicly?<sup>5</sup> — Abaye answered; Esther was merely natural soil.<sup>6</sup> Raba said: When they [sc. the persecutors] demand it for their personal pleasure. it is different.<sup>7</sup> For otherwise, how dare we yield to them’ [sc. the Parsees or fire worshippers] our braziers [or fire bellows] and coal shovels?<sup>8</sup> But their personal pleasure is different;<sup>9</sup> so here too [in Esther's case].<sup>10</sup> This [answer] concurs with Raba's view expressed elsewhere. For Raba said: If a Gentile said to a Jew. ‘Cut grass on the Sabbath for the cattle, and if not I will slay thee’, he must rather be killed than cut it; ‘Cut it and throw it into the river, he should rather be slain than cut it. Why so? — Because his intention is to force him to violate his religion.

It was asked of R. Ammi: Is a Noachide bound to sanctify the Divine Name or not? — Abaye said, Come and hear: The Noachides were commanded to keep seven precepts.<sup>11</sup> Now, if they were commanded to sanctify the Divine Name, they are eight. Raba said to him: Them, and an pertaining thereto.<sup>12</sup>

What is the decision?-The disciples of Rab<sup>13</sup> said: It is written, In this thing, the Lord pardon thy servant, that when my master goeth into the house of Rimmon to worship there, and he leaneth on my hand, and I bow myself in the house of Rimmon.<sup>14</sup> And it is written, And he said unto him, Go in peace.<sup>15</sup>

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(1) When religion itself is persecuted even the most insignificant religious custom or habit must be defended at all costs, having regard to the higher principle at stake. [The shoe latches worn by Jews were white, those worn by heathens black. v. Nacht. JQR, (N.S.) VI, p. 12.]

(2) Lev. XXII, 23.

(3) Num. XVI, 21.; v. Meg. 23b. A further analogy is there drawn from the use of congregation (‘edah עדה) in two passages; one, just quoted, and the second, How long shall I bear with this evil congregation. (‘edah) Ibid. XIV, 27. ‘Congregation’ there refers to the Spies sent out by Moses. As Joshua and Caleb had dissociated themselves from their evil report, ten were left, all Israelites, cf. Supra Mishnah I.i.

(4) Therefore one is not called upon to suffer martyrdom if bidden to transgress in the presence of nine Jews and one Gentile.

(5) By permitting a Gentile — Ahasuerus — to take her to wife.

(6) Which is tilled, i.e., she was only the passive object of his embraces.

(7) And not as a measure of religious persecution.

(8) The passage is obscure. The interpretation here is that of Levy. Who adopts the reading הני קווקי ורימונקי היכי יהבינן להו. This refers to the Guebres, who permitted no fires in private dwellings on the festival days, and forced the Jews to give up to them their braziers (or bellows) and coal shovels, and themselves sit in darkness. On this interpretation קווקי is derived from קוק, the sound made by blowing up a fire. The Munich edition reads דומניקי תהני קיוואקי ודימוניקי היכי יהבינן להו נורא or דימוניקי (another reading), bears a strong resemblance to dominica: now, dies dominica (the Lord's Day) signifies Sunday, and aedes dominica signifies church; קווקאי, for which an alternative reading is קורקי, may be a Greek word (\*\* also meaning church. In Raba's time there were Christian communities in Persia, observing their Sunday as strictly as the Jews observed the Sabbath, who therefore arranged for the Jews to heat their churches on that day, as they probably did a similar service for the Jews on the Sabbath (M. Jast. in REJ 1884, pp. 277ff.)

(9) I.e., They do not demand the fire as a religious act, whereby the Jew shall associate himself in idolatrous worship, but merely desire its warmth in their churches.

(10) Ahasuerus made her transgress for his personal pleasure, not because he desired her to violate her religion.

(11) V. supra 56a.

(12) I.e. sanctifying the Divine Name by observing their seven precepts is not a separate precept, but included therein.

(13) V. p. 387 n. 7.

(14) II Kings V, 18.



## Talmud - Mas. Sanhedrin 75a

Now, if it be so [that a Noachide is bidden to sanctify the Divine Name], he should not have said this?<sup>1</sup> — The one is private, the other public.<sup>2</sup>

Rab Judah said in Rab's name: A man once conceived a passion for a certain woman,<sup>3</sup> and his heart was consumed by his burning desire [his life being endangered thereby]. When the doctors were consulted, they said, 'His only cure is that she shall submit.' Thereupon the Sages said: 'Let him die rather than that she should yield.' Then [said the doctors]; 'let her stand nude before him;' [they answered] 'sooner let him die'. 'Then', said the doctors, 'let her converse with him from behind a fence'. 'Let him die,' the Sages replied 'rather than she should converse with him from behind a fence.' Now R. Jacob b. Idi and R. Samuel b. Nahmani dispute therein. One said that she was a married woman; the other that she was unmarried. Now, this is intelligible on the view, that she was a married woman, but on the latter, that she was unmarried, why such severity? — R. Papa said: Because of the disgrace to her family. R. Aha the son of R. Ika said: That the daughters of Israel may not be immorally dissolute. Then why not marry her? — Marriage would not assuage his passion, even as R. Isaac said: Since the destruction of the Temple, sexual pleasure has been taken [from those who practise it lawfully] and given to sinners, as it is written. Stolen waters are sweet, and bread eaten in secret is pleasant.<sup>4</sup>

## CHAPTER IX

MISHNAH. THE FOLLOWING ARE BURNT: HE WHO COMMITS INCEST WITH A WOMAN AND HER DAUGHTER, AND A PRIEST'S ADULTEROUS DAUGHTER. THERE IS INCLUDED IN 'A WOMAN AND HER DAUGHTER' HIS OWN DAUGHTER, HIS DAUGHTER'S DAUGHTER, HIS SON'S DAUGHTER, HIS WIFE'S DAUGHTER AND THE DAUGHTER OF HER DAUGHTER OR SON, HIS MOTHER-IN-LAW, HER MOTHER, AND HIS FATHER-IN-LAW'S MOTHER.

GEMARA. The Mishnah does not state, 'He who commits incest with a woman whose daughter he has married', but 'HE WHO COMMITS INCEST WITH A WOMAN AND HER DAUGHTER'; this proves that both are forbidden. Who are they then? His mother-in-law and her mother. Then the Mishnah further states, THERE IS INCLUDED IN 'A WOMAN AND HER DAUGHTER'; this proves that the first are explicit and the others derived.<sup>5</sup> Now this agrees with Abaye,<sup>6</sup> who maintains that they<sup>7</sup> differ as to the text from which the law is derived; hence the Mishnah is taught in accordance with R. Akiba's view.<sup>8</sup> But on Raba's view, that they differ about his mother-in-law after [his wife's] death,<sup>9</sup> with whom does the Mishnah agree? — Raba can answer you: Read [in the Mishnah] He who commits incest with a woman whose daughter he has married.

THERE IS INCLUDED IN 'A WOMAN AND HER DAUGHTER HIS MOTHER-IN-LAW, HER MOTHER, AND HIS FATHER-IN-LAW'S MOTHER.

In Abaye's view,<sup>10</sup> since the Mishnah desires to state — HIS FATHER-IN-LAW'S MOTHER, It adds HIS MOTHER-IN-LAW AND HER MOTHER. On Raba's view,<sup>11</sup> because the Mishnah must teach HIS FATHER-IN-LAW'S MOTHER', and 'HIS MOTHER-IN-LAW'S MOTHER', 'HIS MOTHER-IN-LAW' too is mentioned.

Whence do we know this? — For our Rabbis taught: And if a man take a woman and her mother [it is wickedness: they shall be burnt with fire, both he and they.]<sup>12</sup> This law refers only to a woman and her mother. Whence do I derive it for a woman and her daughter, or her daughter's daughter, or

her son's daughter? The word zimmah [wickedness] occurs here, and is also written elsewhere:<sup>13</sup> Just as there, her daughter, her daughter's daughter and her son's daughter [are meant by zimmah], so here too her daughter, her daughter's daughter, and her son's daughter [are included in the punishment of burning decreed for incest with them]. Whence do we know that males are as females? 'Wickedness' [zimmah] is stated here, and also elsewhere; just as there, males are as females, so here too. Whence do we know that the lower is as the upper? 'Wickedness' [zimmah] is stated here, and also elsewhere: just as there, the lower is as the upper, so here too; and just as here the upper is as the lower, so there too.<sup>14</sup>

The Master said: 'Whence do we know that males are as females?' What is meant by this? Shall we say that her son's daughter is equally forbidden as her daughter's daughter?<sup>15</sup> But these are simultaneously derived!<sup>16</sup> Again, if it means that his father-in-law's mother is as his mother-in-law's mother:<sup>17</sup> but seeing that the latter is as yet unproven, why demonstrate that the former is equal thereto?<sup>18</sup>

(1) For thereby he tacitly concurred in Naaman's proposal.

(2) Naaman was to simulate idolatry in the Temple of Rimmon, where no Jews were present. This, according to the statement on 74b, is transgression in private. The problem however is whether he must publicly sanctify the Divine Name, i.e. in the presence of Jews.

(3) Lit 'set his eyes on a certain woman.'

(4) Prov. IX, 17.

(5) The statement that a number of other women are included in the first cannot be literal, for in fact the meaning of 'a woman and her daughter' cannot be extended to include, e.g., his own daughter or his son's daughter. Hence it must mean that 'a woman and her daughter' are explicitly stated in the Bible, whilst the others are included as derivations from these two. Now since the wording of the Mishnah shows that both the first two are forbidden and that the only relation explicitly forbidden on pain of burning is his mother-in-law, it follows that 'a woman and her daughter' must mean his mother-in-law ('daughter') and her mother. And these are regarded as explicitly forbidden.

(6) V. infra 76b.

(7) R. Akiba and R. Ishmael.

(8) Who holds that the mother of his mother-in-law is explicitly prohibited.

(9) But as to his mother-in-law's mother there is a common agreement that the prohibition is only derived and not explicitly stated.

(10) That burning for the first two is explicitly decreed, so that they cannot be included in 'a woman etc.' but are identical therewith.

(11) That only his mother-in-law is explicitly forbidden on pain of death by fire, but not her mother.

(12) Lev. XX, 14.

(13) 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 are her near kinswomen; it is wickedness, זמה (Lev. XVIII, 17).

(14) This is explained in the Gemara.

(15) The meaning being, the issue of males is prohibited just as that of females.

(16) From the gezarah shawah of zimmah.

(17) Thus teaching that incest with both is punished by fire.

(18) At this stage, nothing has been adduced to shew that incest with his mother-in-law's mother is thus punished, for 'a woman' has been translated literally. Consequently, only his mother-in-law is forbidden in this verse.

## Talmud - Mas. Sanhedrin 75b

— Abaye said, This is what is meant: Whence do we know that his issue is as hers?<sup>1</sup> The word 'zimmah' occurs here, and is also written elsewhere etc. But 'zimmah' is not written in connection with his issue?<sup>2</sup> Raba answered: 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>3</sup>

The Master said: 'Whence do we know that the lower is as the upper?' What is meant by 'lower' and 'upper'? Shall we say that her son's daughter and her daughter's daughter ['lower'] are as her own daughter ['upper']?<sup>4</sup> But are not [all three] simultaneously derived?<sup>5</sup> Again, if it means that his father-in-law's mother and his mother-in-law's mother are as his mother-in-law: then instead of 'the lower is as the upper', the Tanna should have said 'the upper is as the lower'?<sup>6</sup> — Read, 'the upper is as the lower'. If so, [how explain] wickedness [zimmah] is stated here, and also elsewhere?<sup>7</sup> Abaye answered: This is its meaning: Whence do we know that the third generation above is treated as the third below?<sup>8</sup> — The word 'zimmah' is written in connection with both the lower generation<sup>9</sup> and the upper;<sup>10</sup> just as in the lower, the third generation is forbidden also,<sup>11</sup> so in the upper too;<sup>12</sup> and just as the lower is assimilated to the upper in respect of punishment, so is the upper to the lower in respect of formal prohibition.<sup>13</sup> R. Ashi said: After all, it is as taught:<sup>14</sup> What then is the meaning of 'lower'? Lower in [gravity of the] prohibition.<sup>15</sup>

Now, if so,<sup>16</sup> then just as her [i.e. his wife's] maternal grandmother is forbidden [to him], so is his maternal grandmother?<sup>17</sup> — Abaye answered: The Writ sayeth, [The nakedness of thy father, or the nakedness of thy mother, shalt thou not uncover'] she is thy mother —<sup>18</sup> teaching: thou canst punish for [incest with] his mother, but not with his mother's mother.

Raba said: Whether we maintain, 'judge from it in its entirety', or<sup>19</sup> 'judge from it, and place it on its own basis', this could not be deduced.<sup>20</sup> For on the view, 'judge from it in its entirety', [the deduction would proceed thus:] Just as her [his wife's] maternal grandmother is forbidden [to him], so is his maternal grandmother forbidden. [Then carrying the analogy] to its uttermost, just as in her case [i.e.,incest with the former] is punished by fire so in his case [i.e.,incest with the latter] is punished by fire. But on the view<sup>21</sup> that burning is severer [than stoning]. This analogy can be refuted. [Thus:] Why is her case [forbidden]?<sup>22</sup> Because her [his wife's] mother is similarly forbidden.<sup>23</sup> But can you say the same in his case, seeing that his mother is forbidden [only] on pain of stoning!<sup>24</sup> Moreover, his mother is forbidden on pain of stoning: shall his mother's mother be forbidden on pain of burning!<sup>25</sup> Further, just as in her [his wife's] case, you have drawn no distinction between her mother and her mother's mother [both being forbidden on pain of burning], so in his, no distinction must be drawn between his mother and his mother's mother.<sup>26</sup> And on the view that stoning is severer, the analogy cannot be deduced because of this last difficulty.<sup>27</sup> Whilst on the view, 'judge from it and place it on its own basis,' [the deduction would proceed thus:] Just as her [his wife's] maternal grandmother is forbidden [to him], so is his maternal grandmother forbidden. But 'place it on its own basis', thus: in the former case the punishment is burning; but in the latter, stoning, the penalty which we find prescribed for incest with his mother. Now, on the view that burning is severer, this can be refuted,

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(1) I.e., that his daughter, his son's daughter, or daughter's daughter by a mistress are forbidden to him on pain of burning just as wife's daughter, her son's daughter, and her daughter's daughter. For Lev. XVIII, 17 (cited on p. 508 n. 5) refers to the offspring of marriage, not of seduction or outrage. On this interpretation, 'male' refers to his issue, 'female' to his wife's.

(2) For that his issue is at all forbidden is derived not from Lev. XVIII, 17, but from Lev. XVIII, 10: The nakedness of thy son's daughter, or thy daughter's daughter, even their nakedness thou shalt not uncover: for their's (hennah **הננה**) is thine own nakedness

(3) Supra 51a. 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 (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 (hennah) are her near kinswomen; it is wickedness (zimmah, **זמה**). Since hennah occurs in these two passages, they are identified with each other, and zimmah in the second

passage, referring to her issue, is understood to be implicit in the first too, which refers to his issue. Then the first passage is further identified with Lev. XX, 14: And if a man take a wife and her mother, it is wickedness (zimmah): They shalt be burnt with fire: thus we derive burning for incest with his issue.

(4) So that 'lower' and 'upper' refer to the order of generations: 'lower', the third generation in the downward direction, viz. her son's daughter and her daughter's daughter; 'upper', one generation above them, viz., her daughter.

(5) As explained in that very passage.

(6) For the older generation is always referred to as the upper.

(7) Cf. p. 509 n. 4. At this stage, no verse has been adduced at all to show that his father-in-law's mother or his mother-in-law's mother are forbidden.

(8) I.e., just as his daughter's daughter and his son's daughter (the third generation below) are forbidden, so likewise his father-in-law's mother and mother-in-law's mother, the third generation above.

(9) Lev. XVIII, 17.

(10) Ibid. XX, 14.

(11) I.e., his son's daughter and daughter.

(12) I.e., though only the second generation is explicitly interdicted, viz., his mother-in-law, the third is included too, viz., his mother-in-law's mother and his father-in-law's mother.

(13) For in Lev. XVIII, 10, where the third lower generation is forbidden, nothing is said about punishment, which is derived from Lev. XX, 14, as stated above. On the other hand, in Lev. XX, 14, which is made to include the third generation above, though only explicitly stating the second, no formal prohibition is given. This in turn is derived from Lev. XVIII, 10. (Both are derived through the medium of Lev. XVIII, 17, the connecting link between the other two.) On Abaye's interpretation it is necessary to amend the Baraitha from 'and the lower is as the upper', to 'that the upper is as the lower etc.'

(14) I.e., no emendation is necessary.

(15) I.e., 'the upper' or higher prohibition is that of his mother-in-law, his more immediate relation, whilst the prohibition of her mother, as also of his father-in-law's mother, is regarded as 'lower', i.e., weaker, as they are a generation further removed. Hence this is its meaning: Whence do we know that his mother-in-law's mother and his father-in-law's mother, whose relationships are lower (i.e., further removed, and consequently weaker) than his mother-in-law's, are treated as his mother-in-law? — It is derived from his wife's daughter: just as in the latter case, the 'lower' relation is as the 'upper' (stronger), i.e., his wife's daughter's daughter is as his wife's daughter, though more distant; so here too, his mother-in-law's mother is as she herself. This deduction is in respect of equal punishment. The second clause is explained by R. Ashi as Abaye, as referring to the prohibition.

(16) This reverts to the explanation of 'whence do we know that males are regarded as females', as meaning, 'whence do we know that his relations are regarded as hers?'

(17) Whereas in Yeb. 21a the prohibition of the latter is regarded as Rabbinical only, whilst the former is Biblical.

(18) Lev. XVIII, 7.

(19) Lit., 'whether according to the one (Tanna) who says . . . or whether according to the one who says etc.'

(20) A verse is unnecessary, because his maternal grandmother could not be deduced from the gezerah shawah based on zimmah, whatever view be held on the scope of a gezerah shawah. There are two views on this. One is that the identity of law taught by a gezerah shawah must hold good in all respects, so that the case deduced is equal to the premise in all points; this is called 'judge from it and from (all) of it'. An opposing view is that the analogy holds good only in respect of the main question at issue, but that thereafter, the case deduced may diverge from its premise. This is called, 'judge from it, but place it on its own basis', i.e., confine the analogy to the main question, not to the subsidiary points.

(21) Lit., 'but according to the one Tanna who says that, etc.'

(22) I.e., the reason that his wife's maternal grandmother is forbidden on pain of burning.

(23) Hence, since the prohibition of his wife's mother is so severe, it is natural that it should extend to her maternal grandmother too.

(24) Surely not! Since the prohibition is weaker, its punishment being more lenient, its extent too may be more limited, and not include his maternal grandmother.

(25) Surely there cannot be a severer punishment for the latter, a more distant relative, than for the former. Yet if the latter be derived at all by this gezerah shawah, the punishment must be burning, on this view that the analogy must be carried through on all points.

(26) Just as incest with his mother is punished by stoning, so with his mother's mother. But making the analogy from

another angle, the latter should be punished by burning, as has already been shewn. Hence, by a *reductio ad absurdum*, we are forced to dismiss the entire analogy.

(27) Though the former two do not arise.

## Talmud - Mas. Sanhedrin 76a

[Thus]: Why is her case [i.e., his wife's maternal grandmother forbidden]? Because her mother is [forbidden] on pain of death by fire. But can you say the same in his case, seeing that his mother is forbidden on pain of stoning [only]? Further, his maternal grandmother is like her's: just as in the latter case no distinction is drawn between his wife's maternal grandmother and her [his wife's] daughter,<sup>1</sup> so in the former, no distinction should be allowed between his own maternal grandmother and his daughter.<sup>2</sup> Whilst on the view that stoning is severer, the analogy cannot be made on account of this last difficulty.<sup>3</sup>

But if so,<sup>4</sup> just as his daughter-in-law is forbidden him, so is his wife's daughter-in-law forbidden him?<sup>5</sup> Abaye answered: The Writ saith, [Thou shalt not uncover the nakedness of thy daughter-in-law:] she is thy son's wife;<sup>6</sup> teaching, you can punish only for incest with his son's wife, but not with her [his wife's] son's wife. Raba said: Whether it be maintained, 'judge from it in its entirety,' or 'judge from it and place it on its own basis', this could not be deduced. For on the first view, [the deduction would proceed thus:] just as his daughter-in-law is forbidden him, so is her's forbidden him. [Then carrying through the analogy] 'in its entirety,' just as in his case [the penalty] is stoning,<sup>7</sup> so in her case is the penalty stoning. But if we regard stoning severer, this analogy can be refuted. [Thus]: Why is his [daughter-in-law forbidden]? Because his mother is forbidden him on pain of stoning: Can you then say the same of her daughter-in-law, seeing that incest with her mother incurs only death by fire?<sup>8</sup> Moreover, her daughter is forbidden on pain of burning: shall her daughter-in-law be forbidden on pain of stoning?<sup>9</sup> [This is no difficulty, for] let his own case prove it: his own daughter is forbidden by fire, yet his daughter-in-law by stoning. But [refute the analogy thus:] just as in his case, thou drawest no distinction between his mother and his daughter-in-law, so in her's [his wife's], you can draw no distinction between her mother and her daughter-in-law.<sup>10</sup> And on the view that burning is considered more severe, the analogy cannot be made because of this last difficulty.<sup>11</sup> Whilst on the view, 'judge from it and place it on its own basis,' [the deduction would proceed thus:] just as his daughter-in-law is forbidden him, so is her daughter-in-law forbidden; and place it on its own basis, thus: in the former case, [his daughter-in-law] the punishment is stoning; but in the latter, burning, the punishment we find for incest with her mother. But if stoning is severer, this can be refuted. [Thus]: Why is his daughter-in-law forbidden? Because his mother is forbidden him on pain of stoning. But can you say the same of her daughter-in-law, seeing that her mother is forbidden only on pain of burning! Moreover, just as in his case, you draw a distinction between his daughter [punished by burning] and his daughter-in-law [by stoning], so in her case, you should draw a distinction between her daughter and her daughter-in-law.<sup>12</sup> And even on the view that burning is severer, the analogy cannot be made on account of this last difficulty.

Whence do we know that his daughter by a seduced woman [not his wife] is forbidden him?<sup>13</sup> — Abaye said:<sup>14</sup> This may be proved by arguing from the minor to the major; if he is punished for incest with his daughter's daughter, surely he is punished for his own daughter!<sup>15</sup> But can punishment be imposed as the result of an *ad majus* conclusion? — The argument merely illumines the prohibition.<sup>16</sup> Raba answered: 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' in two.<sup>17</sup>

The father of R. Abin learned: Because we have no express sanction [from Scripture that incest] with an illegitimate daughter [is punished by burning], therefore the Writ must say, And the daughter of a man [and] a priest, if she profane herself through her father, she profaneth him; she shall burnt with fire.<sup>18</sup> If so, just as in the case of a priest's [adulterous] daughter, only she is burnt, but not her

paramour, so for incest with an illegitimate daughter, only she should be burnt, but not her paramour?<sup>19</sup> — Abaye answered: The Writ sayeth, she profaneth her father, [teaching] that this applies only to a case where she profaneth her father, excluded thus is this case,<sup>20</sup> since her father profanes her,<sup>21</sup> Raba answered, In the former case<sup>22</sup> you rightly exclude him from the penalty of a priest's daughter, and assimilate him to an Israelite's daughter.<sup>23</sup> But in this case,<sup>24</sup> to whom will you assimilate him? to an unmarried woman?<sup>25</sup>

Now, whence do we derive a formal prohibition of incest with an illegitimate daughter? This is in order according to Abaye and Raba: from the verse from which they deduce punishment, they also learn the prohibition.<sup>26</sup> But what of the deduction made by R. Abin's father?<sup>27</sup> — R. Elai answered: The Writ sayeth, Do not profane thy daughter to cause her to be a whore.<sup>28</sup> R. Jacob, the brother of R. Aha b. Jacob objected: Is this verse, Do not profane thy daughter to cause her to be a whore, employed for this purpose? But it is needed for that which has been taught: 'Do not profane thy daughter, to cause her to be a whore' I might think that this prohibits<sup>29</sup> a priest from marrying his daughter to a Levite or an Israelite:<sup>30</sup> therefore Scripture states, 'to cause her to be a whore', shewing that the reference is only to profanation by harlotry, thus prohibiting the giving over of one's daughter for sex purposes without marriage intention'? If so, Scripture should have said al tahlal; why al tehalal? — That both may be deduced from it.<sup>31</sup>

Now, how do Abaye and Raba utilize the verse, Do not profane thy daughter to cause her to be a whore? — R. Mani said: [According to them] this refers to one who marries his [young] daughter to an old man.<sup>32</sup> As it has been taught: Do not profane thy daughter to cause her to be a whore; R. Eliezer said: This refers to marrying one's [young] daughter to an old man. R. Akiba said: This refers to the delay in marrying off a daughter who is already a bogereth.<sup>33</sup>

R. Kahana said on R. Akiba's authority: The only poor in Israel is the subtly wicked and he who delays in marrying off his daughter, a bogereth.<sup>34</sup> But is not one who thus delays himself subtly wicked?<sup>35</sup> Abaye answered:

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- (1) Incest with both being punishable by fire.
  - (2) So that incest with the former should be punished by burning, as with the latter. This however is impossible, for incest with one's grandmother cannot be more severely punished than with his mother, the penalty for which is only stoning, which on the present hypothesis is more lenient than burning.
  - (3) Since according to this comparison incest with his maternal grandmother is punished by burning. But his maternal grandmother should also be compared to his mother, the punishment for which is stoning; hence the entire analogy falls to the ground.
  - (4) This raises a new difficulty, reverting to the statement (75b) that his relatives are compared to hers.
  - (5) I.e., the wife of her son by a previous husband. But this is not so.
  - (6) Lev. XVIII, 15.
  - (7) v. supra 53a.
  - (8) Hence, since the prohibition of his relative, viz., his mother, is so severe, it is natural that it should extend in a downward direction too, whereas the prohibition of her relation, viz., her mother, being punished only by burning and consequently weaker, its extent may be more limited, and not embrace her daughter-in-law.
  - (9) Surely not!
  - (10) Hence, incest with the latter should be punished by burning. But as has already been proved, stoning is the proper punishment; therefore the entire analogy is impossible.
  - (11) Though the former two do not arise.
  - (12) I.e., Just as the punishment for his daughter-in-law is severer than for his daughter, viz., stoning instead of burning, so her daughter-in-law should be more stringently interdicted than her daughter, viz., by stoning, instead of burning. But if we compare her daughter-in-law to her mother, the punishment is burning. Hence the entire deduction is impossible.
  - (13) As explained by Abaye supra 75b. q.v. The difficulty arises because in Lev. XVIII, 10 q.v., which has been interpreted as referring to his illegitimate offspring, no mention is made of his own daughter.

(14) V. next note.

(15) [Thus Tosaf.; var lec., Did not Abaye say etc. i.e. 'what is the question'-surely Abaye has solved it.']

(16) I.e., does not add the prohibition of another person, but shews that when Scripture (in Lev. XVIII, 10) interdicted his daughter's daughter, it meant that the daughter relationship in general is forbidden.

(17) V. p. 342, n. 1; just as in Lev. XVIII, 17 the daughter is forbidden equally with the daughter's daughter, so in XVIII, 10. The punishment of burning is then deduced from Lev. XX, 14.

(18) Lev. XXI, 9. 'A man' Is superfluous, and therefore teaches that even if she is only his daughter, not his wife's, this law holds good. By translating the rest of the verse as in the text, we deduce that an illegitimate daughter is burnt for incest with her father; and by regarding 'a man' as distinct from "priest" (the latter being attached to the former with the copula 'and'), the deduction is made to refer to any illegitimate daughter, not only a priest's (v. Tosef. Sanh. XII).

(19) Seeing that the former is deduced from 'she shall be burnt with fire', whilst the verse is made to refer to incest too.

(20) Incest with one's illegitimate daughter.

(21) Her case is excluded from the limitation implied in, she (and not her paramour) 'shall be burnt with fire': hence her paramour is likewise punished.

(22) The seducer of a priest's adulterous daughter.

(23) I.e., punishing him by stoning instead of burning. For the limitation of 'she', though teaching that the special law of a priest's daughter does not apply to him, yet leaves him to be punished as the seducer of a married woman in general.

(24) Incest with an illegitimate daughter.

(25) For if an incestuous paramour be excluded from the punishment of an adulterous woman, whether the daughter of a priest or an Israelite (since relationship is independent of these), his law can only be assimilated to that of an unmarried woman, whose unchastity is not punished at all. But surely it cannot be maintained that an illegitimate daughter is burnt for incest with her father, though her offence is a passive one, and less than the man's (v. supra 74b), whilst he goes scot free! Hence the limitation of 'she' cannot apply to this.

(26) Both being stated in the verses they employ for this purpose.

(27) Lev. XXI, 9 speaks only of punishment, but contains no prohibition.

(28) Lev. XIX, 29. This includes incest, and since 'daughter' in general is mentioned, it applies to an illegitimate one too.

(29) Lit., 'the Writ speaks of a priest etc.'

(30) Since he thereby 'profanes her', in that she is not permitted to eat of terumah (v. Glos) thereafter.

(31) The latter **וְהָיָה כִּי יִשָּׂא אִשָּׁה לְאִישׁ אֲחֵר** is a heavier form, yet with the same meaning **וְהָיָה כִּי יִשָּׂא אִשָּׁה** the former. Being heavier, it has a wider application.

(32) Since she cannot willingly accept him, she may be led to adultery.

(33) Having attained puberty, she may become unchaste if not married. Marriage, of course, was then at a far earlier age than now.

(34) This is explained further on.

(35) Why 'and he who delays etc.': the two are identical. His wickedness consists in that he keeps her unmarried, that he may profit by her labour whilst endangering her chastity.

## Talmud - Mas. Sanhedrin 76b

This is its meaning: Which poor man is subtly wicked? He who delays marrying off his daughter, a bogereth.<sup>1</sup>

R. Kahana also said on R. Akiba's authority: Beware of one who counsels thee for his own benefit.<sup>2</sup>

Rab Judah said in Rab's name: One who marries his daughter to an old man or takes a wife for his infant son, or returns a lost article to a Cuthean,<sup>3</sup> — concerning him Scripture sayeth, [that he bless himself in his heart saying, I shall have peace, though I walk in the imagination of mine heart] to add drunkenness to thirst: The Lord will not spare him.<sup>4</sup>

An objection was raised: He who loves his wife as himself and honours her more than himself,<sup>5</sup>

and leads his children in the right path, and marries them just before they attain puberty — of him Scripture saith, And thou shalt know that thy tabernacle shall be in peace and thou shalt visit thy habitation, and shalt not sin.<sup>6</sup> — If just before puberty, it is different.

Our Rabbis taught: He who loves his neighbour, displays friendly intimacy towards his relatives, and marries his sister's daughter and lends a sela' to the poor man in time of his need — of him Scripture saith, Then shalt thou call, and the Lord shall answer.<sup>7</sup>

Our Rabbis taught: [And if a man take a wife and her mother, it is wickedness: they shall be burnt with fire,] both he and they [ethe'en].<sup>8</sup> [This means], he and one of them. That is R. Ishmael's opinion. R. Akiba said: [It means], he and both of them. Wherein do they differ?<sup>9</sup> — Abaye said: They differ as to the text from which the law is derived: R. Ishmael maintains that 'he and ethe'en' means 'he and one of them', for in Greek 'one' is hello.<sup>10</sup> Hence [incest with] his mother-in-law's mother [as a punishable offence] is arrived at [only] by [Biblical] interpretation. But R. Akiba maintained, 'he and ethe'en' means 'he and both of them', hence his mother-in-law's mother is explicitly interdicted in this verse.<sup>11</sup> Raba said: They differ about his mother-in-law after [his wife's] death: R. Ishmael holds that [incest with] his mother-in-law after [his wife's] death is punished by burning; whilst R. Akiba's view is that it is merely forbidden.<sup>12</sup>

MISHNAH. THE FOLLOWING ARE DECAPITATED: A MURDERER, AND THE INHABITANTS OF A SEDUCED CITY. A MURDERER WHO SLEW HIS FELLOW WITH A STONE OR AN IRON, OR KEPT HIM DOWN UNDER WATER OR IN FIRE, SO THAT HE COULD NOT ASCEND THENCE, IS EXECUTED. IF HE PUSHED HIM INTO WATER OR FIRE, BUT SO THAT HE COULD ASCEND, YET HE DIED, HE IS FREE [FROM DEATH]. IF HE SET ON A DOG OR A SNAKE AGAINST HIM [AND THEY KILLED HIM], HE IS FREE FROM DEATH. BUT IF HE CAUSED A SNAKE TO BITE HIM [BY PUTTING HIS JAWS AGAINST HIM] — R. JUDAH RULED THAT HE IS EXECUTED; THE SAGES, THAT HE IS NOT.

GEMARA. Samuel said: why is 'hand' not mentioned in connection with iron?<sup>13</sup> — Because iron can kill no matter what its size. It has been taught likewise: Rabbi said; It was well known to Him who spake and the world came into being that iron, no matter how small, can kill; therefore the Torah prescribed no size for it. This however, is only if one pierced therewith:<sup>14</sup>

OR KEPT HIM DOWN UNDER WATER. The first clause teaches the extreme limit of the law, and so does the last. Thus, the first clause teaches the extreme limit of the law, that though he himself did not push him [into the water], yet since he could not ascend, [through being held down], and so died, he is executed. The last clause likewise teaches the extreme limit, that though he actually pushed him into the water, yet since he could have ascended, but died, he is free from death.

Whence do we know that [he is liable to death] for keeping him down?-Samuel answered: The Writ sayeth, Or if with enmity he smote him with his hand:<sup>15</sup> this extends the law to one who keeps his neighbour fast [e.g., in water, thus causing his death].

A certain man confined his neighbour's animal in a place exposed to the sun, so that it died [of sunstroke]. Rabina held him liable: R. Aha b. Rab ruled that he was not. Rabina held him liable by an ad majus argument from a murderer. If a murderer, in whose case unwitting murder is not treated as deliberate, nor an accident as intention, is nevertheless executed for confining [his neighbour in a place where he must die];

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(1) Through his poverty he delays her marriage, that he may profit from her labour, The poor man has no other opportunity of cunning wickedness



- (2) Lit., 'in his own way'.
- (3) v. p. 388, nn. 5-6.
- (4) Deut. XXIX, 18ff. i.e., the associations involved in these practices are displeasing in the eyes of the Lord. [How bitter must have been the persecution of the Jews under Ardeshir (v. Funk, op. cit 1, pp 66 ff.) to have provoked gentle Rab to this harsh utterance.]
- (5) By providing her with fine ornaments (Rashi).
- (6) Job. V. 24. This proves that it is meritorious to marry off one's children whilst minors.
- (7) Isa. LVIII, 9.
- (8) אִתְּהוֹן, Lev. XX, 14.
- (9) For obviously R. Akiba cannot mean that a man's wife must be burnt because her husband committed incest with his daughter.
- (10) \*\*\*, acc. of \*\*\*.
- (11) Since R. Ishmael maintains that only 'one of them' is denoted by אִתְּהוֹן, It must mean his mother-in-law. Consequently, her mother is not directly referred to, and has to be deduced. But R. Akiba, translating אִתְּהוֹן 'both of them' (which cannot possibly include his wife), regards the verse as referring to his mother-in-law and her mother; hence death by fire for the latter is explicitly taught in this verse.
- (12) R. Ishmael interprets the verse, 'he and one of them' i.e., even if only one of them is alive (viz., his mother-in-law), the penalty for incest is burning, whilst R. Akiba maintains, 'he and both of them' i.e., only during the lifetime of both is incest with his mother-in-law punished by fire. Otherwise, there is no penalty, though it is forbidden.
- (13) In Num. XXXV, 16-18, dealing with murder, iron, stone, and wooden weapons are enumerated: 'hand' is used in connection with the latter two, implying that they must be large enough to afford a hold to the hand, but not in connection with the first.
- (14) But if used to strike therewith, it must be of a certain minimum size before the murderer is executed.
- (15) Num. XXXV, 21.

## Talmud - Mas. Sanhedrin 77a

then with respect to damages, wherein unwitting damage is treated as deliberate, and an accident as intention,<sup>1</sup> surely he is liable for confining [the animal].

‘R. Aha b. Rab ruled that he is not liable.’ Said R. Mesharshia: Why does my grandfather<sup>2</sup> rule him not liable? — Because of the verse, [Or in enmity he smite him with his hand, that he die:] He that smote him shall surely be put to death: for he is a murderer:<sup>3</sup> only a murderer has the law made liable for confining, but not one who causes damage thereby.

Raba said: If one bound his neighbour and he died of starvation, he is not liable to execution. Raba also said: If he bound him in the sun, and he died, or in a place of intense cold and he died, he is liable; but if the sun was yet to appear, or the cold to make itself felt, he is not.<sup>4</sup> Raba also said: If he bound him before a lion, he is not liable:<sup>5</sup> before mosquitoes, [who stung him to death] he is. R. Ashi said: Even before mosquitoes, he is not liable, because these go and others come.<sup>6</sup>

It has been stated: If one overturned a vat upon a man [who then died of suffocation], or broke open a ceiling above him,<sup>7</sup> — Raba and R. Zera [differ]: One ruled that he is liable, the other that he is not. It can be proved that it was Raba who ruled that he is not liable, for he said: If one bound his neighbour and he dies of starvation, he is not liable.<sup>8</sup> On the contrary. it can be shewn that R. Zera ruled that he is not liable. For R. Zera said: If one led his neighbour in to an alabaster chamber<sup>9</sup> and lit a candle therein, so that he died [of the fumes]. he is liable. Now, the reason is only that he lit a candle that he is liable;<sup>10</sup> but had he not lit a candle [and the prisoner died of the natural heat and lack of air], he would be exempt!<sup>11</sup> — I will tell you: In that case, without a candle, the heat would not have commenced [its effects]

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(1) It being a general principle that a man is liable for any damage he does, no matter how, B.K. 26b.

(2) R. Aha b. Rab was a Babylonian amora of the fourth century, and the grandfather of R. Mesharshia.

(3) Ibid. The first half of the verse extends the law to confining one's neighbour in a place of death, (p. 519).

(4) I.e., he is liable only if the place was already exposed to heat or cold. But if it was merely destined to become hot, the sun not yet having risen, he is not liable. In the first case, he is regarded as a direct murderer, in the second, as an indirect cause. That is the general reason for the exemptions taught in this passage.

(5) Because he could not have saved himself in any case. [Raba probably refers to a prisoner thrown into an arena to be torn by lions.]

(6) I.e., the mosquitoes before which the prisoner was bound do not kill him entirely. as there is a continuous coming and going, Hence it is similar to binding one in a place where the sun will appear, but has not yet done so.

(7) So that the cold entering therein, killed him.

(8) This is similar: he did not kill him but indirectly caused his death.

(9) Which was then hermetically sealed, so that no fumes could escape.

(10) This being considered active murder under the circumstances.

(11) Thus R. Zera maintains that no penalty is incurred for indirectly causing one's death.

## Talmud - Mas. Sanhedrin 77b

immediately [he placed him therein];<sup>1</sup> but in this case [of placing the overturned vat over him] the heat commences immediately.

(Mnemonic: Ladder, shield, balsam, in a wall.)

Raba said: If one thrust his neighbour into a pit, in which there was a ladder [so that he could have climbed out], and then another came and removed it, or even if himself hastened to remove it, he is not liable [for the victim's death], because when he threw him in he could have climbed out. Raba

also said: If one shot an arrow at his neighbour, who was holding a shield, but another came and snatched it away, or even if he himself [the thrower] hastened to do so, he is not liable, because when he shot the arrow its force was spent.<sup>2</sup>

Raba also said: If one shot an arrow at his neighbour, who had balsam in his hand [wherewith he could have healed the wound], but another dashed it out of his hand, or even if he himself [the thrower] did so, he is not liable, because when he did it he could have been healed. R. Ashi said: Therefore this holds good even if there was balsam in the market.<sup>3</sup> R. Aha the son of Raba asked R. Ashi: What if he came across the balsam by chance?<sup>4</sup> — He replied: Behold, he has left Beth din a free man.<sup>5</sup>

Raba also said: If one threw a stone at a wall, which rebounded and killed his neighbour,<sup>6</sup> he is liable. And a Tanna teaches [in support of this]: If murder is committed by a man playing, for example, with a ball,<sup>7</sup> if intentional, the thrower is executed; if unintentional, he is sentenced to the refuge cities.<sup>8</sup> 'If unintentional, he is sentenced to the refuge cities:' but is that not obvious? — It is necessary to teach that if intentional, he is executed, [the second half being added to complete it]; for I might say, this is a case of 'a doubtful warning', for who knows that it will rebound?<sup>9</sup> We are therefore taught otherwise.

R. Tahlifa of the West<sup>10</sup> recited before R. Abbahu [the following]: If [unintentional] murder is committed by a man playing, for example, with a ball, if [the victim] was within four cubits [of the wall], the thrower is exempt; if beyond four cubits, he is liable [to exile]. Rabina objected to R. Ashi: How is this? If he desired it [to rebound], he should be liable even for a short distance;<sup>11</sup> whilst if not, he should be liable even for a greater distance? — He replied: The greater the rebound, the more is the average player pleased.<sup>12</sup>

Are we to say that [a murder] so committed is regarded as by his direct action?<sup>13</sup> But the following contradicts it: If one was sanctifying [the water], and the ashes<sup>14</sup> fell upon his hand or upon the side of the utensil, whence it fell into the trough, it is unfit?<sup>15</sup> — The reference here is to a dripping down.<sup>16</sup>

Come and hear! If an [unclean] needle was lying upon a shard, and the [purifying] water was sprinkled thereon, but it is doubtful whether upon the needle or upon the shard, and then it spurted [miza] upon the needle, the sprinkling is invalid.<sup>17</sup> — R. Hinena b. R. Judah said in Rab's name: We have learnt, It was found [maza].<sup>18</sup>

R. Papa said: If one bound his neighbour and then caused a column of water to inundate him, it is as his arrows, and he is liable [for his death]. But that is only if [he was drowned] by his direct agency; but if through his indirect agency,<sup>19</sup> he is merely regarded as a subsidiary cause.<sup>20</sup>

R. Papa also said: If one threw a stone upwards, and it returned in a slanting direction and killed a man, he is liable. Mar son of R. Ashi asked R. Papa. Why so? Because it is by his agency! But if so it should go upwards;<sup>21</sup>

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(1) [By consuming the oxygen, the fire immediately produces effects of asphyxiation, but without fire such effects are not immediately felt.]

(2) Lit., 'broken', as at the time it was released there was a shield to prevent its killing.

(3) I. e., if when the arrow was thrown, a healing ointment could have been procured sufficiently quickly to prevent death, the attacker is not liable, even if for some reason the ointment became subsequently unavailable.

(4) When smitten, he neither possessed nor could procure it. But by some happy chance, he subsequently obtained it, and though he could have healed himself therewith, did not. Do we say, since when the attack was made, murder was its probable outcome, he is liable; or since he could have healed himself, he is not.

- (5) I.e., he is not liable: in spite of the fact that the balsam was unavailable when he threw the arrow.
- (6) And this was his intention.
- (7) Children play by throwing a ball at a wall and catching or striking it on the rebound, thus here, one threw something at a wall, which, rebounding, struck his neighbour and killed him.
- (8) V. Num. XXXV, 15.
- (9) V. supra 72b. In this case, however, it might be thought that no true warning can be given, since the murder is doubtful.
- (10) I.e., a Palestinian amora.
- (11) I.e., even if it did not rebound so far, and struck a man standing within four cubits
- (12) Therefore it may be presumed that he intended it to rebound at least four cubits; hence if less, he is not liable.
- (13) Lit., 'force'.
- (14) Lit., 'the sanctifier'.
- (15) The reference is to the law of the red heifer: Num. XIX. The ashes thereof, when mixed with running water, are said to sanctify, the ashes themselves being denominated 'the sanctifier'. These had to be placed by a person into the water, not merely fall therein. Now, if one was engaged in sanctifying the water, and instead of pouring the ashes straight in, permitted them to fall upon his hand or on the side of a utensil, whence they fell into the trough containing the sanctified water, the water is unfit for its purpose, because the mixing had not been done directly by the person. This proves that a rebound is not regarded as a person's direct action, and this contradicts the law of murder.
- (16) The ashes did not fall with force from the side of the utensil into the trough, but merely dripped down; therefore it is not regarded as man's direct agency. Had they fallen with force, however, the fall would be regarded as part of the man's action in dropping them on to the utensil, and the water would accordingly be fit. In the case of murder, the rebound is with force, and directly caused by the strength of the throw.
- (17) Because the sprinkling, as the mixing, must be done by man. Thus we see that the rebound is not regarded as direct action.
- (18) I.e., the text is corrupt, and instead of miza מִיֵּצֵא, miza מִצֵּא is to be read. Thus, the water was found upon the needle, but how it came there is not known, whether sprinkled direct thereon, or it had rebounded from the shard, which, on the present hypothesis would also be valid, or flowed of itself from the shard on to the needle, in which case it was not due at all to man's action.
- (19) If the victim was lying immediately in front of the burst, where the strength of the water's flow is still due to the man's action, the drowning is by his direct agency. But if he was lying at some distance, he is held to be an indirect or secondary cause.
- (20) Not the actual murderer.
- (21) For he had exerted himself to cause it to go up, not down.

## Talmud - Mas. Sanhedrin 78a

whilst if it is not by his agency, it should fall [vertically] down?<sup>1</sup> — But it is through his agency, though weakened.<sup>2</sup>

Our Rabbis taught: If ten men smote a man with ten staves, whether simultaneously or successively, and he died, they are exempt. R. Judah b. Bathyra said: If successively, the last is liable, because he struck the actual death blow.<sup>3</sup> R. Johanan said: Both derive [their rulings] from the same verse, And he that killeth kol nefesh<sup>4</sup> [lit., 'all life'] of man shall surely be put to death.<sup>5</sup> The Rabbis maintain that kol nefesh implies the whole life;<sup>6</sup> but R. Judah b. Bathyra holds that kol nefesh implies whatever there is of life.<sup>7</sup>

Raba said: Both agree that if he killed a terefah,<sup>8</sup> he is exempt; if he slew one who was dying through an act of God,<sup>9</sup> he is liable; their dispute refers only to one who was dying through man's act:<sup>10</sup> the one likens him to a terefah,<sup>11</sup> the other to a person dying naturally. Now, he who likens him to a terefah, why does he not liken him to a person dying naturally? — Because no injury has been done to the latter; but an injury has been done to this one. Whilst he who likens him to a person dying naturally, why does he not liken him to a terefah? — A terefah has his vital organs affected<sup>12</sup>,

but this one has not.<sup>13</sup>

A tanna recited before R. Shesheth: And he that killeth all life of man: this includes one who smote his fellow, but there was not in his blow enough [force] to kill, and then a second came and killed him, [teaching] the latter is executed — But if the first man's blow was insufficient to kill, is it not obvious [that the second is liable]? — But [say thus: the first smote him] with sufficient force to kill, [but before he expired] a second came and slew him; then the second is liable. This anonymous Baraita agrees with R. Judah b. Bathyra.<sup>14</sup>

Raba said: If one kills a terefah, he is exempt; whilst if a terefah committed murder: if in the presence of a Beth din, he is liable; otherwise he is exempt. Why is he liable if in the presence of a Beth din? — Because it is written, so shalt thou put away the evil from the midst of thee.<sup>15</sup> But if not, he is exempt, because the law of confuted testimony is inapplicable, and testimony which cannot be so confuted is inadmissible.<sup>16</sup>

Raba also said: He who commits pederasty with a terefah is liable to punishment; but if a terefah committed it, if in the presence of a Beth din, he is liable; otherwise he is not. 'If in the presence of a Beth din, he is liable', because it is written, So shalt thou put the evil away from the midst of thee. 'Otherwise he is not', because the law of confuted testimony is inapplicable. Why state this second [law]; is it not identical with the first? — It is necessary to teach concerning one who commits pederasty with a terefah: for I might think that he is as one who abuses a dead person, and hence exempt. Therefore he teaches that [punishment is generally imposed] because of the [forbidden] pleasure derived, and in this case too pleasure is derived.<sup>17</sup>

Raba also said: if witnesses testified [to murder] against a terefah and were then confuted,<sup>18</sup> they are not executed.<sup>19</sup> But if witnesses, themselves terefah, were confuted, they are executed. R. Ashi said: Even these are not slain, because those who disprove their evidence are not liable if their own is subsequently confuted.<sup>20</sup>

Raba also said: If an ox, a terefah, killed [a man], it is liable [to be stoned]; but if an ox belonging to a terefah [person] killed, it is exempt. Why so? — Because the Writ saith, The ox shall be stoned, and his owner shall also be put to death;<sup>21</sup> wherever it is possible to read, 'and his owner shall also be put to death,' we also read, 'the ox shall be stoned;' but where we cannot apply, 'and his owner shall also be put to death,'<sup>22</sup> we do not read, 'the ox shall be stoned.' R. Ashi said: Even an ox, a terefah is exempt. Why so? — Since the owner in a similar condition would be exempt, the ox too is exempt.<sup>23</sup>

IF HE SET ON A DOG OR A SNAKE AGAINST HIM, etc.

R. Aha b. Jacob said: If you will investigate [the grounds of the dispute, you will learn that] in R. Judah's opinion the snake's poison is lodged in its fangs, therefore, one who causes it to bite [by placing its fangs against the victim's flesh] is decapitated, whilst the snake itself is exempt. But in the view of the Sages the snake emits the poison of its own accord; therefore the snake is stoned, whilst he who caused it to bite is exempt.<sup>24</sup> MISHNAH. IF A MAN SMOTE HIS FELLOW, WHETHER WITH A STONE OR WITH HIS FIST, AND THEY [THE EXPERTS] DECLARED THAT DEATH WOULD ENSUE; BUT THEN ITS EFFECT LESSENERD [SO THAT IT WAS THOUGHT THAT HE WOULD LIVE], ONLY TO INCREASE SUBSEQUENTLY, SO THAT HE DIED. — HE IS LIABLE. R. NEHEMIAH SAID THAT HE IS EXEMPT, SINCE THERE IS EVIDENCE<sup>25</sup> [THAT HE DID NOT DIE AS A RESULT OF HIS INJURIES, AS HE HAD ALREADY BEEN ON THE MEND.]

GEMARA. Our Rabbis taught: R. Nehemiah gave the following exposition: If he rise again, and

## walk abroad

- (1) Not in a slanting direction.
- (2) I.e., most of the force with which he threw it was already expended, but sufficient was left to impel it in the direction in which it fell.
- (3) Lit., 'brought his death near'; v. B.K. 26b.
- (4) כָּל נֶפֶשׁ
- (5) Lev. XXIV, 17.
- (6) Hence, if ten men assailed him successively, he was already nearly dead when the last smote him: therefore the last too is exempt.
- (7) I.e., however little life the man has, even if he is nearly dead, the man who actually kills him is liable.
- (8) V. Glos. When used of a person, it means that he was suffering from some fatal organic disease, recovery from which is impossible.
- (9) I.e., naturally, through age or weakness, but without an organic disease or wound.
- (10) As here: nine men had smitten him, and though not actually a trefah, he was already at the point of death.
- (11) Hence his slayer is exempt.
- (12) Lit., 'cut'.
- (13) Although suffering very much from the successive blows, and on the point of death, no vital organ, e.g., the heart or lungs, is injured, as in the case of a trefah.
- (14) That the last of the ten is liable for hastening his death, though the cumulative effect of the preceding nine would have caused his death in any case, if not so soon.
- (15) Deut. XIII, 6.
- (16) Ibid. XIX, 16-19. Since the murder was not committed in the presence of a Beth din, witnesses must testify thereto. But should they subsequently be proved false (Zomemim, v. Glos.) they could not be executed in accordance with Deut. XIX, 16-19, because they had sought the execution of one who is already regarded as dead, a terefah being thus considered, and testimony to which this law is inapplicable is not valid. But if the murder was committed in the presence of a Beth din, so that no testimony at all is required, the ordinary law of a murderer applies.
- (17) Whereas there is no sexual gratification in abusing the dead.
- (18) It being proved they they were absent from the scene of the alleged murder.
- (19) V. p. 523, n. 3.
- (20) If A and B's testimony is disproved by C and D, who testify that they were with them elsewhere than at the scene of the alleged crime, and then the latter themselves are similarly refuted, the law of Deut. XIX, 16-19 is applicable to C and D, since they had sought to impose punishment upon the first two. But if A and B were terefah, this law would not apply to C and D; consequently, the entire law does not apply, and hence they are not executed.
- (21) Ex. XXI, 29.
- (22) As here, since the owner, being a terefah, is regarded as already dead.
- (23) For this verse puts the two on an equal basis. It should be observed that in practice the owner was never killed, but ransomed, in accordance with Ex. XXI, 30 (v. supra 2a).
- (24) On R. Judah's view, the fangs themselves are poisonous. Consequently, the snake does nothing, the murder being committed by the person. But the Sages maintain that even when its fangs are embedded in the flesh, they are not poisonous, unless it voluntarily emits poison. Consequently the murder is committed by the snake, not the man. The law of Ex. XXI, 30 applies to all animals and reptiles.
- (25) Lit., 'there are feet', 'there is a basis, a reason for it'.

## Talmud - Mas. Sanhedrin 78b

upon his staff, then shall he that smote him be quit.<sup>1</sup> Now, could you have thought that whilst he walks in the market place his assailant is executed! But it must refer to one who, it was judged, would die [of his injuries], but then their effect lessened, only to increase subsequently so that he died, [the Torah thus teaching that his assailant] is quit. But how do the Rabbis<sup>2</sup> explain 'then shall he that smote him be quit'? — This teaches that he is incarcerated [until the result is known]. Whence does R. Nehemiah know this? — From the 'gatherer [of sticks]'.<sup>3</sup> Then let the Rabbis also

deduce it thence? — The ‘gatherer’ was certainly liable to death, Moses merely not knowing by which death;<sup>4</sup> that excludes our case, where we do not know whether he is liable to death at all.<sup>5</sup> But R. Nehemiah maintains that it can be deduced from the ‘blasphemer’: though not knowing whether he was liable to death, they imprisoned him.<sup>6</sup> But the Rabbis say that in case of the blasphemer, [his incarceration] was an ad hoc decision.<sup>7</sup>

[The preceding discussion agrees with what] has been taught: Moses knew that the ‘gatherer’ was to be executed, for it is written, Every one that defileth it shall surely be put to death;<sup>8</sup> but he did not know by which death, as it is written, [And they put him in ward,] because it was not declared what should be done to him.<sup>9</sup> But in the case of the blasphemer, it is only said, [And they put him in ward,] that the mind of the Lord might be shewed them;<sup>10</sup> implying that Moses did not know whether he was at all liable to death or not.

Now, on R. Nehemiah's view, it is right that two phrases bearing on judicial assessment are written;<sup>11</sup> one teaching that if his injury was declared to be fatal, but yet he survived; the other, that if it was judged that he would die, and then the effect of the blow was lightened, [yet he subsequently died — that in both cases he is quit]. But according to the Rabbis [who maintain that in the latter case he is executed], why are two such clauses necessary? — One teaches that if his injuries were declared fatal, yet he survived, and the other, that if they were declared non-fatal, yet he died, — [that in both cases the assailant is free]. But R. Nehemiah maintains that no verse is necessary for the latter case, since he left Beth din a free man.<sup>12</sup>

Our Rabbis taught: If a man smite his neighbour and the blow was assessed to be fatal, yet he survived, he is dismissed.<sup>13</sup> If the injury was declared fatal, but subsequently lightened, a second assessment of the financial damage is made.<sup>14</sup> If thereafter he grew worse and died, the second assessment is followed.<sup>15</sup> This is R. Nehemiah's view. The Sages maintain: There can be no second assessment after the first.<sup>16</sup>

Another [Baraita] taught: If his injuries were declared fatal, they may subsequently be declared non-fatal.<sup>17</sup> But once his injuries are declared non-fatal, they cannot subsequently be declared fatal.<sup>18</sup> If the blow was assessed to be fatal, but then he became better, a second assessment of the financial damage is made, and if he subsequently died, he must make compensation for the damage, pain [etc.]<sup>19</sup> to the heirs. From when must compensation be made? — From when he smote him.<sup>20</sup> And thus this anonymous [Baraita] agrees with R. Nehemiah.<sup>21</sup>

**MISHNAH. IF HE INTENDED KILLING AN ANIMAL BUT SLEW A MAN, OR A HEATHEN AND HE KILLED AN ISRAELITE, OR A PREMATURELY BORN AND HE KILLED A VIABLE CHILD, HE IS NOT LIABLE.<sup>22</sup> IF HE INTENDED TO STRIKE HIM ON HIS LOINS, WHERE THE BLOW WAS INSUFFICIENT TO KILL, BUT SMOTE THE HEART INSTEAD, WHERE IT WAS SUFFICIENT TO KILL, AND HE DIED; OR IF HE INTENDED SMITING HIM ON THE HEART,**

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(1) Ex. XXI, 19.

(2) The representatives of the anonymous opinion in the Mishnah.

(3) V. Num. XV, 32-36. Pending a decision, ‘they put him in ward’.

(4) Hence it is obvious that he had to be incarcerated. On this view, Moses knew that he had to be executed. This is discussed below.

(5) I.e., this case could not be deduced from the other.

(6) Lev. XXIV, 10-14.

(7) Lit., ‘a decision for the moment’. For, death not having been previously prescribed for blasphemy, there was no reason for his incarceration, but that it seemed expedient. But a special ad hoc decision cannot be taken as precedent for normal procedure.

(8) Ex. XXXI, 14.

(9) Num. XV, 34.

(10) Lev. XXIV, 12. This implies that the entire law was unknown, whilst 'what should be done to him' indicates that only the details, i.e. mode of death, were unknown.

(11) V. Ex. XXI, 18f: And if men strive together, and one smite another with a stone, or with his fist, and he die not, but keepeth his bed: If he rise again, and walk abroad upon his staff, then shall he that smote him be quit: only he shall pay for the loss of his time, and shall cause him to be thoroughly healed. Two phrases are superfluous, viz., 'and he die not', and 'If he rise again and walk abroad upon his staff', for it is self-evident that the assailant cannot be executed under such circumstances: hence they must refer to a judicial calculation that he would not die, which was, however, subsequently falsified.

(12) A favourable verdict cannot be reversed (v. supra 33b). Therefore in the latter case it is obvious that 'he is quit'.

(13) [I.e., exempt from death, but liable to pay damages.]

(14) I.e., the probable period that he would be incapacitated and the cost of medical assistance, for both of which he is liable.

(15) I.e., he is liable for the financial damage, as it was computed, but not to death.

(16) I.e., since on the first computation the injuries were declared fatal, when he subsequently grew better, and financial damages were awarded, we do not regard him as having left Beth din a free man (in respect of the capital penalty), but judge him according to the ultimate issue, and hence he is executed.

(17) If he grew better, and the assailant is thus freed from death.

(18) If he grew worse and died, the culprit is not executed.

(19) [On the payments for injuries, v. B.K. VIII, 1.]

(20) In assessing the victim's worth, his value before being smitten is taken. But we do not say, since his injuries were first declared fatal, and then not fatal, subsequent to which he died, his value should be assessed on the basis of his health at the time of the second computation.

(21) That financial compensation must be made, but there is no liability to death.

(22) [A prematurely born child for the first thirty days is not considered viable.]

## **Talmud - Mas. Sanhedrin 79a**

WHERE IT WAS ENOUGH TO KILL, BUT STRUCK HIM ON THE LOINS, WHERE IT WAS NOT, AND YET HE DIED, HE IS NOT LIABLE. IF HE AIMED A BLOW AT AN ADULT, WHOM IT WAS INSUFFICIENT TO KILL, BUT CAUGHT A CHILD,<sup>1</sup> WHOM IT WAS ENOUGH TO KILL, AND HE DIED, HE IS NOT LIABLE. IF HE STRUCK AT A CHILD WITH SUFFICIENT FORCE TO KILL HIM, BUT IT CAUGHT AN ADULT, FOR WHOM IT WAS INSUFFICIENT, AND YET HE DIED, HE IS NOT LIABLE. BUT IF HE INTENDED TO STRIKE HIS LOINS WITH SUFFICIENT FORCE TO KILL, BUT CAUGHT THE HEART INSTEAD, HE IS LIABLE. IF HE AIMED A BLOW AT AN ADULT HARD ENOUGH TO KILL, BUT STRUCK A CHILD INSTEAD, AND HE DIED, HE IS LIABLE. R. SIMEON SAID: EVEN IF HE INTENDED KILLING ONE BUT KILLED ANOTHER, HE IS NOT LIABLE.

GEMARA. To which clause does R. Simeon refer? Shall we say to the last? In that case, the Mishnah should state, R. Simeon declares him not liable.<sup>2</sup> But he refers to the first clause: IF HE INTENDED KILLING AN ANIMAL, BUT SLEW A MAN, OR A HEATHEN AND HE SLEW AN ISRAELITE, OR A PREMATURELY BORN AND HE SLEW A VIABLE CHILD, HE IS NOT LIABLE. This implies, that if he intended killing one [Israelite] and killed another, he is liable. [Thereupon] R. SIMEON SAID: EVEN IF HE INTENDED KILLING ONE BUT KILLED ANOTHER, HE IS NOT LIABLE.

Now, it is obvious that if Reuben and Simeon were standing, and the murderer said, 'I intended killing Reuben, not Simeon [whom he did actually kill] — that is the case wherein they differ. But what if he said, 'I intended killing any of them,'<sup>3</sup> or [again], if he thought that this victim was Reuben, but then found him to be Simeon? — Come and hear! For it has been taught: R. Simeon



said: [He is not liable] unless he declares, 'My intention was to kill so and so' [whom he did kill].<sup>4</sup>

What is R. Simeon's reason? — The Writ saith, [But if any man hate his neighbour,] and lie in wait for him, and rise up against him:<sup>5</sup> teaching that his intention must be against him. But the Rabbis?<sup>6</sup> — The disciples of R. Jannai said: This excludes the case of one who threw a stone into the midst of a company [of Israelites and heathens]. How is this? Shall we say that the company consisted of nine heathens and one Israelite? Then his non-liability can be inferred from the fact that the majority were heathens. And even if half and half, when there is a doubt in a capital charge, a lenient attitude must be taken!<sup>7</sup> — The verse is necessary only if there were nine Jews and one heathen, so that the heathen [though in a minority] is 'settled' there, and every 'settled' [minority] is as half and half.<sup>8</sup>

All is well according to the Rabbis, who maintain that if he intended killing one man and killed another, he is liable. For it is written, If men strive, and hurt a woman with child;<sup>9</sup> whereupon R. Eleazar observed: The verse refers to attempted murder,<sup>10</sup> because It is written, And if any mischief follow, then thou shalt give life for life.<sup>11</sup> But how does R. Simeon interpret, 'thou shalt give life for life' ?<sup>12</sup> — It refers to monetary compensation, in harmony with Rabbi's [interpretation]. For it has been taught: Rabbi said: Then thou shalt give life for life: this refers to monetary compensation.<sup>13</sup> You say, monetary compensation: but perhaps this is not so, life being literally meant? 'Giving' is stated below;<sup>14</sup> and 'giving' is also stated

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(1) Lit., 'a minor'.

(2) Why repeat, Even if he intended etc.? Since it bears upon the clause immediately preceding, the circumstances having been stated, it is sufficient just to give R. Simeon's ruling.

(3) Does R. Simeon regard this as intentional, or not, since he would have been equally satisfied had the other been killed.

(4) This proves that in both cases propounded, he is not liable according to R. Simeon.

(5) Deut. XIX, 11

(6) How do they interpret 'for him' and 'against him'?

(7) Since they were equally divided, we do not know whether he aimed at a Israelite or a heathen, and hence even without a verse we know that he is not liable.

(8) This is a general rule in the Talmud. Although the majority is always followed, that is only when the minority is not קבוע Kabua', fixed, settled in a certain place; but otherwise, it is equal to the majority. The following example from the Talmud will make it clearer. If there are ten butcher shops in a street, nine of which sell only kosher meat, the tenth selling terefah meat, and a piece of meat is found in the street, it may be assumed to be kosher, as the majority is followed. But if meat was bought in one of the shops, and it is not known from which, this assumption may not be made, because the doubt arises not in the street but in the shop, and the minority is in a settled place. Thus here too, since the company is all together, the place of the heathen is known and fixed, as it were. The verse under discussion teaches that the murderer in this case is not liable: hence it becomes the source of the principle that a 'settled' minority is regarded as equal to the majority.

(9) Ex. XXI, 22.

(10) Lit , 'the verse speaks of a strife with murderous intent'.

(11) Ibid. 23; v. supra, 74a.

(12) Since the murder of the woman was unintentional, according to R. Simeon there is no death penalty.

(13) I.e., the value of the woman's life must be paid to her husband.

(14) Viz., in the verse under discussion.

## Talmud - Mas. Sanhedrin 79b

above:<sup>1</sup> just as the latter refers to money, so the former too.

Raba said: The following Tanna of the School of Hezekiah differs from both Rabbi and the Rabbis

— For a Tanna of the School of Hezekiah taught: And he that killeth a beast [shall pay for it:] and he that killeth a man, [he shall be put to death].<sup>2</sup> Just as in the case of one who kills an animal, you draw no distinction between an unwitting or a deliberate act, an intentional or unintentional blow, a downward blow or an upward one,<sup>3</sup> not acquitting him thereof, but imposing monetary liability; so in the case of killing a man,<sup>4</sup> you must draw no distinction between an unwitting or a deliberate act, an intentional or unintentional blow, a downward or an upward thrust, not imposing a monetary liability. but acquitting him thereof.<sup>5</sup> Now, what is meant ‘unintentional’? Shall we say, entirely unintentional? But then it is identical with ‘unwitting’. Hence it obviously means not intending to slay this one, but another: and for such a case it is taught, ‘not imposing monetary liability’, but acquitting him thereof’. But if he is liable to death, it is surely unnecessary to teach that he is not liable to make compensation?<sup>6</sup> Hence it follows that he is liable neither to execution nor to make compensation.<sup>7</sup> MISHNAH. IF A MURDERER BECAME MIXED UP WITH OTHERS, THEY ARE ALL EXEMPTED [FROM THE PENALTY]. R. JUDAH SAID: THEY ARE PLACED IN A CELL.<sup>8</sup> IF A NUMBER OF CONDEMNED PERSONS DIFFERING IN THEIR DEATH SENTENCES BECAME MIXED WITH WITH ONE ANOTHER, THEY ARE EXECUTED BY THE MOST LENIENT [DEATH]. IF CRIMINALS CONDEMNED TO STONING [BECAME MIXED UP] WITH OTHERS CONDEMNED TO BURNING, — R. SIMEON SAID: THEY ARE STONED, BECAUSE BURNING IS SEVERER; BUT THE SAGES SAY THEY ARE BURNED, BECAUSE STONING IS MORE SEVERE. R. SIMEON SAID TO THEM: WERE NOT BURNING SEVERER, IT WOULD NOT BE DECREED FOR A PRIEST'S ADULTEROUS DAUGHTER. THEY REPLIED: WERE NOT STONING MORE SEVERE, IT WOULD NOT BE THE PENALTY OF A BLASPHEMER AND AN IDOLATER. IF MEN CONDEMNED TO DECAPITATION BECAME MIXED UP WITH OTHERS CONDEMNED TO STRANGLING, — R. SIMEON SAID: THEY ARE [ALL] DECAPITATED; THE SAGES SAY: THEY ARE STRANGLLED.

GEMARA. Who are meant by ‘others’?<sup>9</sup> Shall we say, other innocent men: is it not obvious?<sup>10</sup> Moreover, could R. Judah say in such a case that ‘they are placed in a cell’? (Mnemonic Besh rak)<sup>11</sup> — R. Abbahu said in Samuel's name: The Mishnah treats of an unsentenced murderer who became mixed up with other murderers already sentenced, the Rabbis holding that no man can be condemned save<sup>12</sup> in his presence; therefore they are all freed;<sup>13</sup> while R. Judah maintains that they cannot all be exempted, since they are murderers: therefore they are placed in a cell.

Resh Lakish said: If this happened to human beings, all agree that they are exempt. But here the reference is to an ox [that had gored] but was as yet uncondemned, which was mixed up with other oxen already condemned. The Rabbis maintain: As the death penalty of its owner, so is that of the ox; therefore an ox [too] can be sentenced only in its presence, hence they are all exempt. But R. Judah rules that they are placed in a cell.<sup>14</sup> Raba demurred:

(1) Viz., If . . . no mischief follow . . . he shall pay (Heb. ונתן give) as the judges determine.

(2) Lev. XXIV, 21. This verse, by coupling the two, likens them to each other; It also implies that where monetary compensation was to be made for an animal, it is not so for a man, since ‘shall pay for it’ is only prescribed for the former.

(3) This is irrelevant here, but is mentioned because in the case of homicide this distinction is drawn (v. Mak. 7a).

(4) Where, as observed in n. 4, there is no monetary compensation.

(5) [The greater penalty of death attached to the offence acquits the offender of all monetary liability even in cases where the death penalty is not applied.]

(6) V. p, 490 n. 1.

(7) Thus this teacher differs from Rabbi, who holds him liable to compensation, and from the Rabbis, who rule that he is even executed.

(8) V. infra 81b.

(9) In the first clause.

(10) That they must all be freed.

(11) בשר"ר. B (c) ABBAHU; SH (a) = SAMUEL; R (r) = RABA; K (e) = RESH LAKISH; the names of the Amoraim that follow.

(12) Even if they are all assembled, it is still regarded as in his absence, since he is unknown.

(13) Lit., 'they complete not the trial of a man'.

(14) The reasoning being as before.

## Talmud - Mas. Sanhedrin 80a

If so, how could R. Jose observe thereon: Even if Abba Halafta were amongst them?<sup>1</sup> — But Raba explained it thus: If two were standing, and an arrow was shot by one of them<sup>2</sup> [unknown] and killed, they are both exempt. Whereon R. Jose remarked: Even if Abba Halafta was one.<sup>3</sup> But if an ox [a gorer] which had been sentenced was mixed up with innocent<sup>4</sup> oxen, they are all stoned.<sup>5</sup> R. Judah said: They are placed in a cell.<sup>6</sup> And thus has it been taught likewise: If a cow killed [a man] and then calved: if before sentence, the calf is permitted [for any use]; if after the sentence, the calf is forbidden.<sup>7</sup> If the cow became mixed up with others, and these with others again, they are placed in a cell. R. Eleazar, son of R. Simeon, said: They are [all] brought to Beth din and stoned.

The Master said: 'If [it calved] before sentence, the calf is permitted'; implying, even if it was with calf when it gored. But did not Raba say: The calf of a cow that gored is forbidden, because the mother and the calf gored; the calf of a cow subjected to bestiality is [likewise] forbidden because the mother and the calf were thus subjected!<sup>8</sup> — Say thus: If the calf was conceived and born before its mother was condemned, it is permitted [for use]; but if conceived and born after sentence, it is forbidden.<sup>9</sup> Now, this agrees with the view that the product of two things [one being forbidden] is itself forbidden;

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(1) Abba Halafta was a pious scholar. Raba objects to both explanations: whether 'others' mean murderers or goring oxen. R. Jose's remark is entirely irrelevant.

(2) Lit., 'came forth from between them'.

(3) Though unthinkable that he should have shot the arrow, the other cannot be executed on this ground.

(4) Lit., 'good'.

(5) Since, in any case one could not benefit at all from them (v. Zeb. 70b), the owners suffer no loss.

(6) On this interpretation the text of the Mishnah is assumed to be defective, since R. Judah's ruling cannot refer to the first case.

(7) Because whilst within its mother, it is regarded as a part thereof. Therefore, when its mother became forbidden for use, as is the case of an animal condemned to stoning (v. Ex. XXI, 28), the prohibition extended to the unborn calf, which remains in force even after its birth.

(8) The reference is to sacrifice; these animals are not fit to be sacrificed. The act of goring or bestiality was in this case attested by one witness only, so that the cow is not stoned, and is permitted for secular, but not for sacred use, otherwise both mother and calf would be stoned. Thus

(9) In the first case, the mother itself was permitted at the time of calving, hence the calf too is likewise permitted; in the second, the cow having been condemned, the calf was the product of a forbidden animal, and hence itself forbidden too; but in both cases, the calf was not yet conceived at the time of goring, whereas Raba's statement applies only if it had already been conceived.

## Talmud - Mas. Sanhedrin 80b

but on the view that such is permitted, what can you say?<sup>1</sup> — But Rabina said: Read thus: If the calf was conceived and born before its mother was condemned, it is permitted: but if conceived before sentence and born after sentence, it is forbidden, because the embryo is a thigh [i.e., part] of its mother.<sup>2</sup>

IF A NUMBER OF CONDEMNED PERSONS DIFFERING IN THEIR DEATH SENTENCES ETC.. — [THEY ARE EXECUTED BY THE MOST LENIENT DEATH]. This proves that a warning of a greater penalty is ipso facto a warning for a smaller one too!<sup>3</sup> — R. Jeremiah said: [This is no proof, for] the Mishnah treats of a case where he was warned in general terms,<sup>4</sup> and it agrees with the following Tanna. For it has been taught: But others liable to any death penalty decreed in the Torah<sup>5</sup> are executed only on the testimony of [at least two] witnesses, by a ‘congregation’ [i.e., a full Beth din of twenty three], and after a warning, which warning must have

we see that if the cow was with calf when it gored, the calf is regarded as identical with its mother. stated that he ‘was liable to death at the hands of Beth din. R. Judah said: They [the witnesses] must have informed him by which death he would be executed.<sup>6</sup> The first Tanna deduces his ruling from ‘the gatherer [of sticks], who had not been warned how he would be executed, but was nevertheless stoned]. Whereas R. Judah maintains that ‘the gatherer’ [was executed] on an ad hoc decision.<sup>7</sup>

IF CRIMINALS CONDEMNED TO STONING [BECAME MIXED UP] WITH OTHERS CONDEMNED TO BURNING. R. Ezekiel taught his son Ram: If criminals condemned to burning [became mixed up] with others condemned to stoning — R. Simeon said, they are stoned, because burning is severer. Thereupon Rab Judah said to him, ‘Father, teach it not thus: Why state the reason because burning is severer? This follows from the fact that the majority are for stoning.’<sup>8</sup> How then should I teach it? The son replied, ‘Thus: IF CRIMINALS CONDEMNED TO STONING [BECAME MIXED UP] WITH OTHERS CONDEMNED TO BURNING, — R. SIMEON SAID, THEY ARE STONED, BECAUSE BURNING IS SEVERER.’ If so, consider the second clause, BUT THE SAGES SAY, THEY ARE BURNED, BECAUSE STONING IS MORE SEVERE. But does it not follow from the fact that the majority are to be burnt? — There the Rabbis oppose R. Simeon: You say, burning is severer; but that is not so, for stoning is severer.<sup>9</sup>

Samuel said to Rab Judah: You keen scholar,<sup>10</sup>

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(1) The calf is the product of a cow and an ox, but the ox is permitted; therefore, on the latter view, even if conceived after sentence, it should still be permitted.

(2) In this case it is forbidden, not because it is the product of its mother, but because before birth it is part and parcel of its mother, and the prohibition of the latter applies to the embryo too.

(3) For each culprit must have been warned, and presumably, the warning had stated to which manner of death he would be liable. Since the Mishnah rules that they are all executed by the most lenient death, it follows that the warning in respect of a particular death is regarded as a warning in respect of an easier death too. Otherwise, they could not be executed.

(4) I.e., the culprit had been warned that he was liable to death, but not of the manner of execution.

(5) I.e., excluding a mesith, who requires no warning.

(6) Tosef. Sanh. XI.

(7) V. p. 527, n. 8.

(8) For ‘if criminals condemned to burning became mixed up with others condemned to stoning’ implies that the latter were in the majority, as the smaller number is lost (i.e., ‘mixed up’) in the larger.

(9) But their ruling could be deduced from the fact that the majority are to be burnt.

(10) Others translate: ‘man of long teeth’.

## Talmud - Mas. Sanhedrin 81a

speak not thus to your father;<sup>1</sup> for it has been taught: If one was [unwittingly] transgressing a precept of the Torah, his son must not say ‘Father, you transgress a Biblical precept’, but say, ‘The Torah writes thus.’<sup>2</sup> But after all, does it not amount to the same thing? — But he must say this, ‘Father, the following verse is written in the Torah.’<sup>3</sup> MISHNAH. HE WHO INCURS TWO DEATH PENALTIES IMPOSED BY BETH DIN IS EXECUTED BY THE SEVERER. IF HE

COMMITTED ONE SIN FOR WHICH A TWOFOLD DEATH PENALTY IS INCURRED, HE IS EXECUTED BY THE SEVERER. R. JOSE SAID: HE IS JUDGED ACCORDING TO THE FIRST INTERDICT WHICH LAY UPON HIM.<sup>4</sup>

GEMÊRA. Is it not obvious [that he is executed by the severer]: shall he then profit [by his additional crime]? Raba answered: The circumstances are these: First he committed the lighter offence, for which he was sentenced; then the more serious one. I might think, since he was already under sentence for the lighter offence, he is as a dead man \_and cannot be further sentenced] — We are therefore taught otherwise.

The father<sup>5</sup> of R. Joseph b. Hama inquired of Rabbah b. Nathan: Whence do we know this law stated by the Rabbis viz., ONE WHO INCURS TWO DEATH PENALTIES PASSED BY BETH DIN IS EXECUTED BY THE SEVERER? — [He answered:] From the verse, If he [sc. the righteous man] beget a son that is a robber, a shedder of blood, . . . [who] hath eaten upon the mountains, and defiled his neighbour's wife.<sup>6</sup> Now, 'If he beget a son that is a robber, a shedder of blood, — this [murder] is punished by decapitation; 'and defiled his neighbour's wife', — this is adultery, punished by strangulation; 'and hath lifted up his eyes to the idols',<sup>7</sup> refers to idolatry, for which stoning is incurred. And it is written, He shall surely die, his blood shall be upon him,<sup>8</sup> which indicates stoning.<sup>9</sup> R. Nahman b. Isaac objected: May it not refer to a series of offences all punishable by stoning? Thus: 'If he beget a sort a robber, a shedder of blood', refers to a wayward and rebellious son,<sup>10</sup> who is stoned; 'and defiled his neighbour's wife', to a betrothed maiden, whose ravisher too is stoned; 'and hath lifted up his eyes to the idols', to idolatry, for which stoning is likewise incurred? — If so, what does Ezekiel teach us?<sup>11</sup> But perhaps he was merely revising the Torah?<sup>12</sup> — Then he should have revised it [all] just as Moses had revised it.<sup>13</sup>

R. Aha b. Hanina gave the following exposition: What is meant by, [But if a man be just and do that which is lawful and right, etc.] and hath not eaten upon the mountains?<sup>14</sup> I.e., he did not eat through his forbears' merit;<sup>15</sup> neither hath he lifted up his eyes to the idols of the house of Israel, that he did not walk with haughty mien; neither hath defiled his neighbor's wife, indicating that he did not [competitively] enter his neighbour's profession; neither hath come near to a menstruous woman, meaning that he did not benefit from the charity fund.<sup>16</sup> And it is written, He is just, he shall surely live.<sup>17</sup> When R. Gamaliel read this verse he wept, saying, 'Only he who does all these things shall live, but not merely one of them!' Thereupon R. Akiba said to him, 'If so, Defile not yourselves in all these things.<sup>18</sup> is the prohibition against all [combined] only, but not against one?' [Surely not!] But it means, in one of these things; so here too, for doing one of these things [shall he live].

IF HE COMMITTED ONE SIN FOR WHICH A TWOFOLD DEATH PENALTY IS INCURRED, etc.

It has been taught: When did R. Jose rule, HE IS JUDGED ACCORDING TO THE FIRST INTERDICT WHICH LAY UPON HIM? E.g., if a woman was first interdicted as a mother-in-law<sup>19</sup> and then became a married women, he is judged [for incest with her] as for his mother-in-law only. If she was first forbidden to him as a married woman and then became his mother-in-law, he is punished for a married woman.<sup>20</sup> R. Adda b. Ahaba said to Raba: 'If she was first his mother-in-law and then became a married woman, he is judged as for his mother-in-law only'; but should he also not be punished for the interdict attaching to her as a married woman? For R. Abbahu said: R. Jose agrees in regard to a more extensive prohibition [that it becomes operative where a prohibition already exists].<sup>21</sup>

(1) I.e., explicitly telling him that he was wrong.

(2) I.e., he states the Biblical law.

(3) But not directly state the law, leaving it for his father to draw the inference. This does not shame him.

- (4) This is explained below.
- (5) Var. lec., 'brother'.
- (6) Ezek. XVIII, 10f.
- (7) Ibid 12.
- (8) Ibid. 13.
- (9) 'His blood shall be upon him' always means stoning, v. p. 357 n.7. Thus we see that the severest penalty is imposed; and it must be under the circumstances posited by Raba, for otherwise the verse is unnecessary.
- (10) So called, because he ultimately becomes a murderer, v. supra 72a.
- (11) For then it is obvious.
- (12) His coreligionists having forgotten it; but not intending to teach any new law.
- (13) [In Deuteronomy.]
- (14) Ibid. 6.
- (15) His own merit being sufficient that God should sustain him. 'Mountains' is interpreted as metaphorically referring to one's ancestors; cf. Micah VI, 2, which may be so translated.
- (16) It being wrong to do so unless one is absolutely compelled.
- (17) Ibid. 9.
- (18) Lev. XVIII, 24.
- (19) I.e.,if one marries a widow's daughter, so that the widow is forbidden to him only as a mother-in-law.
- (20) Because R. Jose maintains that a second prohibition cannot become operative where one is already in existence. Adultery with a married woman is punished by strangling; incest with one's mother-in-law by burning.
- (21) As his mother-in-law she was forbidden to him only; on remarriage, the prohibition was extended to all men. Since the second prohibition is thus wider in scope than the first, it is operative even where the first already exists.

## **Talmud - Mas. Sanhedrin 81b**

— He replied: 'Adda, my son, will you execute him twice!'"<sup>1</sup>

**MISHNAH. HE WHO WAS TWICE FLAGELLATED [FOR TWO TRANSGRESSIONS, AND THEN SINNED AGAIN,] IS PLACED BY BETH DIN IN A CELL AND FED WITH BARLEY BREAD, UNTIL HIS STOMACH BURSTS.**

**GEMARA.** Because he has been twice flagellated Beth din places him in a cell?<sup>2</sup> — R. Jeremiah answered in the name of Resh Lakish: The reference is to flagellation for an offence punishable by extinction,<sup>3</sup> so that he is already liable to death [at the hand of God], but the time of his death has not yet come: since, however, he abandoned himself [to sin, by transgressing a third time], we hasten his death. R. Jacob said to R. Jeremiah b. Tahlifa: 'Come, I will interpret it to you. This treats of flagellation for one sin involving extinction [which was twice repeated]: but [if he committed]two or three different sins each involving extinction, It may merely be his desire to experience sin, and not a complete abandonment thereto.'<sup>4</sup>

### **ONE WHO WAS TWICE FLAGELLATED.**

Twice, though not thrice; shall we say that the Mishnah does not agree with R. Simeon b. Gamaliel? For if it did, does he not maintain, There is no presumption until a thing has happened three times?<sup>5</sup> — Rabina said: It may agree even with R. Simeon b. Gamaliel: The Mishnah is of the opinion that transgressions afford a basis for presumption.<sup>6</sup>

An objection was raised: If one committed an offence involving flagellation, the first and second time he is flagellated; on the third occasion he is placed in a cell. Abba Saul said: Even on the third occasion he is flagellated; but on the fourth, he is placed in a cell.<sup>7</sup> Now presumably, both agree that flagellation affords a basis for presumption, and they differ on the lines of Rabbi and R. Simeon b. Gamaliel?<sup>8</sup> — No. Both agree with R. Simeon b. Gamaliel, but they differ on this question: One

Master<sup>9</sup> holds that transgression affords a basis for presumption, the other Master,<sup>10</sup> that only flagellation affords it. But what of the following that has been taught, viz.: If he [the transgressor] was warned [of his liability to flagellation], but remained silent, or warned and nodded his head, — the first and second time he is to be warned, but on the third occasion he is placed in a cell. Abba Saul said: The third time too he is warned, but on the fourth, he is placed in a cell.<sup>11</sup> Now there he is not flagellated:<sup>12</sup> wherein then do they differ? — Rabina said: They differ as to whether one must be warned of the cell.<sup>13</sup>

And what was the form of the cell? — Rab Judah said: A chamber of his [the transgressor's] full height. And where is it alluded to?<sup>14</sup> — Resh Lakish quoted: Evil shall slay the wicked.<sup>15</sup> Resh Lakish also said: What is meant by, For man also knoweth not his time, as the fishes that are taken in an evil trap;<sup>16</sup> what is 'an evil trap'? — Resh Lakish said: A hook.<sup>17</sup>

**MISHNAH. ONE WHO COMMITS MURDER WITHOUT WITNESSES IS PLACED IN A CELL AND [FORCIBLY] FED WITH BREAD OF ADVERSITY AND WATER OF AFFLICTION'.<sup>18</sup>**

**GEMARA.** How do we know [that he committed murder]? — Rab said: On a 'disjoined' evidence.<sup>19</sup> Samuel said: Without a warning.<sup>20</sup> R. Hisda said in Abimi's name: Through witnesses who were disproved as to the minor circumstances [of the crime], but not on the vital points.<sup>21</sup> As we learned: It once happened that Ben Zakkai examined [the witnesses] as to the stalks of the figs.<sup>22</sup>

**AND FED 'BREAD OF ADVERSITY AND WATER OF AFFLICTION'. Why does this Mishnah teach, AND FED WITH BREAD OF ADVERSITY AND WATER OF AFFLICTION', whilst the former teaches, HE IS PLACED BY BETH DIN IN A CELL AND FED WITH BARLEY BREAD UNTIL HIS STOMACH BURSTS? — R. Shesheth answered: In both cases he is fed with 'bread of adversity and water of affliction' for his intestines to shrink [thus blocking the passage], and then he is fed with barley bread until his stomach bursts.**

**MISHNAH. IF ONE STEALS THE KISWAH,<sup>23</sup> OR CURSES BY ENCHANTMENT, OR COHABITS WITH A HEATHEN [LIT. SYRIAN] WOMAN, HE IS PUNISHED BY ZEALOTS.<sup>24</sup> IF A PRIEST PERFORMED THE TEMPLE SERVICE WHILST UNCLEAN, HIS BROTHER PRIESTS DO NOT CHARGE HIM THEREWITH AT BETH DIN, BUT THE YOUNG PRIESTS TAKE HIM OUT OF THE TEMPLE COURT AND SPLIT HIS SKULL WITH CLUBS. A LAYMAN WHO PERFORMED THE SERVICE IN THE TEMPLE, R. AKIBA SAID: HE IS STRANGLER; THE SAGES SAY: [HIS DEATH IS] AT THE HANDS OF HEAVEN.**

**GEMARA.** What is kiswah? — Rab Judah answered: The service vessels [of the Temple]; and thus it is said, And the vessels [Kesoth]<sup>25</sup> of libation.<sup>26</sup> And where is this alluded to?<sup>27</sup> That they come not to see how the holy things are stolen,<sup>28</sup> lest they [the purloiners] die.<sup>29</sup>

**OR CURSES BY ENCHANTMENT.** R. Joseph learned, [He curses thus:] May the charm [the idol] slay its enchanter.<sup>30</sup> The Rabbis, others say, Rabbah b. Mari, say: [He curses:] May the charm slay him [his enemy], his Master and his Provider, etc.<sup>31</sup>

**OR COHABITS WITH A HEATHEN WOMAN.**

R. Kahana propounded a problem to Rab:

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(1) Obviously not! Therefore under no circumstances can one prohibition take legal hold where another exists, if death is the penalty. R. Jose's admission refers only to unwitting transgression, and is in connection with sacrifices.

(2) Surely that is inequitable!

- (3) But the witnesses had warned him that he would be flagellated, — a lesser penalty.
- (4) So that there is hope for his reformation; consequently we do not hasten his death.
- (5) This is in connection with widowhood: only if a woman has been thrice widowed is there a presumption that it is her destiny to cause her husbands' death, and hence she may not remarry. Rabbi maintains that this presumption may be made even if she has only been twice widowed.
- (6) Not flagellation. Therefore, if he transgressed thrice, though only twice flagellated, there is a presumption that he is incorrigible.
- (7) Tosef. Sanh. XII.
- (8) The first Tanna agreeing with Rabbi that twice affords presumption, Abba Saul with R. Simeon b. Gamaliel. But since the first Tanna is identical with the Tanna of our Mishnah, it follows that it cannot agree with R. Simeon b. Gamaliel. This refutes Rabina.
- (9) The first Tanna.
- (10) Abba Saul.
- (11) Tosef. XII. When a warning is given, the offender must explicitly accept it, (cf. supra pp. 494-5), otherwise he cannot be punished. Nevertheless, since he was warned, and shewed by his silence or his nodding that he accepted the warning, there is a presumption that he is a confirmed sinner, and hence the law of Mishnah applies to him.
- (12) So that there is no flagellation to afford a basis for presumption.
- (13) Both agree that he becomes a confirmed sinner when he has thrice transgressed. The first Tanna maintains that once we regard him as such, he is placed in a cell without further ado; but Abba Saul is of the opinion that this too must be preceded by a formal warning. Hence, after sinning three times, it is necessary that he shall sin a fourth time, that he may be warned of the consequences.
- (14) It is assumed that the law is traditional, going back to Moses; nevertheless, an allusion is sought in the Bible.
- (15) Ps. XXXIV, 22.
- (16) Ecc. IX, 12.
- (17) This, though small, captures even large fish; thus it is more subtle and dangerous than a net. Presumably also it is more painful.
- (18) Isa. XXX, 20.
- (19) I.e., the murder was witnessed by two persons who were not standing together. In that case, he cannot be executed; hence he is imprisoned. cf. Mak. 6b.
- (20) I.e., there were two witnesses, but invalid to impose the usual death sentence, because they did not warn him.
- (21) By 'vital points' (hakiroth **הַקִּירוֹת**.) time and place of the crime are meant; by 'minor circumstances' (bedikoth **בְּדִיקוֹת**) the weapon, clothes worn by the victim or the murderer, etc. Since the vital evidence has not been disproved, the accused is adjudged a murderer; as, however, the witnesses were disproved on minor details, he cannot be executed, and is therefore placed in a cell.
- (22) The witnesses having deposed that the murder took place under a fig tree. Ben Zakkai examined them on the nature of the stalks, Whether thick or thin, etc. v. supra 40a ff.
- (23) V. Gemara.
- (24) I.e., pious men, jealous for the honour of Judaism, may punish him if they apprehend him in the act; but if they did not, they cannot subsequently charge him therewith at Beth din (Rashi).
- (25) **קשות**
- (26) Num. IV, 7.
- (27) That a zealot who sees the theft must punish, i.e., slay him.
- (28) **כבלע** lit., 'swallowed up'.
- (29) Ibid. 20. Nevertheless, this not being the true meaning of the verse, q.v., it is regarded merely as a hint, the actual law being traditional. [The allusion is probably to the vessel employed for water libation, a rite opposed by the Sadducees. The purloiner would accordingly be a member of that sect, v. Krauss, Sanh.-Mak. p. 260.]
- (30) Referring to God. The meaning of the passage is uncertain. H. Danby, Tractate Sanhedrin, a.l., suggests that **קסם** may be an abbreviation of some transliterated unorthodox divine name, e.g., \*\*\*\*\*, or a disguised form of the Tetragrammaton. The offence then will consist in blaspheming the Divine Name under a pseudonym (Sanh. VII, 5). Levy, s.v. **קסם** translates: May the charmer (= idol) slay its charmer (= God). But the Munich MS. reads **את קוסו** = what is like him (cf. **יכה יוסי את יוסי** supra 56a). Jastrow renders: 'May the carver (i.e., God, invoked as 'carver' instead of creator ex nihilo) strike his carving!'



(31) The last two refer to God. This is translated by Levy (loc. cit.): The charmer smite him, his possessor, and Him who gives him possession. The J. a. l. reads: כגון אילין נפתאי דמקללין לקנייך קיינך קנווך e.g., as the Nabateans curse, viz., Cursed be thou, thy possessor, and Him who gives thee possession.

## Talmud - Mas. Sanhedrin 82a

What if zealots did not punish him? Now Rab had completely forgotten [what he had learnt about this];<sup>1</sup> So R. Kahana was made to read in his dream, Judah hath dealt treacherously, and an abomination is committed in Israel and in Jerusalem; for Judah hath profaned the holiness of the Lord which he loved, and hath been intimate with the daughter of a strange god.<sup>2</sup> He then went and related to Rab, 'This was I made to read'. Thereupon he reminded Rab of it all: Judah hath dealt treacherously, — this refers to idolatry, even as it is said, [Surely as a wife departeth treacherously from her husband], so have ye dealt treacherously with me, O house of Israel, saith the Lord;<sup>3</sup> and an abomination is committed in Israel and in Jerusalem, refers to pederasty, and thus it is written, Thou shalt not lie with mankind as with womankind; it is an abomination;<sup>4</sup> for Judah hath profaned the holiness [kodesh]<sup>5</sup> of the Lord, — this refers to harlotry, and thus it is said, There shall be no consecrated harlot [kedeshah]<sup>6</sup> of the daughters of Israel;<sup>7</sup> and hath been intimate with the daughter of a strange god, — this refers to intimacy with a heathen woman. Now, this verse is followed by, The Lord will cut off the men that doeth this, the master and the scholar, out of the tabernacles of Jacob, and him that offereth an offering unto the Lord of Hosts.<sup>8</sup> This means: If he is a scholar, he shall have none awakening [i.e., teaching] among the sages and none responding among the disciples; if a priest, he shall have no son to offer an offering unto the Lord of hosts.<sup>9</sup>

R. Hiyya b. Abuiyah said: He who is intimate with a heathen woman is as though he had entered into marriage relationship with an idol, for it is written, and hath been intimate with the daughter of a strange god:<sup>10</sup> hath then a strange god a daughter — But it refers to one who cohabits with a heathen woman.

R. Hiyya b. Abuiyah also said: 'This and yet another' is written upon Jehoiakim's skull.<sup>11</sup> R. Perida's grandfather found a skull thrown down at the gates of Jerusalem, upon which 'this and yet another' was written. So he buried it, but it re-emerged; again he buried it, and again it re-emerged. Thereupon he said, This must be Jehoiakim's skull, of whom it is written, He shall be buried with the burial of an ass, drawn and cast forth beyond the gates of Jerusalem.<sup>12</sup> Yet, he reflected, he was a king, and it is not mannerly to disgrace him. So he took it, wrapped it up in silk, and placed it in a chest. When his wife came home and saw it, she went and told her neighbours about it. 'It must be the skull of his first wife', said they to her, 'whom he cannot forget'. So she fired the oven and burnt it. When he came, he said to her, 'That was meant by its inscription, "This and yet another"'.<sup>13</sup>

When R. Dimi came,<sup>14</sup> he said: The Beth din of the Hasmoneans<sup>15</sup> decreed that one who cohabits with a heathen woman is liable to punishment on account of Nashga.<sup>16</sup> When Rabin came,<sup>17</sup> he said: On account of Nashgaz, i.e., niddah, shifhah, goyyah and zonah;<sup>18</sup> but not on account of a married woman, because they themselves [sc. the heathens] do not recognize the marriage bond.<sup>19</sup> But the other?<sup>20</sup> — They certainly gave no license to their wives.<sup>21</sup>

R. Hisda said: If the zealot comes to take counsel [whether to punish the transgressors enumerated in the Mishnah], we do not instruct him to do so. It has been stated likewise: Rabbah b. Bar Hana said in R. Johanan's name: If he comes to take counsel, we do not instruct him to do so. What is more, had Zimri forsaken his mistress and Phinehas slain him, Phinehas would have been executed on his account;<sup>22</sup> and had Zimri turned upon Phinehas and slain him, he would not have been executed, since Phinehas was a pursuer [seeking to take his life].

And Moses said unto the judges of Israel, Slay ye every one of his men that were joined unto Baal

Peor.<sup>23</sup> Thereupon the tribe of Simeon went unto Zimri ben Salu and said unto him, 'Behold, capital punishment is being meted out, yet you sit silent [i.e., inactive].' What did he do? He arose and assembled twenty-four thousand Israelites and went unto Cozbi, and said unto her, 'Surrender thyself unto me.' She replied, 'I am a king's daughter, and thus hath my father instructed me, "Thou shalt yield only to their greatest man". 'I too,' he replied, 'am the prince of a tribe; moreover, my tribe is greater than his [Moses], for mine is second in birth, whilst his is third.'<sup>24</sup> He then seized her by her coiffure and brought her before Moses. 'Son of Amram,' exclaimed he, 'is this woman forbidden or permitted? And should you say. "She is forbidden", who permitted thee Jethro's daughter'? At that moment Moses forgot the halachah [concerning intimacy with a heathen woman], and all the people burst into tears; hence it is written, and they were weeping before the door of the tabernacle of the congregation.<sup>25</sup> And it is also written, And Phineas, the son of Eleazar, the son of Aaron the priest, saw it.<sup>26</sup> Now, what did he see? — Rab said: He saw what was happening and remembered the halachah, and said to him, 'O great-uncle! did you not teach us this on thy descent from Mount Sinai: He who cohabits with a heathen woman is punished by zealots?' He replied. 'He who reads the letter, let him be the agent [to carry out its instructions]'. Samuel said: He saw that 'There is no wisdom nor understanding nor counsel against the Lord':<sup>27</sup> whenever the Divine Name is being profaned, honour must not be paid to one's teacher.<sup>28</sup> R. Isaac said in R. Eleazar's name: He saw the angel wreaking destruction amongst the people. And he rose up out of the midst of the congregation, and took a spear in his hand;<sup>29</sup> hence one may not enter the house of learning with weapons.<sup>30</sup> He removed its point and placed it in his undergarment, and went along

(1) He did not know what to reply.

(2) Mal. II, 11.

(3) Jer. III, 20. The simile shews that the reference is to idolatry.

(4) Lev. XVIII, 22.

(5) קדש

(6) קדשה

(7) Deut. XXIII, 18.

(8) Mal. II, 12.

(9) This is his punishment and the answer to R. Kahana's question.

(10) Ibid. 11.

(11) The meaning of this is given in the following story.

(12) Jer. XXII, 19.

(13) I.e., it would be exposed to this disgrace, of being cast away in the streets, and yet another, viz., burning.

(14) From Palestine; v. p. 390, n. 1.

(15) J. Derenbourg, Essai p. 84 places this Beth din during the rule of Simeon the Hasmonean (143-135 B.C.E.), or the first years of his son John. The troublous times of the Maccabees would seem to have led to licentiousness and a lowering of moral standards, and consequent liaisons with heathens. When the country became more settled, the religious authorities naturally attempted to stem this, and hence the decree. (V. 'A.Z. (Sonc. ed.) p. 177, n. 7.)

(16) This is a mnemonic: N = niddah, a menstruous woman; SH = Shifhah, a non-Jewish maidservant; G = goyyah, a heathen woman; and A = esheth, ish, a married woman. He is regarded as having transgressed in respect of all four, and as such will be punished by heaven.

(17) V. p. 544, n. 7.

(18) Zonah = harlot; for the first three v. preceding note.

(19) They are very lax, and their women, even married, indulge in promiscuity; v. Weiss, Dor. Vol.II, pp. 19 ff,

(20) R. Dimi, who includes this.

(21) I.e., they expect their wives to observe the marriage bond.

(22) For the zealot may slay only when he is engaged in the commission of the offence.

(23) Num. XXV, 5.

(24) Simeon was Jacob's second son; Levi, to which Moses belonged, the third.

(25) Ibid 6.

(26) Ibid 7.

(27) Prov. XXI, 30.

(28) I.e., seeing the profanation of the Divine Name, he did not wait for Moses' ruling.

(29) Num. XXV, 7.

(30) Since he rose up out of the congregation, i.e., the Sanhedrin, implying that he went out.

## Talmud - Mas. Sanhedrin 82b

leaning upon the stock [of the spear, into which the pointed blade is inserted], and as soon as he reached the tribe of Simeon, he exclaimed, 'Where do we find that the tribe of Levi is greater<sup>1</sup> than that of Simeon? [i.e., I too wish to indulge]. Thereupon they said, 'Let him pass too. He enters to satisfy his lust. These abstainers have now declared the matter permissible.' R. Johanan said: Six miracles were wrought for Phinehas: — [i] Zimri should have withdrawn [from the woman] but did not;<sup>2</sup> [ii] he should have cried out [for help], but did not; [iii] he [Phinehas] succeeded [in driving his spear] exactly through the sexual organs of the man and woman;<sup>3</sup> [iv] they did not slip off the spear; [v] an angel came and lifted up the lintel;<sup>4</sup> [vi] an angel came and wrought destruction amongst the people.<sup>5</sup> Then he [Phinehas] came and struck them down before the Almighty, saying. 'Sovereign of the Universe! shall twenty-four thousand perish because of these.' even as it is written, And those that died in the plague were twenty and four thousand.<sup>6</sup> Hence it is written, then stood up Phinehas, and executed judgement [wa-yefallel]<sup>7</sup> R. Eleazar said: [wa-yispallel] [he prayed] is not written, but wa-yefallel,<sup>8</sup> as though he argued with his maker [on the justice of punishing so many]. Thereupon the ministering angels wished to repulse him, but He said to them, 'Let him be, for he is a zealot and the descendant of a zealot; a turner away of wrath and the son of a turner away of wrath.'<sup>9</sup> The tribes now began abusing him: 'See ye this son of Puti [= Putiel] whose maternal grandfather fattened [pittem] cattle for idols,<sup>10</sup> and who has now slain the prince of a tribe of Israel!' Therefore Scripture detailed his ancestry: Phinehas, the son of Eleazar, the son of Aaron the Priest.<sup>11</sup> [Moreover,] the Holy One, blessed be He said to Moses, 'Be the first to extend a greeting of peace to him', as it is written, Wherefore say, Behold, I give unto him my covenant of peace;<sup>12</sup> and this atonement, [that Phinehas has made] is worthy of being an everlasting atonement.<sup>13</sup> R. Nahman said in Rab's name: What is meant by, A greyhound [zarzir mathnaim, lit, 'energetic of loins']: an he goat also [tayish]; and a king, against whom there is no rising up?<sup>14</sup> — That wicked man, [sc. Zimri] cihabited four hundred and twenty-four times<sup>14</sup>, that day, and Phinehas waited for his strength to weaken,<sup>15</sup> not knowing that [God is] a King, against whom there is no rising up.<sup>16</sup> In the Baraitha we learnt: Sixty [time], until he became like an addled egg, whilst she became like a furrow filled with water. R. Kahana said: And her seat was a beth s'eah.<sup>17</sup> R. Joseph learned: Her womb opening was a cubit.

R. Sheshet said: Her name was not Cozbi, but Shewilanai the daughter of Zur. Why then was she called Cozbi? Because she falsified<sup>18</sup> her father's teachings.<sup>19</sup> Another interpretation is: She said to her father, 'Devour me [kosbi]<sup>20</sup> this people,' And thus it is a popular proverb, 'What business hath Shewilanai<sup>21</sup> by the reeds of the lake? What hath Shewilanai to do amongst the peeling rushes?<sup>22</sup> She prostitutes her mother.'<sup>23</sup>

R. Johanan said: [Zimri] had five names: Zimri, the son of Salu, Saul, the son of the Canaanitish woman, and Shelumiel, the son of Zurishaddai. Zimri, because he became like an addled egg [beza hamuzereth]; the son of Salu, because he outweighed [hisli]<sup>24</sup> the sins of his family;<sup>25</sup> Saul, because he lent himself [hish'il fr. sha'al] to sin; the son of the Canaanitish woman, because he acted in a Canaanitish fashion, [i.e., depravedly]; whilst his real name was Shelumiel the son of Zurishaddaif

### IF A PRIEST PERFORMED THE TEMPLE SERVICE WHILST UNCLEAN

R. Abba b. Huna propounded a problem to R. Shesheth: Does a priest who performed the Temple service whilst unclean merit death at the hands of Heaven or not? — He replied: We learntit: IF A PRIEST PERFORiED THE TEMPLE SEōVICE WHILST UNCLEAN, HIS BROTHER PRIESTS

DO NOT CHARGE HIM AT BETH DIN, BUT THE YOUNG PRIESTS TAKE HIM OUT OF THE TEMPLE COURT AND BREAK HIS SKULL WITH CLUBS. But should you think that he merits death at the hands of Heaven, should he not be left to be slain by Him? Will you say then that he is not so liable? Is there anything for which the Merciful One did not impose a penalty, for which we may kill? — And is there not? But we learnt, ONE WHO WAS TWICE FLAGELLATED IS PLACED BY BETH DIN IN A CELL: thus, the Merciful One exempted him, yet we slay him! — [That is no difficulty;] for did not R. Jeremiah say in the name of Resh Lakish: The reference is to flagellation for an offence punishable by extinction?<sup>26</sup> hence he is liable to death. But what of one who steals a Kiswah? — [That too causes no difficulty], for did not Rab Judah say: This refers to service vessels, [death for the theft of which] being alluded to in the verse, They come not to see how the holy things are stolen, lest they [the purloiners] die.<sup>27</sup> But what of one who CURSES BY ENCHANTMENT?<sup>28</sup> — [There too,] did not R. Joseph learn, [He curses thus:] May the charm slay the enchanter? So that it is somewhat analogous to blasphemy.<sup>29</sup> But what of ONE WHO COHABITS WITH A HEATHEN WOMAN? — There too, R. Kahana was made to read [a verse] in his dream, which [on being told to Rab], entirely reminded him of the law.<sup>30</sup> He objected: He who pours [the oil on the meal-offering], mingles [it with the flour], breaks up [the meal-offering cakes], salts [the meal-offering], waves it, presents it [opposite the south west corner of the altar], sets the table [with the shew bread], trims the lamps, takes off the handful [of flour from the meal-offering] or receives the blood. — [if he did any of these] outside [the Temple Court], he is not liable [to extinction]. Nor is punishment incurred for any of these acts

(1) I.e., more sanctimonious.

(2) Had he withdrawn, Phinehas could not have punished him.

(3) Thus showing that he was punishing immorality, and not satisfying a private hate.

(4) So that it should not interfere with the spear as he was carrying them out aloft.

(5) Thereby distracting their attention: otherwise Zimri's partisans would have slain him.

(6) Ibid. 9.

(7) Ps. CVI, 30.

(8) Fr. פלל, to argue.

(9) Levi, the first ancestor of his tribe, had shown zeal for his sister's honour (Gen. XXXIV, 25f.); Aaron, Phinehas' grandfather, had turned away God's wrath on the occasion of Korah's revolt. Num. XVII, 13.

(10) V. Ex. VI. 25: And Eleazar, Aaron's son, took him one of the daughters of Putiel to wife. According to the legend, Putiel was Jethro, so called because as a priest of Midian he had fattened (פיתם pittem, with which Putiel is here connected) cattle for idolatrous sacrifices.

(11) Num. XXV, 11.

(12) Ibid. 12.

(13) Cf. ibid. 13.

(14) Prov. XXX, 31. (12) The numerical value of zarzir זרזיר, whilst cohabitation is understood from 'loins'.

(15) Heb. תשש (weakened) is connected here with תיש.

(16) I.e. he need not have waited, for Zimri was already doomed.

(17) I.e., she became very bloated. Beth se'ah is a field requiring one se'ah of seed.

(18) From כזב falsehood.

(19) V. 82a; he had instructed her to surrender only to the greatest man in Israel.

(20) כם-בי

(21) A common name for a dissolute woman. [The word is connected with the Arabic denoting 'womb opening', v. MGWJ. LXXIII, p. 398].

(22) I.e., surely she goes to these secluded spots only for immoral purposes.

(23) I.e., she transfers her own harlotry to her mother — an unchaste woman being generally called a harlot, the daughter of a harlot (Rashi). Jast. renders, 'Did she embrace her mother?'

(24) From שאל.

(25) From מלא. Others: he caused the sins of the family to rise, i.e., became notorious. (Jast.); Rashi (one version) caused his sins to be searched out, probed.

(26) V. supra 81b.

(27) Num. IV, 20.

(28) The reading here in our printed texts differs slightly from that of the Mishnah on 81b; the latter has been followed; cp. DS. a.l.

(29) V. supra 56a. May Jose Smite Jose: blasphemy was punished by death.

(30) That verse hints at death.

### Talmud - Mas. Sanhedrin 83a

on account of zaruth,<sup>1</sup> uncleanness, lack of [priestly] garments<sup>2</sup> or the [non-] washing of hands and feet.<sup>3</sup> [This implies,] but if he burned incense,<sup>4</sup> he is liable, and presumably [his liability is] to death<sup>5</sup> — [No;] merely in respect of a prohibition.<sup>6</sup> But if so, the Zaruth mentioned is likewise merely in respect of a prohibition: surely, it is written, And the stranger [zar] that cometh nigh shall be put to death<sup>7</sup> — Each has its own ruling.<sup>8</sup> Now it follows that not even a negative precept is transgressed for pouring and mingling [under the conditions enumerated]; but it has been taught: Whence do we derive a negative precept for the pouring and mingling [of the oil by an unclean priest]? — From the verse, They shall be holy unto their God, and not profane [the name of their God]?<sup>9</sup> — The prohibition is Rabbinical only, the verse being a mere support. An objection was raised: The following are liable to death [at the hands of Heaven ...an unclean [priest] who performed the [Temple] service, (etc.).] This definitely refutes his [R. Shesheth's] ruling.

To turn to the main [Baraita]: The following are liable to death [at the hands of Heaven]: One who ate tebel,<sup>10</sup> an unclean priest who ate undefiled terumah, a zar or an unclean [priest] who performed [the Temple service], or one who performed it on the day of his ritual bath,<sup>11</sup> or lacking the proper [priestly] garments, or lacking the [sacrificial] atonement,<sup>12</sup> one who did not wash his hands and feet, or drank wine, or a priest with over-grown locks.<sup>13</sup> But the performance of the service by an uncircumcised [priest], an onen.<sup>14</sup> or by one who officiated whilst sitting is not liable to death, but merely prohibited. If a priest with a blemish [officiated], Rabbi said: He is liable to death; the Sages maintain: He is merely prohibited. If he deliberately transgressed in respect of a trespass offering,<sup>15</sup> Rabbi said: He is liable to death. and the Sages say: He transgressed a mere prohibition.

Now, whence do we know it of one who eats tebel? — As Samuel said on the authority of R. Eliezer: Whence do we know that one who eats tebel is liable to death? From the verse, And they shall not profane the holy things of the children of Israel, which they shall offer to the Lord.<sup>16</sup> Now, the verse refers to that which is yet to be offered;<sup>17</sup> and then identity of law is learnt from the use of 'profanation' here and in the case of terumah:<sup>18</sup> just as there the penalty is death, so here too. But let us rather learn [the penalty] from the use of profanation here and in the case of nothar:<sup>19</sup> just as there, the penalty is extinction. so here too? — It is logical to make the deduction from terumah, because they are equal in the following points: — [i] terumah, [ii] extra-territoriality, [iii] annulment, [iv] plural form, [v] land produce. [vi] piggul, and [vii] nothar.<sup>20</sup> On the contrary, should not the deduction rather be made from nothar, since they are alike in the following points: [i] unfitness of food and [ii] no annulment of prohibition by a mikveh?<sup>21</sup> — Even so, those [tebel and terumah] have more points in common. Rabina answered: The use of the plural form is certainly a stronger link.<sup>22</sup> And whence do we know that an unclean priest who ate undefiled terumah [is liable to death]? — As Samuel said: Whence do we know that an unclean priest who ate undefiled terumah is punished by death at the hands of Heaven? From the verse, Therefore they shall keep mine ordinance, lest they bear sin for it, and die therefore, if they profane it.<sup>23</sup> This [however] applies only to undefiled, but not to polluted terumah: for Samuel said in R. Eliezer's name: Whence do we know that an unclean priest who ate unclean is not liable to death? — From the verse, and die therefore, if they profane it:

- (1) I.e., the prohibition of a zar (a non-priest) to officiate in the Temple: a zar who performs any of these services is not punished, as none of these functions form the concluding part of a service.
- (2) The priest had to officiate in the special garments prescribed in Ex. XXVIII; if he did not wear them all whilst engaged in any of these, he incurs no liability.
- (3) (Zeb. 112b), V. Ex. XXI, 17f.
- (4) A function completing a service.
- (5) But since uncleanness is mentioned, it follows that a ritually unclean priest who offered incense is liable to death. This contradicts R. Shesheth's ruling.
- (6) He is merely regarded as having transgressed an ordinary prohibition.
- (7) Num. XVIII, 7.
- (8) I.e., for uncleanness there is a mere prohibition: for zaruth, death.
- (9) Lev. XXI, 6. This is referred to the performance of one of these services whilst unclean.
- (10) V. Glos.
- (11) Tebbul Yom. Lit., 'one who immersed during the day'. An unclean priest purified himself by taking a ritual bath: yet even then he could not officiate until after sunset.
- (12) A priest who became unclean through the dead was sprinkled with the ashes of the red heifer mixed with water; then he took a ritual bath; and on the eighth day of his uncleanness, he offered a sacrifice, which made atonement for him. Before this, he is regarded as one 'lacking atonement', and may not officiate.
- (13) I.e., who has not trimmed his hair for thirty days or more.
- (14) A mourner before the burial of a near relative, e.g.. father.
- (15) I.e., be benefited from a holy thing. for the secular (unwitting) use of which one is bound to bring a trespass offering; cf. Lev. V, 14ff.
- (16) Lev. XXII, 15.
- (17) The verb **זָבַח** is imperfect ('which they shall offer') and hence refers to 'holy things' — i.e., terumah — which is yet to be separated from the produce, so that it is all tebel.
- (18) Ibid. 9: They shall therefore keep mine ordinance, lest they bear sin for it, and die therefore, if they profane it. This refers to the eating of terumah by an unclean priest.
- (19) That which is left over of the sacrifice after the time appointed for eating. Ibid. XIX, 6, 8: And if ought remain until the third day, it shall be burnt in fire . . . Therefore every one that catch it shall bear his iniquity, because he hath profaned the hallowed thing of the Lord: and that soul shall be cut off from among his people.
- (20) Both deal with terumah, as tebel too is forbidden on account of the unseparated terumah which it contains. Neither terumah nor tebel operated outside Palestine, but nothar was forbidden in the wilderness too. Further, both of these prohibitions can be annulled: that of the unclean priest by a ritual bath; tebel, by separating its terumah: but under no circumstances can the prohibition of nothar be annulled. Profanation in both cases is stated in plural form: tebel: And they shall not profane etc. terumah:...if they profane it; but nothar has its use in the singular...because he hath profaned. Tebel and terumah apply to land produce (cereals and fruits); nothar to animals. Finally, the law of piggul (v. Glos) and nothar is inapplicable to tebel and terumah.
- (21) In the case of tebel and nothar the substance itself is forbidden; but the terumah is not forbidden, only that the priest is unclean. Also the prohibition of tebel and nothar cannot be annulled through a mikweh (ritual bath); but that of terumah ceases when the priest takes a ritual bath.
- (22) I.e., the fourth point which tebel and terumah have in common is itself sufficient to justify the preference for terumah, as the basis for deduction, rather than nothar.
- (23) Lev. XXII, 9.

## Talmud - Mas. Sanhedrin 83b

excluding this [unclean terumah], which already stands profaned.

A zar who ate terumah: Rab said: A zar who ate terumah is flagellated. R. Kahana and R. Assi said to him: Why does not the master say — is liable to death, since it is written, there shall no stranger eat of the holy thing?<sup>1</sup> — I the Lord do sanctify them breaks across the subject.<sup>2</sup> An objection is raised: The following are liable to death: ...a zar who ate terumah? — Do you oppose a

Baraita to Rab's ruling? Rab is a Tanna, and may dispute [the ruling of Baraita].<sup>3</sup>

‘A zar who performed the [Temple] service’: for it is written, And the stranger that cometh nigh shall be put to death.<sup>4</sup>

‘Or an unclean [priest] who performed the [Temple] service:’ even as R. Hiyya b. Abin inquired of R. Joseph: Whence do we know that an unclean priest who performed the [Temple] service is punished by death? Because it is written, Speak unto Aaron, and to his sons, that they separate themselves from the holy things of the children of Israel, and that they profane not my holy name.<sup>5</sup> And identity of law is derived from the use of ‘profanation’ here and in the case of terumah; just as there the penalty is death, so here too. But should not the deduction rather be made from nothar: just as there the penalty is extinction, so here too? — It is reasonable to make the deduction from terumah, because they have the following in common: — [i] bodily [unfitness], [ii] uncleanliness, [iii] mikweh, [iv] plural form.<sup>6</sup> On the contrary, should not the deduction rather be made from nothar, since they share the following in common: [i] sanctity, [ii] within [the Temple court], [iii] piggul and [iv] nothar?<sup>7</sup> — Even so, the fact that in both cases [viz. terumah and the sacrificial service] profanation is spoken of as an act of many [unlike nothar], outweighs [the points which sacrificial service and nothar have in common].

‘Or one who performed it on the day of his ritual bath’. Whence do we know this? — Even as has been taught: R. Simai said: Where is the allusion that one who officiated in the Temple on the day of his ritual bath has committed an act of profanation? From the verse, They shall be holy unto their God, and not profane [the name of their God].<sup>8</sup> Since this cannot refer to the ministration of an unclean priest, [the prohibition of which] is derived from that they separate themselves,<sup>9</sup> apply it to a priest's officiating on the day of his ritual bath. Then an analogy is drawn from the use of ‘profanation’ both here and in the case of terumah: just as there, the penalty is death, so here too.

‘Or lacking the proper priestly garments’. Whence do we know it? — R. Abbahu said in R. Johanan's name, and [the teaching] is ultimately derived from R. Eleazar son of R. Simeon: [The Writ saith, And thou shalt...put coats upon them...] and thou shalt gird them with girdles. [Aaron and his sons, and put the bonnets on them]: and the priest's office shall be theirs for a perpetual state.<sup>10</sup> when wearing the appointed garments, they are invested in their priesthood; when not, they lack their priesthood and are considered zarim,<sup>11</sup> and a Master hath said, A zar who performs the [Temple] service is liable to death.

‘Or one lacking the sacrificial atonement — Whence do we know this? — R. Huna said: The Writ saith, And the priest shall make an atonement for her, and she shall be clean.<sup>12</sup> ‘And she shall be clean’ implies that hitherto she was unclean: and a Master hath said, An unclean priest who officiated is liable to death.

‘One who did not wash his hands or feet.’ Whence do we know this? — From the verse, When they go into the tabernacle of the congregation, they shall wash with water, that they die not.<sup>13</sup>

‘Or drank wine’. Because it is written, Do not drink wine or strong drink, [thou, nor thy sons with thee, when ye go into the tabernacle of the congregation, lest ye die].<sup>14</sup>

‘Or a priest with overgrown locks’. As it is written, Neither shall they shave their heads, nor suffer their locks to remain unshorn;<sup>15</sup> and this is followed by, Neither shall they drink wine:<sup>16</sup> hence the former is likened to the latter: just as the latter is liable to death, so the former too.

‘But the performance of the service by an uncircumcised [priest], an onen, or [by one who officiated whilst sitting is not liable to death, but merely prohibited.’ Whence do we know it of the

uncircumcised? — R. Hisda said: We did not learn this from the Torah of Moses our Teacher, until Ezekiel the son of Buzi came and taught it to us: No stranger, uncircumcised in heart,

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(1) Ibid. 10. This immediately follows the verse stating...and die therefore, if they profane it.

(2) Vv. 9 and 10 read: ...and die therefore, if they profane it: I the Lord do sanctify them. There shall be no stranger eat of the holy thing. 'I the Lord do sanctify them' clearly marks a break: consequently the penalty of death stated in v. 9. does not apply to the prohibition of v. 10.

(3) Whilst it is axiomatic that an Amora cannot disagree with a Tanna, unless he finds a support in another Tanna, Rab, as a younger contemporary of Rabbi, stood midway between the last generation of the Tannaim and the first of Amoraim; and although generally assigned to the latter, he is occasionally, as here, conceded to be a Tanna, owing to his personal greatness and vast erudition.

(4) Num. XVIII, 7.

(5) Lev. XXII, 2: the reference is to abstention from sacrificial service during their uncleanness, as is stated in v. 3.

(6) Both the eating of terumah and the sacrificial service are prohibited to the priest through his bodily unfitness. Also, this bodily unfitness in both cases is uncleanness (this is counted as a second point, since bodily unfitness may be for some other cause, viz., a blemish). Further, in both cases, the unfitness can be remedied by a ritual bath. And finally, profanation in both cases is ascribed to many (v. p. 551, n. 8). Nothar differs on all these points.

(7) Both the eating of nothar and the sacrificial service by an unclean priest are offences in respect of the extreme sanctity of sacrifices. Terumah, however, is of a lower degree of sanctity. Also, they are done within the Temple precincts. Again, piggul is possible in both cases, for the unclean priest too whilst engaged in sacrificing might have intended eating the flesh beyond its appointed time, as nothar in fact has so been left. And finally, he might actually have eaten it thus. (The last two are counted as two distinct points, since the mere expressed intention of eating the flesh beyond its appointed time is an offence, even if not done subsequently. The actual eating again, is another and separate offence.) None of these, however, is applicable to the eating of terumah by an unclean priest.

(8) Lev. XXI, 6.

(9) Lev. XXII, 2ff.

(10) Ex. XXIX, 9.

(11) Zarim, pl. of Zar.

(12) Lev. XII, 8. This refers to a woman after confinement, but its implications extend to all forms of uncleanness which must be followed by a sacrifice.

(13) Ex. XXX, 20. The preceding verse states that they are to wash their hands and feet.

(14) Lev. X, 9.

(15) Ezek. XLIV, 20.

(16) Ibid. 21.

## Talmud - Mas. Sanhedrin 84a

nor uncircumcised in flesh, shall enter into my sanctuary.<sup>1</sup> Whence do we know it of an onen? — Because it is written, Neither shall he [sc. the onen High Priest] go out of the sanctuary, yet shall he not profane the sanctuary of his God:<sup>2</sup> hence, if any other [priest] does not go out, he profanes [the sanctuary]. R. Adda said to Raba: Then let us derive [identity of law] from the use of 'profanation' here and in the case of terumah: just as there the punishment is death, so here too? — Is then the [prohibition] of an onen explicitly stated in that verse? It is only inferred [from the High Priest]. Hence it is a law derived from a general proposition, and such cannot be further subjected to deduction by a gezerah shawah.

Whence do we know it of one who officiates whilst sitting? — Raba said in R. Nahman's name: The Writ saith, For the Lord thy God hath chosen him out of all thy tribes, to stand to minister:<sup>3</sup> implying, I have chosen him for standing, but not for sitting.

If a priest with a blemish [officiated], Rabbi said: He is liable to death [at the hands of Heaven]; the Sages maintain: He is merely prohibited. What is Rabbi's reason? — Because it is written, Only



he shall not go in unto the vail, [nor come nigh unto the altar, because he hath a blemish]; that he profane not my sanctuaries.<sup>4</sup> Then the law is derived from the use of ‘profanation’ here and in the case of terumah; just as there the penalty is death, so here too. But let it rather be derived from nothar; just as there the penalty is extinction, so here too? — It is more reasonable to make the deduction from terumah, for thus bodily unfitness is derived from bodily unfitness.<sup>5</sup> On the contrary, is it not preferable to base the analogy on nothar, since they share the following in common: [i] sanctity, [ii] within the Temple precincts, [iii] piggul and [iv] nothar?<sup>6</sup> — But the analogy is drawn from an unclean priest who officiated; thus bodily unfitness is derived from bodily unfitness, and a case distinguished by sanctity, the inner precincts of the Temple, piggul and nothar derived from another so distinguished. But the Rabbis?<sup>7</sup> — The Writ saith, and die therefore:<sup>8</sup> implying but not for the sin of being blemished.<sup>9</sup>

‘If he deliberately transgressed in respect of a trespass offering, Rabbi said: He is liable to death; and the Sages maintain: He is merely prohibited.’ What is Rabbi's reason? — R. Abbahu said: He derives identity of law from the fact that ‘sin’ is used here and in the case of terumah:<sup>10</sup> just as there, the penalty is death, so here too. But the Rabbis?<sup>11</sup> They maintain, the Writ saith, and die therefore:<sup>12</sup> implying, but not for trespass.

**A ZAR WHO OFFICIATED IN THE TEMPLE.** It has been taught: R. Ishmael said: It is here written, And the stranger that cometh nigh shall be put to death;<sup>13</sup> whilst it is elsewhere said, Whosoever cometh anything near unto the tabernacle of the Lord shall die:<sup>14</sup> just as there death was at the hands of Heaven, so here too. R. Akiba said: It is here written, And the stranger that cometh nigh shall be put to death; whilst it is elsewhere said, And that prophet, or that dreamer of dreams, shall be put to death:<sup>15</sup> just as there, it is by stoning, so here too. R. Johanan b. Nuri said: Just as there, it is by strangling, so here too. Wherein do R. Ishmael and R. Akiba differ? — R. Akiba maintains, ‘shall be put to death’ must be compared with ‘shall be put to death’ but not with ‘shall die’.<sup>16</sup> Whilst R. Ishmael maintains, a layman must be compared to a layman, but not to a prophet. But R. Akiba avers, Since he seduced, no man is more of a layman than he.<sup>17</sup> Wherein, do R. Akiba and R. Johanan b. Nuri differ? — In the dispute of R. Simeon and the Rabbis. For it has been taught: If a prophet seduced, he is stoned; R. Simeon said: he is strangled. But we learnt, R. AKIBA SAID, HE [THE ZAR] IS STRANGLED?<sup>18</sup> — Two Tannaim differ as to R. Akiba's ruling: our Mishnah is taught on R. Simeon's view<sup>19</sup> as to R. Akiba's ruling; whilst the Baraitha [stating that the zar is stoned, and that this is derived from the false prophet] gives the Rabbis' view as to R. Akiba's ruling.<sup>20</sup> [

(1) Ibid. 9; v. 7 shews that the reference is to entering for the purpose of ministration.

(2) Lev. XXI, 12. By ‘not going out’ continuance of the service is meant.

(3) Deut. XVIII, 5.

(4) Lev. XXI, 23.

(5) V. p. 552, n. 1.

(6) V. p. 553, n. 4. The same applies to a blemished priest.

(7) In view of this deduction, why do they maintain that he is merely prohibited?

(8) ׀ ׀ (because of it) Ibid. XXII, 9. This refers to an unclean priest eating terumah.

(9) I.e., there is no death penalty for transgressing the prohibition particularly applying to a blemished priest, viz., performing the Temple service.

(10) Trespass: If a soul commit a trespass, and sin through ignorance, in the holy things of the Lord. (Lev. V, 15); Terumah: Lest they bear sin for it, and die therefore (Ibid. XXII, 9).

(11) Do they not admit this deduction?

(12) Ibid.

(13) Num. XVIII, 7.

(14) Ibid. XVII, 28. This refers to the plague which followed Korah's rebellion.

(15) Deut. XIII, 6.

(16) V. verses quoted.

(17) I.e., he has lost all claims to the prophetic title.

(18) Which contradicts the passage quoted where R. Akiba says that he is stoned.

(19) That the false prophet is strangled, and from this he derives the law of a zar.

(20) Both the Rabbis here mentioned and R. Simeon being R. Akiba's disciples.

## Talmud - Mas. Sanhedrin 84b

### CHAPTER X

MISHNAH. THE FOLLOWING ARE STRANGLED: HE WHO STRIKES HIS FATHER OR MOTHER; OR KIDNAPS A JEW [TO SELL AS A SLAVE]; AN ELDER REBELLING AGAINST THE RULING OF BETH DIN; A FALSE PROPHET; ONE WHO PROPHESES IN THE NAME OF AN IDOL; ONE WHO COMMITS ADULTERY; WITNESSES WHO TESTIFIED FALSELY [TO THE ADULTERY OF] A PRIEST'S DAUGHTER, AND HER PARAMOUR.<sup>1</sup>

GEMARA. Whence do we know it of him who strikes his father or mother? — From the verse, And he that smiteth his father or mother shall surely be put to death:<sup>2</sup> and by every unspecified death sentence decreed in the Torah strangulation is meant. But say! perhaps it is only if he kills [not merely strikes] them? — You surely cannot think so: for killing any other person he is decapitated, whilst for his father's murder he is [only] strangled! Now, this [answer] is correct on the view that strangulation is more lenient: but on the view that the sword is more lenient, what canst thou say? — But since it is written, He that smiteth a man, so that he dies, shall surely be put to death:<sup>3</sup> and also, or in enmity smite him with his hand, that he die,<sup>4</sup> it follows that whenever an unqualified smiting is mentioned, it does not mean slaying.

Now, it is necessary that both 'He that smiteth a man' and 'whoso killeth any soul etc.'<sup>5</sup> be written. For had the Divine Law written only, 'He that smiteth a man, that he die', I should have thought that it applies to the slaying of an adult [ish]<sup>6</sup> only, since such is himself bound by law, but not [to the slaying of] a minor; therefore the Divine Law writes, 'Whoso killeth any soul.' Whilst had the Divine Law written only, 'Who killeth any soul,' I should have thought that it applies even to a nefel<sup>7</sup> or an 'eight months' child:<sup>8</sup> therefore the former verse is necessary too [to exclude these].

[Now, reverting to the main question:] Let us say that even if he [smote his father] without wounding him [he is executed]: Why have we learnt, He who strikes his father or his mother is liable only if he wounds them? — The Writ saith, And he that killeth a beast, he shall restore it; and he that killeth a man, he shall be put to death:<sup>9</sup> just as for smiting an animal [there is no liability] unless it is wounded, since nefesh ['soul'] is written in connection therewith;<sup>10</sup> so also, no liability is incurred for smiting a man [i.e., one's parent] unless there is a wound. R. Jeremiah objected: If so, if one [permanently] impaired its [sc. the animal's] strength by [loading] stones upon it, [yet not wounding it], is he then not liable [for its loss in value]? — But [say thus]: Since nefesh, written in connection with an animal, is irrelevant there, for even if one impaired its strength by loading stones upon it he is liable, transfer Its teachings to man.<sup>11</sup> Then what need is there of the analogy?<sup>12</sup> For that which was taught in the school of Hezekiah.<sup>13</sup> Now, this is well according to the view which accepts this teaching: but on the view that rejects it, why is the analogy required? [To teach:] just as one who smites an animal to heal it is not liable for any damage, so if one wounds a man [sc. his parent] to heal him he is not liable [for any damage that may ensue]. For the scholars propounded: May a son let blood for his father?<sup>14</sup> — R. Mathna ruled: But thou shalt love thy neighbour as thyself.<sup>15</sup> R. Dimi b. Hinena said: [The Writ saith,] And he that killeth a beast, he shall restore it: and he that killeth a man, he shall be put to death:<sup>16</sup> just as one who strikes an animal to heal it is not liable for damage, so if one wounds a man [sc. his parent] to heal him he is not liable. Rab would not permit his son to extract a thorn [from his flesh, since in drawing it out he would make a slight wound].

Mar, the son of Rabina, would not permit his son to lance a fester for him, lest he wound him, thereby unintentionally transgressing a prohibition. If so, even a stranger should be forbidden?<sup>17</sup> — In the case of a stranger, the unintentional transgression is in respect of a mere negative precept: but hi' son's involves strangulation. But what of that which we learnt: A small needle [lit. 'hand-needle'] may be moved [on the Sabbath] for the purpose of extracting a thorn?<sup>18</sup> But should we then not fear that a wound might be made [in extracting it], and thus a prohibition involving stoning be unintentionally transgressed? — There by so doing he effects damage.<sup>19</sup> Now, this agrees with the view that one who does damage on the Sabbath is not liable [to punishment]: but on the view that he is, what can you say? — Whom have you heard maintaining that one who inflicts damage by means of a wound is liable [for the desecration of the Sabbath]? R. Simeon;

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(1) If she was nesu'ah, cf. supra 51b.

(2) Ex. XXI, 15.

(3) Ibid. 12.

(4) Num. XXXV, 21.

(5) Ibid. 30.

(6) ז'ס a man, an adult.

(7) Lit., 'born of miscarriage', a term applied to all non-viable births.

(8) I.e., one born after eight months of pregnancy. The Talmud regards such as nonviable, though a seven months' child is.

(9) Lev. XXIV, 21.

(10) And he that smiteth the nefesh of a beast shall make it good. Ibid. 18. Nefesh is elsewhere associated with the blood (e.g. Gen. IX, 4) and therefore denotes here that the blood of the animal is affected by the wounding stroke.

(11) Nefesh, which indicates that the blow must wound, is irrelevant in respect of an animal: therefore its teaching must be transferred to the smiting of man, sc. one's parent. On this method of interpretation, v. p. 368 n. 7.

(12) In view of this latter suggested interpretation.

(13) Supra 79b.

(14) Since he thereby inflicts a wound on him.

(15) Lev. XIX, 18; i.e., since he would desire it to be done to himself, if necessary, he may do it to another, even his father.

(16) Lev. XXIV, 21.

(17) Since no man may wound another.

(18) Some utensils may not be handled at all on the Sabbath, notably, those whose purpose is a manner of work forbidden on the Sabbath: others may be handled. This Mishnah enumerates various articles which may be handled, and for what purpose.

(19) There is no punishment for committing an act of damage on the Sabbath, even deliberately.

## Talmud - Mas. Sanhedrin 85a

but R. Simeon also maintains that any mode of work not required for itself is not punishable.<sup>1</sup>

A problem was propounded to R. Shesheth. May one be appointed an agent [by Beth din] to flagellate and curse his father?<sup>2</sup> — He replied, Who then permitted even a stranger to do this, but that the Divine honour overrides [other prohibitions]: so here too, the Divine honour overrides [the prohibition against smiting and cursing one's parents].<sup>3</sup> An objection was raised: If one, whom it is a positive command to smite, may nevertheless not be smitten; how much more so, may one, whom it is not a positive command to smite, not be smitten. Now, do not both clauses relate to smiting as a precept, but that one treats of a son, the other of a stranger?<sup>4</sup> — No. In both clauses no distinction is drawn between a son and a stranger, yet there is no difficulty. The one treats of smiting as a precept, the other when not. And it is thus to be interpreted: If when a precept is involved, i.e., when it is a positive command to smite [sc. a person under sentence of flagellation], it is nevertheless a command not to smite [unnecessarily, i.e., with more than the prescribed number of lashes, viz.,

forty]; then when no positive command is involved, viz., when one is not to be flagellated, one is surely commanded not to smite unnecessarily.<sup>5</sup> Come and hear: If one was going forth to execution, and his son came and smote him and cursed him, he is liable; if a stranger did this, he is exempt. Now we pondered thereon, What is the difference between a son and a stranger? And R. Hisda answered: This refers to one who is being impelled forth, but holds back?<sup>6</sup> — R. Shesheth maintains that it refers to one who is not urged to go forth. If so, a stranger too [should be punished for beating him]? — As far as a stranger is concerned, he is already a dead man.<sup>7</sup> But did not R. Shesheth say: If one insulted a sleeping person, and he died [in his sleep], he is nevertheless liable [to punishment for same]?<sup>8</sup> — The reference here is to a blow which inflicted an injury less than a perutah in value. But did not R. Ammi say in R. Johanan's name: [Even] if one smote his neighbour with a blow inflicting less than a perutah's worth of damage, he is punished with lashes? — By 'exempt', non-liability to monetary compensation is meant. It follows then that a son is liable to monetary compensation!<sup>9</sup> But it must therefore mean, [he is liable] according to the law pertaining to him.<sup>10</sup> If so [a stranger too is exempt from] the law pertaining to him [for smiting his neighbour, viz., lashes].<sup>11</sup> But this is the reason why a stranger is exempt, because the Writ saith, Thou shalt not curse a prince among thy people:<sup>12</sup> meaning, [only] when he acts as is fitting for thy people.<sup>13</sup> This is well as far as cursing is concerned: but whence do we know the same of smiting? — Because we compare smiting with cursing. If so, should not the same apply to his son? — Even as R. Phineas said [elsewhere]: This refers to one who had repented. If so, even a stranger [should be liable]? — R. Mari answered, 'among thy people' implies 'abiding among thy people'.<sup>14</sup> If so, should not the same apply to his son?

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(1) E.g., the carrying out of a dead body on its bier from a private to a public domain. Now, this is not done because the dead body is wanted there, but because it is not wanted in the private domain. So here too, when a thorn is extracted and a wound made, even intentionally, no punishment is involved, because the purpose of the work is extraction, not wounding.

(2) I.e., if his father had to be thus punished or banned, when a curse was pronounced (for the latter).

(3) It is an offence to curse or smite any Jew; nevertheless, it is permitted in God's honour, i.e., as a punishment for transgressing the Divine law: hence it is likewise permitted to a son.

(4) The meaning then will be as follows: If one, whom it is a positive command to smite — i.e., who is under sentence of flagellation — may nevertheless not be smitten by his son as the agent appointed to execute the sentence, how much more so may one, whom it is not a positive command to smite — i.e., who is not under sentence of flagellation — not be smitten by his son. Thus, by an *ad majus* reasoning, a formal prohibition is deduced against a son's striking his father. For Ex. XXI, 15 merely prescribes the punishment; but it is either stated or deduced from elsewhere. On this interpretation, of course, R. Shesheth's ruling is contradicted.

(5) Hence this teaches a prohibition against smiting anyone unless sentenced by Beth din.

(6) Hence this teaches that his son, as an agent of Beth din, may not smite him to drive him forward, and is punished for so doing, which is in contradiction to R. Shesheth.

(7) But this reasoning obviously cannot apply to his son, who is bound to honour him even after death, the verse excluding a transgressor from this filial duty being at this stage of the discussion unknown.

(8) Though he was not even aware of it. Surely then smiting a condemned man comes under the same category.

(9) But that is impossible, since the injury is less than a perutah's worth.

(10) I.e., the law pertaining to the smiting of a father by his son, viz., death.

(11) Thus the question remains, what is the difference between his son and a stranger?

(12) Ex. XXII, 27.

(13) But to transgress is not 'fitting for thy people': hence the prohibition does not apply to such a case.

(14) But when one is sentenced to death, he is no longer so.

## Talmud - Mas. Sanhedrin 85b

— It is the same as after death.<sup>1</sup> What is our final decision? — Rabbah son of R. Huna said, and a Tanna of the school R. Ishmael [taught] likewise; For no offence may a son be appointed an agent to

smite or curse his father, excepting if he be a mesith, since it is written, neither shalt thou spare nor conceal him.<sup>2</sup>

MISHNAH. HE WHO STRIKES HIS FATHER OR HIS MOTHER IS LIABLE ONLY IF HE WOUNDS THEM. IN THIS RESPECT, CURSING IS MORE STRINGENT THAN SMITING, FOR, HE WHO CURSES [HIS PARENTS] AFTER DEATH IS LIABLE, WHILST HE WHO SMITES THEM AFTER DEATH IS NOT.

GEMARA. Our Rabbis taught: His father or his mother he hath cursed:<sup>3</sup> [his blood shall be upon him]. This means, even after death.<sup>4</sup> For I would think, since he is liable for smiting and for cursing; so also for cursing. Moreover, an ad majus reasoning [would seem to prove the contrary]: If for smiting, where [a parent] ‘not of thy people’ is assimilated to one ‘of thy people’,<sup>5</sup> there is nevertheless no punishment for doing so after his death; then cursing, where one ‘not of thy people’ is assimilated to ‘of thy people’, is surely not punishable if done after death! Therefore the Writ saith, He hath cursed his father or his mother. Now this accords with R. Jonathan, to whom the verse, His father or his mother, he hath cursed, is superfluous; but on R. Joshiah's view, what can be said? For it has been taught: For [ish ish] any man<sup>6</sup> [that curseth his father or his mother shall surely be put to death].<sup>7</sup> Now, Scripture could have said, A man [ish]; what is taught by ‘any man’ [‘ish ish’]? The inclusion of a daughter, a tumtum, 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, implying, a man that cursed his father, a man that cursed his mother. This is R. Joshiah'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>8</sup> Whence then does he [R. Joshiah] learn [the law under discussion]?<sup>9</sup> — He derives it from the verse, And he that curseth his father or his mother shall surely be put to death.<sup>10</sup> And the other?<sup>11</sup> — He utilises it to include a daughter, a tumtum, and a hermaphrodite. But why not derive this from ‘any man’ [ish ish]? — The Torah employed human speech.<sup>12</sup> [Now, reverting to the Mishnah:] Should it not [also] teach: smiting is a graver offence than cursing, since with respect to the smiting ‘not of thy people’ is as ‘of thy people’, which is not the case with respect to cursing?<sup>13</sup> — The [Tanna of the Mishnah] maintains that smiting is assimilated to cursing.<sup>14</sup>

Shall we say that these Tannaim<sup>15</sup> differ on the same lines as the following? Viz., One Baraitha was taught: As for a Cuthean, you are enjoined against smiting him, but not against cursing him. But another [Baraitha] taught: You are enjoined neither against smiting nor cursing him. Now, the hypothesis is that all agree that the Cutheans were true proselytes:<sup>16</sup> hence presumably the grounds of their dispute are these. One Master holds that smiting is likened to cursing, and the other Master that it is not!<sup>17</sup> — No! All agree that smiting is not likened to cursing, but this is the cause of their dispute: — The one Master maintains, Cutheans are true proselytes;<sup>18</sup> the other Master holds that they are [sham] proselytes [driven to conversion through fear of] lions.<sup>19</sup> If so, how can the [Baraitha] further state, But his ox is as one belonging to an Israelite?<sup>20</sup> Hence this proves that the dispute is in respect of the analogy.<sup>21</sup> This proves it.

MISHNAH. ‘HE WHO KIDNAPS A JEW’<sup>22</sup> INCURS NO LIABILITY UNLESS HE BRINGS HIM INTO HIS OWN DOMAIN. R. JUDAH SAID: UNLESS HE BRINGS HIM INTO HIS OWN DOMAIN AND PUTS HIM TO SERVICE. FOR IT IS WRITTEN, [IF A MAN BE FOUND STEALING ANY OF HIS BRETHREN OF THE CHILDREN OF ISRAEL,] AND PUT HIM TO SERVICE, AND SELL HIM.<sup>23</sup> IF HE ABDUCTS HIS OWN SON. — R. ISHMAEL THE SON OF R. JOHANAN B. BEROKA DECLARED HIM LIABLE, BUT THE SAGES EXEMPTED HIM. IF HE KIDNAPPED A SEMI-SLAVE AND SEMI-FREEMAN,<sup>24</sup> — R. JUDAH DECLARES HIM LIABLE, BUT THE SAGES ACQUIT [HIM].

GEMARA. But does not the first Tanna require putting to service [as a condition of punishment]?<sup>25</sup> — R. Abba the son of Raba said: They differ in respect of service worth less than a perutah.<sup>26</sup> R. Jeremiah propounded: What if one kidnapped and sold a person asleep? What if one sold a [pregnant] woman for the expected child?<sup>27</sup> Is this a sort of service or not? But, [surely,] can this not be solved from the fact that there is no service at all? — It is necessary [to propound this] only if he [the kidnapper] leaned upon the sleeper, or, in the case of a [pregnant] woman, if she was placed in front of a wind:<sup>28</sup> now, does this constitute service or not? This problem remains unsolved.

Our Rabbis taught: If a man be found stealing any of his brethren of the children of Israel. From this I know [the law] only if a man abducted: whence do I know it of a woman? From the verse And one that stealeth a man.<sup>29</sup> From [these verses] I know [the law] only if a man kidnapped a man or a woman,<sup>30</sup> and of a woman who abducted a man.<sup>31</sup> Whence do I know it if a woman abducted a woman? From the verse, Then that thief shall die:<sup>32</sup> implying, in all cases [of theft].<sup>33</sup>

Another [Baraita] taught: If a man be found stealing any of his brethren: whether a man, woman, proselyte, manumitted slave or minor be abducted, he is liable. If he stole him, but did not sell him, or if he sold him, but he is still in his [sc. the victim's] own house, he is exempt. If he sold him to his [sc. the victim's] father, brother, or to one of his relations, he is liable. He who steals slaves is exempt.

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(1) For if one curses his father even after death he is liable. So here too (v. Rashi).

(2) Deut. XIII, 9.

(3) Lev. XX, 9.

(4) It is so interpreted because it is superfluous, since the beginning of the verse states, For everyone that curseth his father or his mother shall surely be put to death.

(5) V. supra. Because in Ex. XXI, 15, dealing with this, no mention is made that the parents must be 'of thy people'.

(6) **אִישׁ אִישׁ** Lit., 'A man, a man',

(7) Lev. XX, 9.

(8) V. supra 66a for notes.

(9) Since on his view it is not superfluous.

(10) Ex. XXI, 17, which is superfluous in view of Lev. XX, 9.

(11) R. Jonathan: how does he interpret this verse?

(12) In which this repetition is common. Hence it has no special significance.

(13) The difficulty is this: since the Mishnah teaches an aspect of the greater severity of cursing, it should also state the reverse.

(14) So that they are alike in this respect.

(15) Viz., those of the Mishnah and of the Baraita.

(16) Originally, though in the course of time they had deteriorated.

(17) Hence, on the former view, one is not forbidden to smite him, since he is not 'of thy people' as taught in the second Baraita, but on the latter, no distinction is drawn between him and an Israelite — as taught in the first Baraita.

(18) Therefore they are as Jews.

(19) V. II Kings XVII, 24-29. Therefore they are not Jews at all.

(20) I.e., if his ox gored or was gored, the same law applies to it as to one of Jewish ownership, whereas an ox of non-Jewish ownership is differently treated, v. B.K. 38a. This proves that the Cuthean is regarded as a real Jew.

(21) Whether 'smiting' is assimilated to 'cursing'.

(22) Lit., 'a soul of Israel'.

(23) Deut. XXIV, 7.

(24) E.g., if he had belonged to two masters, one of whom had manumitted him.

(25) Surely he must, since Scripture explicitly states it.

(26) The first Tanna maintains that even the smallest service renders the kidnapper liable, and therefore does not mention it, whilst R. Judah holds that the service must be worth at least a perutah.

(27) I.e., only the child, when born, but not the woman.

(28) To act as a shield; since the stouter she is, the more effectively is this done, the fetus is actually put to use.

(29) Ex. XXI, 16. The subject being unspecified, it applies to both sexes, although the verb is masculine.

(30) Since the object of 'steal' in Deut. XXIV, 7, where the kidnapper is a man, is nefesh, a soul, applicable to both man and woman.

(31) For Ex. XXI, 16 speaks of 'one' stealing a man.

(32) Deut. Ibid.

(33) Since thief is superfluous, being understood from the context.

## Talmud - Mas. Sanhedrin 86a

Now, a tanna recited [this Baraitha] before R. Shesheth. whereupon he observed: I learned. 'R. Simeon said, [if a man be found stealing a person] from his brethren, [implies that he is not liable unless he] withdraws him from the control of his brethren, [i.e., relations].' yet you say that he is liable!<sup>1</sup> Read [instead], 'He is exempt.' But what difficulty is this: perhaps the latter is R. Simeon's view [only]. and the former the Rabbis'? — You cannot think so, for R. Johanan said: [The author of] an anonymous Mishnah is R. Meir; of an anonymous Tosefta, N. Nehemiah; of an anonymous [dictum in the] Sifra, R. Judah; in the Sifre, R. Simeon;<sup>2</sup> and all are taught according to the views of R. Akiba.<sup>3</sup>

IF HE ABDUCTS HIS OWN SON, etc. What is the reason of the Rabbis? — Abaye answered, The Writ saith, If a man be found [stealing any of his brethren etc.] thus excluding one [sc. the victim] who is [ever] to be found [with him].<sup>4</sup> R. Papa said to Abaye: If so, [when Scripture saith,] If a man be found lying with a woman married to a husband,<sup>5</sup> will you also interpret, 'If [a man] be found, as excluding [a woman] who is immediately accessible [i.e., 'found with him']: e.g., in the house of so and so,<sup>6</sup> where [the women] are within easy reach,<sup>7</sup> are they [their lovers] exempt? — He replied: I deduce it from [And he that stealeth a man, and selleth him,] and he be found in his hand.<sup>8</sup> Raba said: Therefore, the instructors of children and teachers of students are [regarded] as having their charges ready to hand, and hence are not punished [for abducting them].

IF HE KIDNAPPED A SEMI-SLAVE AND SEMI-FREEMAN, etc. We learnt elsewhere: R. Judah said: Slaves have no claim for shame.<sup>9</sup> What is R. Judah's reason? — The Writ saith, When men strive together, a man with his brother,<sup>10</sup> teaching that this applies only to] one who has fraternal relationship, thus excluding a slave, who has no fraternal relationship.<sup>11</sup> But the Rabbis maintain: He [the slave] is his brother in [obligation to fulfil] the [Divine] precepts. Now, in this case [abduction], how is the verse interpreted? — R. Judah maintains, [If a man be found stealing any of his brethren of the children of Israel:] of his brethren excludes slaves; the children of Israel excludes a semi-slave, and a semi-freeman; of the children of Israel<sup>12</sup> likewise excludes one who is a semi-slave and semi-freeman.<sup>13</sup> Thus, one limitation follows another, which always indicates extension.<sup>14</sup> But the Rabbis do not agree that of his brethren excludes slaves, since they are his brethren [in obligation to fulfil] the [Divine] precepts; [whilst as for the double limitation implied in] 'the children of Israel, and of the children of Israel, one excludes a slave, and the other excludes a semi-slave and semi-freeman.<sup>15</sup>

Whence do we learn a formal prohibition<sup>16</sup> against abduction?<sup>17</sup>

R. Josiah said: From Thou shalt not steal.<sup>18</sup> R. Johanan said: From They shall not be sold as bondsmen.<sup>19</sup> Now, there is no dispute: one Master states the prohibition for stealing [i.e., abduction], the other Master for selling [the kidnapped person].

Our Rabbis taught: Thou shalt not steal. —<sup>20</sup> Scripture refers to the stealing of human beings. You say, Scripture refers to the stealing of human beings; but perhaps it is not so, the theft of property

[lit., 'money'] being meant? — I will tell you: Go forth and learn from the thirteen principles whereby the Torah is interpreted. [one of which is that] a law is interpreted by its general context: of what does the text speak? of [crimes involving] capital punishment: hence this too refers [to a crime involving] capital punishment.<sup>21</sup>

Another [Baraita] taught: Ye shall not steal:<sup>22</sup> The Writ refers to theft of property. You say thus, but perhaps it is not so, Scripture referring to the theft of human beings? — I will tell you: Go forth and learn from the thirteen principles whereby the Torah is interpreted, [one of which is that] a law is interpreted by its general context. Of what does the text speak? of money matters;<sup>23</sup> therefore this too refers to a money [theft].

It has been stated: If the witnesses of the abduction or those of the sale of human being were proved *zomemim*,<sup>24</sup> — Hezekiah said: They are not executed; R. Johanan maintained that they are. Now Hezekiah's ruling agrees with the view of R. Akiba, viz., [At the the mouth of two witnesses, or at the mouth of three witnesses, shall] the matter [be established]:<sup>25</sup> the whole matter, but not half of the matter;<sup>26</sup> whilst R. Johanan's view agrees with that of the Rabbis, viz., the matter implies even half the matter.<sup>27</sup> Yet Hezekiah admits in the case of a 'stubborn and rebellious' son, that if the last witnesses were contradicted, they are executed, since the first could say,

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(1) For selling him to his father, etc.

(2) Rabbi (R. Judah ha-Nassi), in compiling the Mishnah, drew upon earlier collections, of which each Tanna possessed one. An anonymous Mishnah is based upon R. Meir's collection, though not necessarily reflecting R. Meir's views. For this interpretation. v. Weiss, Dor. Vol. II, pp. 51f; Strack, Introduction to Talmud and Midrash, p. 21, The Tosefta, as its name implies ('addition') is a further elaboration and development of Tannaitic teaching, closely allied to the Mishnah. The relation of the Mishnah to the Tosefta is a problem which has so far remained unsolved; v. Strack, op. cit., pp. 74ff. The Sifra (also called **תורת כהנים**) is the traditional interpretation of Leviticus, to which is prefaced an exposition of the Thirteen Principles of Hermeneutics of the School of R. Ishmael. Though ascribed here to R. Judah b. Ila'i, our version contains many additions by later teachers, and its final compilation is generally assigned to R. Hiyya. It is also occasionally referred to as the Sifra de Rab (of the College of Rab). Whether this is to indicate Rab's authorship is one of the literary problems, among others, which the Sifra presents. (V. Weiss, op. cit pp. 193 seqq.) The Sifre contains the commentary on Num. V to the end of Deut. This too contains additions later than R. Simeon, to whom it is here ascribed, and is a composite work shaped by the School of Rab (v. Weiss, op. cit.), but in any case the Sifre now extant is not identical with the Talmudic Sifre.

(3) Hence, since both are anonymous passages in the Sifre, R. Simeon is the author of both.

(4) '(Shall) be found' **מוצא** implies that the abductor goes out of his way and is thus 'found' where he should not be; but he does not go out of his way in abducting his child, who is always to be found with him.

(5) Ibid. XXII, 22.

(6) R. Papa alluded to a definite house, but suppressed the name.

(7) Lit., 'to be found with them.' A number of families lived there together, so that it would have been comparatively easy for a man to seduce his neighbour's wife.

(8) **ונמצא** Ex. XXI, 16. This is redundant and therefore shows that the law applies only to a person who 'is found' in his (captor's) hand as a result of abduction, and not to one who was 'to be found' in his hand before too.

(9) B.K. 87a. If one shamed a slave, there is no monetary liability.

(10) Deut. XXV, 11. This treats of indecent assault in the course of a quarrel, and the compensation that must be made (v. 12 q.v.) is interpreted as meaning monetary damages for the humiliation sustained.

(11) Rashi in B.K. 88a, explains: he has no fraternal relationship with a Jew, viz., he cannot marry into the Jewish fold. A marginal explanation given there is: he has no forbidden fraternal relationship, i.e., he may marry his fraternal sister and his brother's wife. Rashi's interpretation here is different, but Tosaf. refutes it.

(12) 'Of' (Heb **ב**) being partitive, implies limitation.

(13) There being nothing else which it can exclude.

(14) Just as in English a double negative denotes a positive, so it is one of the principles of Talmudic exegesis that the double exclusion of the same thing intimates that it is to be included.



(15) Therefore, the double limitation applies to two different persons, not to one and the same person, and hence remains a limitation.

(16) v. p. 364. n. 2, cf. also supra p. 382.

(17) Since Deut. XXII,7 and Ex. XXI, 16 merely state the punishment.

(18) Ex. XX, 15. The object of the theft being unspecified, it applies to a human being too. So in general. But in the next passage it is shown that it refers particularly to abduction.

(19) Lev. XXV, 42.

(20) Ex. XX, 15.

(21) The Decalogue, of which this is part, deals in general with capital offences, e.g., idolatry, the desecration of the Sabbath, murder. Hence this too must be similar, and abduction is the only theft so punished.

(22) Lev. XIX, 11.

(23) Cf. *ibid*, 10-15.

(24) V. *Glos*.

(25) Deut. XIX, 15.

(26) I.e., the two witnesses must testify to the entire matter. If two, however, testify to one part, and two

(27) I.e., if two witnesses attested a portion of an act or an offence, and another two witnesses the rest, their evidence is combined and the accused punished. Consequently, if they are proved *zomemim*, they receive themselves the punishment they sought to impose.

## **Talmud - Mas. Sanhedrin 86b**

‘We came [merely] to have him flogged’, and therefore these last witnesses attest the whole offence [involving execution].<sup>1</sup> R. Papa objected: If so, the witnesses of the sale [of the abducted person] should likewise be executed, since those of abduction can say, ‘We came [merely] to have him flogged’;<sup>2</sup> nor could you answer<sup>3</sup> that Hezekiah is of the opinion that [the abductor] is not flogged,<sup>2</sup> — since it has been stated: If the witnesses of abduction were proved *zomemim* — R. Johanan, and Hezekiah [differ]: one maintains that they are flagellated, the other that they are not. Whereon we observed, It may be shewn that it was Hezekiah who ruled that they are flagellated, since he said that they are not executed.<sup>4</sup> For were it R. Johanan, since however he maintains that they are executed, their injunction<sup>5</sup> is one for which a warning of death at the hands of *Beth din* may be given,<sup>6</sup> and for such there is no flagellation.<sup>7</sup> But if he [the accused] is not

to another, their testimony is invalid. Here also, the abduction is only half an offence, likewise the sale in itself proves nothing, as the vendor might have sold his own slave. Therefore their testimony cannot convict the accused, and consequently they themselves, if proved *zomemim*, are not executed. flagellated, how can they [the false witnesses] be?<sup>8</sup> But R. Papa said thus: All agree that the witnesses of the sale [who were proved *zomemim*] are slain; they differ only with respect to the witnesses of abduction: Hezekiah maintains that they are not executed, abduction being one offence, and selling another;<sup>9</sup> whilst R. Johanan holds that they are executed, abduction being the first step towards selling.<sup>10</sup> But R. Johanan admits that if the first witnesses of a ‘stubborn and rebellious’ son are proved *zomemim*, they are not executed, since they can say, ‘We came to have him flogged’. Abaye said: All agree in [one matter relating to] a ‘stubborn and rebellious son’; and all agree in [a second relating to] a ‘stubborn and rebellious son’; and there is a dispute [in the case of] a ‘stubborn and rebellious’ son. [Thus:] ‘All agree in [one matter relating to] a “stubborn and rebellious son, viz., with respect to the first witnesses [proved *zomemim*], that they are not slain, since they can plead, ‘We came to have him flagellated.’ ‘And all agree in a second matter relating to a “stubborn and rebellious” son,’ viz., with respect to the last witnesses, that they are executed, for since the first witnesses could plead. ‘We came to have him flogged,’ these attest the entire offence [involving death]. And there is a dispute in [the case of] a ‘stubborn and rebellious son,’ viz., when two testify that he stole, and two that he ate.’<sup>11</sup>

R. Assi said: If the witnesses of the sale of an [abducted] person are proved *zomemim*, they are

not executed, since the [vendor] could plead, 'I sold my slave.'<sup>12</sup> R. Joseph said: With whom does this dictum of R. Assi agree? — With R. Akiba, who ruled 'the whole matter, but not half the matter.' Abaye said to him, For on the view of the Rabbis they would be executed? But he gives his reason, 'since etc.'<sup>13</sup> Hence it may agree even with the Rabbis, providing there were no witnesses of abduction. If so, why state it?<sup>14</sup> — It is necessary [to state this] only if witnesses [of abduction] subsequently appeared.<sup>15</sup> But even so, why state it? — This is necessary only when they made signs [to each other:]<sup>16</sup> I might think that signalling is of consequence; therefore he [R. Assi] informs us that it is of no consequence.

MISHNAH. 'AN ELDER REBELLING AGAINST THE RULING OF BETH DIN' [IS STRANGLED],<sup>17</sup> FOR IT IS WRITTEN IF THERE ARISE A MATTER TOO HARD FOR THEE FOR JUDGEMENT [etc.].<sup>18</sup> THREE COURTS OF LAW WERE THERE,<sup>19</sup> ONE SITUATE AT THE ENTRANCE TO THE TEMPLE MOUNT,<sup>20</sup> ANOTHER AT THE DOOR OF THE [TEMPLE] COURT,<sup>21</sup> AND THE THIRD IN THE HALL OF HEWN STONES.<sup>22</sup> THEY<sup>23</sup> [FIRST] WENT TO THE BETH DIN WHICH IS AT THE ENTRANCE TO THE TEMPLE MOUNT, AND HE [THE REBELLIOUS ELDER] STATED, THUS HAVE I EXPOUNDED AND THUS HAVE MY COLLEAGUES EXPOUNDED; THUS HAVE I TAUGHT, AND THUS HAVE MY COLLEAGUES TAUGHT. IF [THIS FIRST BETH DIN] HAD HEARD [A RULING ON THE MATTER], THEY STATE IT. IF NOT, THEY GO TO THE [SECOND BETH DIN] WHICH IS AT THE ENTRANCE OF THE TEMPLE COURT, AND HE DECLARES, THUS HAVE I EXPOUNDED AND THUS HAVE MY COLLEAGUES EXPOUNDED; THUS HAVE I TAUGHT AND THUS HAVE MY COLLEAGUES TAUGHT. IF [THIS SECOND BETH DIN] HAD HEARD [A RULING ON THE MATTER]. THEY STATE IT; IF NOT, THEY ALL PROCEED TO THE GREAT BETH DIN OF THE HALL OF HEWN STONES WHENCE INSTRUCTION ISSUED TO ALL ISRAEL, FOR IT IS WRITTEN, [WHICH THEY] OF THAT PLACE WHICH THE LORD SHALL CHOOSE [SHALL SHEW THEE].<sup>24</sup> IF HE RETURNED TO HIS TOWN AND TAUGHT AGAIN AS HERETOFORE, HE IS NOT LIABLE. BUT IF HE GAVE A PRACTICAL DECISION, HE IS GUILTY, FOR IT IS WRITTEN, AND THE MAN THAT WILL DO PRESUMPTUOUSLY,<sup>25</sup> [SHEWING] THAT HE IS LIABLE ONLY FOR A PRACTICAL RULING. BUT IF A DISCIPLE<sup>26</sup> GAVE A PRACTICAL DECISION [OPPOSED TO THE BETH DIN], HE IS EXEMPT:<sup>27</sup> THUS THE VERY STRINGENCY OF HIS [ORDINATION] IS [A SOURCE OF] LENIENCY FOR HIM.<sup>28</sup>

GEMARA. Our Rabbis taught: If a thing be outstandingly difficult [yippale] for thee<sup>29</sup>

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(1) V. supra 71a. It is there stated that he was first warned in the presence of three, and then flogged (on the testimony of two witnesses), and only if he offended again is he executed. The second offence too, of course, must be attested by two witnesses. Now, if these last two were proved zomemim, Hezekiah admits that they are executed, for their testimony is complete in itself, in so far as it imposes an additional punishment, as explained here.

(2) For the mere 'stealing'.

(3) Lit., 'and shouldst thou answer'.

(4) I.e., if another two witnesses testified to the sale, and then the first two were proved false, they are not executed. The argument is concluded in the next passage.

(5) Viz., Thou shalt not bear false witness against thy neighbor, Ex. XX, 16.

(6) I.e., they could formally be warned against falsely testifying on the grounds that should they be proved Zomemim after another two witnesses had attested the sale, they would be executed.

(7) Even if the death sentence is not imposed.

(8) This concludes the proof that Hezekiah must hold that abduction alone is punished by lashes. For since it has been shown that in his opinion witnesses who testify falsely thereto are flogged, it follows that abduction itself is so punished, as it is a general rule, stated in Deut. XIX, 19, that the witnesses receive only the punishment they sought to impose.

(9) And only the two together incur capital punishment: therefore the witnesses of abduction have not testified to a capital offence.

- (10) For, as above, abduction itself is not punished by flagellation; therefore it is part of a capital offence.
- (11) V. supra 71a. Thus each attested half an offence. Hence according to Hezekiah, who agrees with R. Akiba's dictum, 'the whole matter, but not half the matter', they are exempt; but in R. Johanan's view, based on that of the Rabbis, 'the matter, and even half the matter,' they are liable.
- (12) Hence he was not liable to death on their evidence, and therefore they in turn are also exempt.
- (13) I.e., that the purchaser can plead not guilty altogether, so that their testimony is not even 'half the matter'.
- (14) For it is obvious.
- (15) And on the combined testimonies the accused was convicted. Yet, if the first witnesses of the sale were falsified, they are not punished, since they can plead: 'we did not know that others would testify to the kidnapping.'
- (16) Either the intending witnesses of abduction to those of the sale that they were going to give evidence, or the witnesses of the sale to two others in court, urging them to testify to the abduction.
- (17) I.e., in a matter not explicitly stated in the Torah but for which Beth din must give a ruling, either by Biblical interpretation or their own reasoning. This interpretation is borne out by the general context of the Mishnah. Cf. also R. Judah and R. Simeon's views on same (87a), and the while of the discussion in the Talmud as to the type of rulings in virtue of which one is adjudged a rebellious elder. Krauss, Sanhedrin-Makkot a.l. however points out that the verb מרה is constructed with את or ב of the accusative of person, not על פי. Consequently he translates: The elder (who is declared) rebellious on account of a ruling of the (upper) Beth din. Cp. Rashi, on Mishnah, 84b.
- (18) Deut. XVII, 8. This proves that the reference is to a question not explicitly dealt with in the Torah, since it is 'too hard' for judgement.
- (19) In Jerusalem; cf. Then thou shalt arise, and get thee up into the place which the Lord thy God shall choose (ibid.).
- (20) (In the east gate of the Women's Court (Rashi).
- (21) Is the Court of the Israelites.
- (22) This was partly within and partly without the Temple (Yoma 25a).
- (23) The elder and the other members of the local Beth din, with whom he was in dispute.
- (24) Ibid.10.
- (25) Ibid12
- (26) I.e., one who is not ordained, and hence has no authority to give a ruling at all.
- (27) Because his ruling is not likely to be accepted.
- (28) It was exceedingly difficult to obtain ordination, none under the age of forty receiving it. This very difficulty protected him, since without being ordained he was not liable to the penalty of a rebellious elder.
- (29) פלא' Ibid. 8.

## Talmud - Mas. Sanhedrin 87a

— the Writ refers to an 'outstanding' member, [mufla] of Beth din;<sup>1</sup> 'thee' refers to [a matter needing] a counsellor,<sup>2</sup> and thus it is said, There is one come out from thee, that imagineth evil against the Lord, a wicked counsellor;<sup>3</sup> a thing refers to a [traditional] halachah,' 'in judgement,' this means [a law deduced by] a din;<sup>4</sup> between blood and blood, the blood of a niddah, childbirth, and gonorrhoea; 'between ruling and ruling,' whether capital or civil cases, or cases involving flagellation; 'between [leprous] plague spots, and plague spots' — embracing leprosy in man, houses and garments; 'matters' refers to haramim,<sup>5</sup> valuations,<sup>6</sup> and sanctifications;<sup>7</sup> 'contentions' refers to the water ordeal of a sotah,<sup>8</sup> the beheading of the heifer<sup>9</sup> and the purification of a leper;<sup>10</sup> 'within thy gates' — this refers to the gleanings, forgotten [sheaves] and the corner [of the field;] 'then thou shalt arise', [that is,] from the sitting of Beth din,<sup>11</sup> 'and ascend' — this teaches that the Temple was higher than [the rest of] Palestine, and Palestine is [geographically] higher than all other countries' 'into the place', — this teaches that the place is the cause.<sup>12</sup>

Now, it is correct to say that the Temple was higher than [the rest of] Palestine, since it is written, and thou shalt ascend;<sup>13</sup> but whence does he<sup>14</sup> learn that Palestine is more elevated than all other countries?<sup>15</sup> — From the passage, Therefore, behold the days come, saith the Lord, that they shall no more say, The Lord liveth, which brought up the children of Israel out of the land of Egypt,' But the Lord liveth, which brought up and which led the seed of the house of Israel out of the north country,

and from all the countries whither I have driven them;<sup>13</sup> and they shall dwell in their own land.<sup>16</sup>

Our Rabbis taught: A rebellious elder is liable only for a matter the deliberate transgression of which is punished by extinction, whilst the unwitting offence involves a sin offering:<sup>17</sup> this is R. Meir's view. R. Judah said: For a matter of which the fundamental principle is Biblical, whilst its interpretation is by the Scribes.<sup>18</sup> R. Simeon said: Even for a single detail arising out of the subtle interpretations of the Rabbis.<sup>19</sup>

What is R. Meir's reason? — He draws an analogy from the use of *dabar* [matter] in two places: Here it is written, If there arise a *dabar* [matter] too hard for thee in judgement; and elsewhere it is written, [And if the whole congregation of Israel sin through ignorance,] the matter [*dabar*] being hidden from the eyes of the assembly:<sup>20</sup> just as there [the reference is to] a provision which if deliberately transgressed is punished by extinction, whilst if unwittingly, involves a sin offering, so here too. And R. Judah?<sup>21</sup> — [Scripture states:] According to the Torah which they shall teach thee,<sup>22</sup> intimating that both the Torah [i.e., the basic law] and their [sc. the Scribes,] teaching [i.e., the interpretation thereof] must be involved. Whilst R. Simeon's reason is: [And thou shalt do according to the sentence,] which they of that place shall shew thee,<sup>23</sup> indicating even the smallest nicety.

R. Huna b. Hinena said to Raba, Explain me the above *Baraitha*<sup>24</sup> according to R. Meir.<sup>25</sup> Thereupon Raba said to R. Papa. Go forth and explain it to him. [Thus:] If a matter be outstandingly difficult [*yippale*]: the *Writ* refers to an outstanding member, [*mufla*] of Beth din; 'thee', to a [question needing a] counsellor, who knows how to determine the intercalation of years and fixation of months.<sup>26</sup> [Now, the rebelliousness of the elder may be in respect of] what we learnt: They testified<sup>27</sup> that a leap year may be proclaimed during the whole month of Adar. [This testimony was necessary,] because they [i.e., the other Sages] maintained: Only until Purim. [Hence, if the elder flouted the ruling of the great Beth din] in either direction, he permitted leaven to be eaten on the Passover.<sup>28</sup>

"A thing" refers to a [traditional] *halachah*. By this is meant the [traditional] *halachahs*<sup>29</sup> of the eleventh [day].<sup>30</sup> For it has been stated: As for the tenth day. R. Johanan maintained that it is as the ninth, whilst R. Simeon b. Lakish ruled that it is as the eleventh. R. Johanan maintained that it is as the ninth: Just as [a blood discharge on] the ninth necessitates observation,<sup>31</sup> so for an issue on the tenth too observation is required.<sup>32</sup> But Resh Lakish ruled that the tenth day is as the eleventh: just as [a blood discharge on] the eleventh does not necessitate observation,<sup>33</sup> so on the tenth too no observation is required.<sup>34</sup> "In judgment", — this means [a law deduced by] a *din*.'

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(1) מופלא *Mufla* generally means the instructing judge, 'a special expert assessor to whom questions of law are referred. (Jast.). Tosaf. supra 16b s.v. מופלא states that the *mufla* was supernumary to the actual Beth din. In this case, however, *mufla* means 'ordained' (*mumhe*), in contradiction to *talmid*, an unordained disciple (Rashi and Tosaf. 16b, *ibid.*) Cf. Mishnah 86b.

(2) This is explained below.

(3) Nah. I, 11.

(4) Argument based on verbal similarity, and thus the equivalent of *gezerah shawah*. Rashi points out that *din* cannot bear its usual meaning here, viz., 'a legal ruling', since that is expressly stated in the verse.

(5) Herem, pl. *haramim*, anything devoted to the Lord (Lev. XXVII, 28).

(6) V. Lev. XXVII, 2 et seqq.

(7) Of animals, all these are the result of vows expressed by words and hence included in 'words' etc.

(8) A woman suspected of infidelity (Num. V, 12ff.).

(9) In expiation of a murder committed by a person unknown (Deut. XXI, 1-9).

(10) These three are deduced from 'contentions', being the result of such. *Sotah* and murder obviously so, whilst leprosy, according to the Rabbis, is a punishment for slander, which generally gives rise to strife. — 'Ar. 15b. (11) All of which

belonged to the poor, of whom it is written, If there be among you a poor man of one of thy brethren within any of thy gates (Deut. XV, 7; cf. also *ibid.* XIV, 29; XVI, 12). Thus the Baraita teaches that the dispute between the rebellious elder and the Beth din was in respect of any of these laws enumerated. These are discussed below in detail. In nearly all cases cited these matters were disputed by the Rabbis themselves, but of course the minority had to submit to the majority. The crime of the rebellious elder, for which he was executed, consisted of his giving a practical decision opposed in the final ruling of one of the Botte din (plural of Beth din) in Jerusalem. (On the general question of the minority submitting to the majority. v. Halevy., *Doroth ha-Rishonim* I, 5 205 seq.)

(11) Thou shalt arise implies that there was first a formal sitting, where these difficulties arose, viz., at the local Beth din.

(12) Of the supreme authority of the Great Sanhedrin. The fact that it was situated in the Temple, the religious hub of the nation, imparted to its decisions and powers a weightiness which it would otherwise have lacked.

(13) Implying that wherever one was in Palestine, he had to ascend, in order to reach the Temple.

(14) The Tanna.

(15) Since the passage refers to Palestine only.

(16) Jer. XXIII, 7f. Thus the journey from all countries to Palestine is termed an ascent.

(17) I.e., if he gave a practical ruling on a matter in which these are involved.

(18) V. p. 572. n. 5.

(19) Lit., 'Scribes'.

(20) Lev. IV, 13.

(21) What is his reason?

(22) Deut. *Ibid.* 11.

(23) *Ibid.* 10.

(24) Which enumerates all the matters of dispute between the rebellious elder and his Beth din, and includes such things as valuations and haramim.

(25) I.e., how do all these matters involve extinction and sin offerings?

(26) V. *supra* 2a.

(27) R. Joshua and R. Pappias. ('Ed. VII, 7.) Owing to the development of the Mishnah, of which each Tanna had his own version, a great uncertainty arose as to the exact law. R. Gamaliel in consequence undertook a sifting of the various traditions with the purpose of declaring them authentic or otherwise. The scholars assembled at Jabneh, and attested their various teachings. The collection of these testimonies forms the tractate 'Eduyyoth (J.E. VII, 611).

(28) Thus: If the Beth din ruled after Purim that the year was to be prolonged by a month (called the second Adar), Passover would commence six weeks after the end of the first Adar. If he disregarded this and gave a practical decision that such intercalation was invalid, Passover would commence four weeks earlier and end three weeks before it even began according to the ruling of the Beth din. Hence those who followed his views would be eating leaven during the Passover fixed by the latter. The same would result if they ruled that a month was not to be intercalated, and he ruled that it was. The deliberate eating of leaven on Passover is punished by extinction, as are all the offences enumerated in the following passage.

(29) V. note 6 for the explanation of the plural here.

(30) According to Biblical law, a niddah can cleanse herself when seven days have passed from the beginning of her menstrual flow, provided it ceased on the seventh day before sunset (בין השמשות) During the following eleven days, which are called the beginning days between the menses, she cannot become a niddah again, it being axiomatic that a discharge of blood in that period is not a sign of niddah, but may be symptomatic of gonorrhoea. A discharge on one or two day's within the eleven days renders her unclean, and she is forbidden cohabitation until the evening of the following day (the full details of her position vis a vis her husband, and her uncleanness in general, are discussed in Nid. 71b ff.), and must wait for the third to see whether another discharge will follow, rendering her a zabah, or not. Should another discharge follow the third day, she becomes unclean as a zabah, and cannot become clean until seven days have passed without any issue at all. Should she, however, discharge on the tenth, eleventh, and twelfth days she is not a zabah, for the twelfth day commences a new period wherein the issue of blood may make her a niddah. (The foregoing is, as mentioned, on the basis of the ancient law, but already in the period of the Talmud itself the law was adopted whereby a single blood issue at any time imposes all the restrictions necessitating for cleanness a period of seven clean days.)

(31) On the tenth and eleventh days. Since discharges on those days following that of the ninth renders her a zabah.

(32) Though unable to become a zabah, she is subject to the law of a woman under observation.

(33) Both R. Johanan said Resh Lakish agree to this, on the basis of Beth Hillel's ruling in the Mishnah Nid. 72a.

(34) Thus, in R. Johanan's opinion, there is only one traditional halachah with respect to the eleventh day, viz., that a blood discharge thereon does not necessitate observation, and this is the only thing in which it differs from the preceding ten days. But if there was a discharge on the tenth, observation is necessary on the eleventh just as on the other days. But according to Resh Lakish it differs in two respects: (i) that a discharge thereon necessitate further observation, and (ii) that it does not become an observation day on account of the tenth day's discharge. Hence there were two halachoth for that day. This explains the use of the plural in this passage. Now to revert to the main subject, in the opinion of R. Johanan, if a woman had a discharge on the tenth, cohabitation on the eleventh is Biblically forbidden on pain of extinction, whilst according to Resh Lakish it is prohibited only by a Rabbinical ordinance, not by Biblical law; thus this too conforms to R. Meir's requirements.

## **Talmud - Mas. Sanhedrin 87b**

Viz., [incest with] one's daughter by an outraged woman. For Raba said, 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'].<sup>1</sup>

"Between blood and blood" — the blood of a niddah, childbirth, and gonorrhoea'. 'The blood of a niddah', — this enters into the dispute of Akabia b. Mahalalel and the Rabbis. For we learnt: A greenish [discharge of] blood: Akabia b. Mahalalel declares it unclean, and the Sages declare it clean.<sup>2</sup>

'The blood of childbirth,' — this depends on the dispute between Rab and Levi. For it has been stated: Rab said, It [all] issues from one and the same source,<sup>3</sup> the Torah declaring it unclean [during the first fourteen days], and clean [the following sixty six days]. Levi said, It proceeds from two different sources: [at the end of fourteen days] the unclean [source] is closed and the clean one opened: [at the end of eighty days] the source of clean [blood] is closed and that of unclean [blood] opened.<sup>4</sup>

'And the blood of gonorrhoea [zibah]'. — This enters into the dispute of R. Eliezer and R. Joshua. For we learnt: If a woman was in labour for three days within the eleven,<sup>5</sup> then ceased for twenty four hours [lit., 'from time to time' — from an hour on one day to the same on the next]. and then gave birth, she is regarded as a woman bearing with a gonorrhoeic discharge: this is R. Eliezer's opinion. R. Joshua said, [The cessation must be] a night and a day, as the night and day of the Sabbath. The cessation referred to is cessation from labour, not from blood[-discharge].<sup>6</sup>

"Between ruling and ruling" — whether they be capital or civil cases, or cases involving flagellation.' Civil cases depend on the dispute between Samuel and R. Abbahu. For Samuel said, If two [judges] gave a [civil] ruling, their action is valid, but that they are dubbed 'an impudent court', whilst R. Abbahu maintained: All agree that their decision is invalid.<sup>7</sup>

'Capital cases' — in this the dispute of Rabbi and the Rabbis is involved. For it has been taught: Rabbi said, Then thou shalt give life for life<sup>8</sup> — this refers to monetary compensation. You say, monetary compensation: but perhaps this is not so, life being literally meant? — 'Giving' is stated below:<sup>9</sup> It is also stated above:<sup>10</sup> just as the latter refers to money, so the former too.<sup>11</sup>

'Cases involving flagellation. — This is dependent on the dispute of R. Ishmael and the Rabbis. For we learnt: Flagellation [is imposed by [a court of] three. On the authority of R. Ishmael it was said, by twenty-three.<sup>12</sup>

"Between [leprous] plague spots and plague spots", including leprosy in man, houses, and garments. Leprosy in man depends on the dispute of R. Joshua and the Rabbis. For we learnt: If the

bright spot preceded the white hair, he is unclean, If the reverse, he is clean.<sup>13</sup> [If the order is] in doubt, he is unclean; R. Joshua said, It is as though darkened.<sup>14</sup> What does this mean? — Raba<sup>15</sup> said, [When the spot is] darkened, he is clean.<sup>16</sup>

‘Leprosy in houses.’ — This enters into the dispute of R. Eleazar, son of R. Simeon and the Rabbis. For we learnt: R. Eleazar, son of R. Simeon said: A house never becomes unclean unless a plague spot appears the size of two beans on two stones in two walls, and at the angle of the walls; it must be two beans in length and one in breadth.<sup>17</sup> Why so? Because the Bible refers to the ‘walls’ [of the house]<sup>18</sup> and also to the ‘wall’:<sup>19</sup> where is one wall as two? At its angle.<sup>20</sup>

‘Leprosy in garments.’ — This depends on the dispute of R. Nathan b. Abtolemos and the Rabbis. For it has been taught: R. Nathan b. Abtolemos said: Whence do we know

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(1) V. supra 51b. From that gezerah shawah we learn that such incest is punishable by extinction, where capital punishment cannot be imposed. Since there is no dispute in this at all, it must be assumed that the rebellious elder denies the validity of this particular gezerah shawah (Tosaf.).

(2) Nid. 19a. Now, if the rebellious elder rules as the former, he involves her in an offence of niddah, which is punished by extinction. E.g., if after two days of this greenish discharge there was a one-day normal red-blooded flow. Now a niddah had to wait a minimum of seven days from the beginning of her menstruous flow of blood (v. p. 577, n. 2). On the view of Akabiah b. Mahalalel, but not of the Rabbis, the greenish discharge is regarded as blood and the two days of greenish discharge are counted as part of the seven. Hence by following the former she becomes clean, and cohabits two days earlier than warranted by the latter, according to which she is still a niddah.

(3) I.e., the blood discharge within eighty days after childbirth. V. Lev. XII, 1-5.

(4) In Nid. 35b it is explained that they differ practically if there is a continuous issue from the end of the fourteenth into the beginning of the fifteenth, or from the eightieth into the eighty-first day. According to Rab, notwithstanding this, the blood of the fifteenth is clean, and that of the eighty first unclean. Since Levi however maintains that normally there are two different sources, there should be a definite break between the two, in the absence of which the blood of the fifteenth is unclean, whilst that of the eighty first is clean. Thus a rebellious elder, by flouting the ruling of the Beth din either way causes the injunction of niddah to be violated.

(5) V. p. 577, n. 2.

(6) Nid. 36b. As was stated on p. 577 n. 2, if a woman has blood discharges on three days within the eleven between the menses, she becomes a zabah. If however, this is caused by labour pangs, she is not a zabah, providing however, that her travail continues until giving birth. But if three days of labour and discharge are succeeded by one day free from pain, and then she gives birth, the interruption proves that the issue of the first three days was not the result of labour, but of gonorrhoea, and hence she is a zabah, and subject to the laws thereof, which supersede those of childbirth, the issue during the sixty-six days (v. p. 578) being considered unclean. Now, R. Eliezer and R. Joshua differ as to the meaning, of ‘one day’. R. Eliezer maintains that it means a day of 24 hours; but R. Joshua holds that it is a calendar day. i.e., a night and a day. E.g., if she was free from pain from 12 noon on one day to 12 noon on the next, according to R. Eliezer she is a zabah. But on the view of R. Joshua, since she had suffered on the same day. viz., until 12 noon it is not a complete day of cessation, and hence she is not a zabah. As a zabah, cohabitation may be forbidden her on pain of extinction when for mere confinement it would be permitted.

(7) Extinction may be involved therein in the following way: — If as a result of their decision money was withdrawn from A to B, on Samuel's view, it rightfully belongs to B: on R. Abbahu's, it does not. Now if B married a woman with this money as kiddushin, according to Samuel the marriage is valid, and cohabitation with another man is punishable by death or extinction in the absence of witnesses; but according to R. Abbahu, the kiddushin is invalid, for if one marries a woman with money or goods not belonging to him, his act is null. Hence, if the Beth din accepted Samuel's view, whilst the rebellious elder accepted R. Abbahu's, he declares a married woman free to others. Now further, if another man C also married the same woman, in Samuel's opinion the second marriage is invalid, and if B subsequently died, she is a free woman. But on R. Abbahu's view, this second marriage is valid, since the first was null. Hence, if the Beth din ruled as R. Abbahu, and the rebellious elder as Samuel, he declares her free from C, when in reality she is married to him.

(8) Ex. XXI, 23.

(9) Viz., in the verse under discussion.

(10) Viz., If . . . no mischief follow . . . he shall pay (lit., 'give') as the judges determine, Ibid, 22.

(11) V. supra 79a. If one intended killing one person but killed another instead, Rabbi maintains that he must make monetary compensation to the heirs, whilst the Rabbis rule that he is financially exempt. Hence, if the heirs seized the money, according to Rabbi, it belongs to them, according to the Sages it does not. — Extinction is then involved as explained p. 579. n. 3.

(12) V. supra 2a. Hence, in his view, if a court of three had him flagellated, they acted ultra vires, and must compensate him. If he seized this compensation money, on R. Ishmael's view, it belongs to him, on the Rabbis', it does not. Extinction is then involved as in p. 579, n. 3.

(13) V. Lev. XIII, 2ff.

(14) Neg. IV, 11.

(15) Var. lec. Rabbah.

(16) Thus R. Joshua maintains that if the order is doubtful, he is clean, and consequently permitted to enter the Sanctuary, whilst on the view of the Rabbis, he is forbidden on pain of extinction.

(17) Neg. XII, 3.

(18) Lev. XIV, 37, 39.

(19) Ibid. 37.

(20) But according to the Rabbis it is unclean even if the leprous outbreak is not at the angle, and renders anyone who enters unclean too. V. supra note 3.

## **Talmud - Mas. Sanhedrin 88a**

that a spreading outbreak [of leprosy] in garments [covering the whole] is clean? Baldness [of the back of the head — karahath] and baldness [of the front — gabahath] are mentioned in connection with human leprosy; and also in connection with leprosy of garments:<sup>1</sup> just as in the former, if [the plague] spread over the whole [skin], he is clean, so here too, if it spread over the whole [garment] it is clean.<sup>2</sup>

"Matters", — this refers to valuations, haramim and sanctifications'. 'Valuations' is dependent on the dispute of R. Meir and the Rabbis. For we learnt: If one dedicates the value of [an infant] less than a month old, R. Meir rules, he must render its value;<sup>3</sup> The Sages maintain, his declaration is null.<sup>4</sup>

'Haramim' is involved in the dispute of R. Judah b. Bathyra and the Rabbis. For we learnt: R. Judah b. Bathyra said, Unspecified haramim are for the Temple use, as it is written, Every herem ['devoted thing'] is most holy unto the Lord.<sup>5</sup> But the Sages say, Unspecified haramim belong to the priests, as it is written, [but the field, when it goeth out in Jubilee, shall be holy unto the Lord] as a field of herem, the possession thereof shall be the priests.<sup>6</sup> If so, what is taught by, Every herem is most holy unto the Lord? That it [sc. the vow of herem] is legally binding in respect of objects of the highest or of ordinary sanctity.<sup>7</sup>

'Sanctifications' — this depends on the dispute of R. Eliezer b. Jacob and the Rabbis. For it has been taught: R. Eliezer b. Jacob said: Even a hook<sup>8</sup> of hekdesch requires ten men for its redemption.<sup>9</sup>

'Contentions,' refers to the water ordeal of a sotah, the beheading of the heifer, and the 'purification of a leper'. 'The water ordeal of a sotah, is involved in the dispute of R. Eliezer and R. Joshua. For we learnt: He who warns his wife [against infidelity] — R. Eliezer said: He must warn her in the presence of two witnesses,<sup>10</sup> and can subject her to the water ordeal on the testimony of one witness, or on his own.<sup>11</sup> R. Joshua said: He must warn her in the presence of two, and cause her to drink on the testimony of two.<sup>12</sup>

'The beheading of the heifer' — this is dependent on the dispute of R. Eliezer and R. Akiba. For we learnt: Whence was the measurement taken?<sup>13</sup> R. Eliezer said: From his [sc. the victim's] navel.



R. Akiba said: From his nose. R. Eliezer b. Jacob said: From the place where he becomes a murdered corpse. Viz., the neck.<sup>14</sup>

‘And the purification of a leper’ — this depends on the dispute of R. Simeon and the Rabbis. For we learnt: If he [the leper] lacks the thumb of the right hand, the big toe of his right foot, and the right ear, he can never become clean.<sup>15</sup> R. Eliezer said: It [sc. the blood and oil] is put upon the place thereof,<sup>16</sup> and he thus fulfils the requirements of purification. R. Simeon said: It is placed upon his [corresponding] left [limbs] and he is acquitted [of his obligations].<sup>17</sup>

“Within thy gates” — this refers to the gleanings, forgotten [sheaves] and the corner of the field’. ‘The gleanings,’ even as we learnt: Two ears [that fell down] are gleanings [to be left for the poor], three are not. As to forgotten sheaves — two [forgotten] sheaves are [treated as] ‘forgotten’ [i.e., must be left for the poor]; three are not. And concerning all these Beth Shammai ruled: Three belong to the poor, four to the landowner.<sup>18</sup>

‘The corner of the field’ — this is dependent on the dispute of R. Ishmael and the Rabbis. For it has been taught: The precept of pe'ah [‘the corner’] applies [in the first instance] to the standing corn.<sup>19</sup> If this was not done, a portion of the [harvested] sheaves should be given; if this was omitted, a part of the stack should be separated, providing it has not yet been evened. But once evened, it must [first] be tithed, and then [the poor man's portion] given to him.<sup>20</sup> On the authority of R. Ishmael it was said: It must be separated even from the dough.<sup>21</sup>

THREE COURTS OF LAW etc. R. Kahana said: If he says, ‘[I base my ruling] on tradition,’ and they say likewise, he is not executed; if he says, ‘Thus it appears to use,’ and they say, ‘Thus it appears to us,’ he is not executed; how much more so, if he says, ‘[I base it] on tradition,’ and they say, ‘Thus it appears to us’!

He is executed only when he says, ‘Thus it appears to me,’ whilst they say, ‘We base [our ruling] on tradition’, the proof being that Akabia b. Mahalalel was not executed.<sup>22</sup> R. Eleazar said: Even if he says, ‘[I base my ruling] on tradition’, and they say, ‘Thus it appears to us,’ he is executed, that strife may not spread in Israel; and if thou arguest, Why was Akabia b. Mahalalel not executed? Because he did not give a rule for practical guidance.

We learnt : HE STATED, THUS HAVE I EXPOUNDED, AND THUS HAVE MY COLLEAGUES EXPOUNDED, THUS HAVE I TAUGHT, AND THUS HAVE MY COLLEAGUES TAUGHT. Does it not [mean that] he said, ‘[I base it] on tradition’, and they said, ‘Thus it appears to us’? — No! He said, ‘Thus it appears to me,’ and they said, ‘[We base it] on tradition.’

Come and hear! R. Josiah said: Three things did Ze'ira, an inhabitant of Jerusalem, tell me: [i] If the husband renounced his warnings, they are null;<sup>23</sup>

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(1) Leprosy in man: Lev. XIII, 42f; in garments: Ibid 55. In connection with garments, karahath denotes leprosy on the inside (right) of the cloth; gabahath on the front or outside (reverse) thereof.

(2) The Rabbis dispute this. Hence one who touches such a garment is clean according to R. Nathan R. Abtolemos, but unclean according to the Rabbis, v. note 3.

(3) Based on its selling price as a slave. This is not provided for in Lev. XXVII, a month being the lowest age dealt with there. R. Meir maintains that he knew that his dedication was invalid as such, and therefore meant it as an ordinary vow.

(4) Ar. 5a. Since there is no law of dedication for such an age. Now, extinction may result in the following two ways: — (i) If the Temple overseer took a pledge for the infant's value, in R. Meir's opinion this becomes hekdesh (consecrated), in the Rabbis', it does not. Hence according to the latter, if this pledge was used as kiddushin, it is valid; according to R. Meir, it is valid only if so used with the full knowledge that it was hekdesh, but not otherwise, as stated in Kid. 22b — v.

p. 579 n. 3 (ii) Since according to R. Meir it is hekdesch, if unwittingly used, a trespass offering must be brought, which if eaten by an unclean person, involves the offender in extinction. But in the view of the Rabbis it is not hekdesch, and the use thereof does not necessitate an offering, and if one erroneously, believing himself to have incurred a liability thereto, brings a trespass offering, the sacrifice is invalid, and consequently the eating thereof by an unclean person does not entail extinction.

(5) Lev. XXVII, 28.

(6) Ibid. 21; Consequently the secular use thereof entails no offering; v. p. 581, n. 11 (ii)

(7) I.e., if one declared an animal herem, which was already dedicated as a sacrifice, whether of the highest degree of sanctity, e.g., a burnt offering, or of the lighter degree of sanctity, e.g., a peace offering, the declaration is valid, and the value thereof must be given for the Temple.

(8) Used for weaving gold (Rashi); v, supra 14b.

(9) Nine Israelites and one priest must assess it for redemption. If less, the redemption is invalid and it remains hekdesch. The Rabbis hold that only three are necessary for the assessment, and after redemption it loses its sacred character; v. p. 551. n. 11 (ii).

(10) Sotah 2a. The form of the warning was 'Thou shalt not closet thyself with so and so'. If she disregarded the warning, she became forbidden to her husband, unless tried by the water ordeal. But if the warning was not given in the presence of two witnesses, and was disregarded, she remained permitted to him, and he could not compel her to be tried by the 'bitter waters'.

(11) I.e., if one witness or the husband himself testified that she had flouted the warning duly administered in the presence of two witnesses, she had to be tried by the water ordeal.

(12) Now, instead of submitting to the water ordeal, she could demand a divorce, but without the kethubah (marriage settlement). Hence, if there are no witnesses or only one witness and she demands her divorce, in the opinion of R. Eliezer, she is not entitled to the kethubah, whilst in that of R. Joshua she is. Consequently, if she sold the rights in her kethubah to another man, and the latter seizes the amount involved from the husband, it does not belong to the purchaser, according to R. Eliezer, but does according to R. Joshua; v. p. 579, n. 3.

(13) In fulfilment of Deut. XXI, 2.

(14) Sotah 45b. The easiest form of murder is by slitting the throat. Now, if one gives this heifer as kiddushin, it is invalid. Consequently, if of two towns one is nearest the victim's navel, and the other to his nose, and each assigned a heifer (one of which of course is invalid), one is fit for kiddushin, and the other is not; v. p. 579. n. 3.

(15) Since the Torah directs that these shall be anointed Lev. XIV, 14.

(16) I.e., where these limbs would be.

(17) In Neg. IV, 9 the reading is: If it is placed upon his left limbs etc. Hence what renders him clean according to one leaves him unclean according to another Tanna: v. p. 581, n. 3.

(18) Hence, if three fell down, and embroiled the rebellious elder and the Beth Din in a dispute, the question of ownership involves the validity of kiddushin, as explained on p. 579, n. 3.

(19) 3 I.e., a corner of the field should be left unreaped.

(20) But if not given even then, and the wheat was milled, the poor lose their rights.

(21) V. Mak. 16b. Therefore the question of ownership is involved here too, which has a further bearing on kiddushin.

(22) Akabia maintained his view, which he based on the traditions of his teachers, against the Rabbis in the chamber of Hewn Stones ('Ed. V.6).

(23) V. p. 583. n. 1. If after giving his wife a formal warning he withdrew it, it is null, and hence if she did closet herself with her suspected lover, she is not forbidden to her husband.

## **Talmud - Mas. Sanhedrin 88b**

[ii] if the father and mother wished to pardon a 'stubborn and rebellious son',<sup>1</sup> they may do so, and [iii] the [local] Beth din may pardon a rebellious elder, if they desire it. But when I went to my colleagues of the South,<sup>2</sup> they agreed to the [first] two but not to the rebellious elder, that contention might not increase in Israel.<sup>3</sup> This is all [unanswerable] refutation.

It has been taught; R. Jose said; Originally there were not many disputes in Israel, but one Beth din of seventy-one members sat in the Hall of Hewn Stones, and two courts of twenty-three sat, one

at the entrance of the Temple Mount and one at the door of the [Temple] Court, and other courts of twenty-three sat in all Jewish cities. If a matter of inquiry arose, the local Beth din was consulted. If they had a tradition [thereon] they stated it; if not, they went to the nearest Beth din. If they had a tradition thereon, they stated it, if not, they went to the Beth din situated at the entrance to the Temple Mount; if they had a tradition, they stated it; if not, they went to the one situated at the entrance of the Court, and he [who differed from his colleagues] declared, 'Thus have I expounded, and thus have my colleagues expounded; thus have I taught, and thus have they taught.' If they had a tradition thereon, they stated it, and if not, they all proceeded to the Hall of Hewn Stones, where they [i.e., the Great Sanhedrin] sat from the morning tamid<sup>4</sup> until the evening talmid; on Sabbaths and festivals they sat within the hel.<sup>5</sup> The question was then put before them: if they had a tradition thereon, they stated it; if not, they took a vote: if the majority voted 'unclean' they declared it so; if 'clean' they ruled even so. But when the disciples of Shammai and Hillel, who [sc. the disciples] had insufficiently studied, increased [in number], disputes multiplied in Israel, and the Torah became as two Torah.<sup>6</sup> From there [the Hall of Hewn Stones] documents were written and sent to all Israel, appointing men of wisdom and humility<sup>7</sup> and who were esteemed by their fellowmen as local judges. From there [sc. the local Beth din] they were promoted to [the Beth din of] the Temple Mount,<sup>8</sup> thence to the Court, and thence to the Hall of Hewn Stones.

They sent word from there,<sup>9</sup> Who is destined for the world to come? He who is meek, humble, stooping on entering and on going out, and a constant student of the Torah without claiming merit therefor. [Thereupon] the Rabbis cast their eyes upon R. 'Ulla b. Abba [as endowed with all these qualities].

IF HE RETURNED TO HIS TOWN AND TAUGHT AGAIN etc. Our Rabbis taught: He is not liable unless he [himself] acts upon his ruling, or states his ruling to others, who act thereon. Now, as for stating his ruling to others, who act upon it, it is well: before [receiving the decision of the Great Beth din] he was not liable to death, [since he personally committed no wrong] whilst now he is [for flouting its authority]. But [as for the proviso that] he himself must act upon his ruling — even before [the decision was rendered in the Hall of Hewn Stones] he was liable to death! Now, there is no difficulty if his ruling referred to forbidden fat and blood, since before he was not liable to whilst now he is. But if he ruled on a matter involving the death penalty at the hands of Beth din, he would have been liable to death even before! — Before, he needed a formal warning;<sup>10</sup> now he does not.<sup>11</sup> But what of a mesith, for whom no warning is required?<sup>12</sup> — Before, had he stated a reason [excusing or justifying his action], it might have been accepted; but now, even if he stated a reason, it would not be accepted.

MISHNAH. THERE IS GREATER STRINGENCY IN RESPECT TO THE TEACHINGS OF THE SCRIBES THAN IN RESPECT TO THE TORAH. [THUS,] IF ONE [A REBELLIOUS ELDER] SAYS, THERE IS NO PRECEPT OF TEFILLIN, SO THAT A BIBLICAL LAW MAY BE TRANSGRESSED, HE IS EXEMPT.<sup>13</sup> [BUT IF HE RULES THAT THE TEFILLIN MUST CONTAIN] FIVE COMPARTMENTS, THUS ADDING TO THE WORDS OF THE SCRIBES,<sup>14</sup> HE IS LIABLE.

GEMARA. R. Eleazar said in R. Oshaia's name: He is liable only for a matter of which the fundamental law is Biblical, whilst its interpretation is of the Scribes, and in which there is room for addition, which addition, however, is the equivalent of subtraction. Now, the only precept [fulfilling these conditions] is that of tefillin.<sup>15</sup> Now, this statement was made according to R. Judah.<sup>16</sup> But is there not the lulab,<sup>17</sup> the fundamental law of which is Biblical.<sup>18</sup> the interpretation Rabbinical,<sup>19</sup> there being room for addition,<sup>20</sup> which addition amounts to subtraction?<sup>21</sup> — Now, what is our opinion? If we hold that the lulab need not be bound [with the other two species],<sup>22</sup> each stands apart.<sup>23</sup> Whilst if we maintain that the lulab needs binding, it is defective from the very outset.<sup>24</sup> But is there not the law of fringes, the basic precept of which is Biblical,<sup>25</sup> the interpretation Rabbinical,

there is room for addition,<sup>26</sup> whilst such addition amounts to subtraction?<sup>27</sup> — What is our opinion? If we maintain that the upper knot is not required by Biblical law, they are separate from each other;<sup>28</sup> whilst if we hold

- (1) Even after all the necessary warnings had been given.
- (2) [I.e., R. Meir, R. Judah and R. Jose among others, v. Halevy, op. cit., II, p. 180].
- (3) Since this is the reason, it proves that he is executed even if he based his ruling on tradition and they on reason.
- (4) The daily continual burnt offering.
- (5) A place within the fortification of the Temple (Jast.). They changed their locale, lest they should appear to be giving judgments, which is forbidden on these days.
- (6) Pl. of Torah. There being many conflicting rulings.
- (7) Lit., 'of lowly knee.'
- (8) When a vacancy occurred through death.
- (9) Palestine. This expression always refers to R. Eleazar b. Pedath (supra 17b). (7) An offence in connection with these does not involve capital punishment.
- (10) Cf. supra pp. 494-5.
- (11) Since he is punished not for actually committing the offence, but for flouting Beth din.
- (12) If he acted as an inciter to idolatry, but maintained that his words did not purport thus, and the Great Beth din ruled that they did, it is shewn that he was liable to death even before and without a warning, which is unnecessary for a mesith.
- (13) Since all know that the Bible commands the wearing of tefillin, the words of the elder will be ineffective.
- (14) Who required only four in the head-tefillin.
- (15) The fundamental law of wearing tefillin is Biblical. By Rabbinic interpretation, the head-tefillin must contain four compartments, with inscriptions in each. Hence it is possible to rule that it should consist of a greater number. But if this is done, the tefillin is unfit, so that the addition amounts to subtraction of its fitness.
- (16) V. supra 87a. where R. Meir, R. Judah, and R. Simeon are in dispute.
- (17) The palm branch, which was to be taken with other species of plant life on the Festival of Tabernacles.
- (18) Lev. XXIII, 40.
- (19) I.e., that it must be taken together with three other species, viz., the citron, myrtle, and willow.
- (20) I.e., more than three species can be added.
- (21) For if there are more than three species in all, the combination is invalid for the fulfilment of the precept.
- (22) The citron, though taken together with the other species, is not bound with them.
- (23) So that the combination is quite valid.
- (24) I.e., as soon as more than the three species are bound together, the combination is invalid. But in the case of phylacteries, when four compartments are made, the head-tefillin is valid; when a fifth is added, it becomes invalid.
- (25) Num. XV, 38f.
- (26) By placing more than the requisite number of threads.
- (27) Since the fringes become invalid thereby.
- (28) The fringes are inserted through a hole and knotted near the edge of the garment. It is disputed whether this is really necessary by Biblical law. If not, then even when made the fringes are regarded as hanging apart and distinct. Consequently, if five instead of four were inserted and knotted, four fulfil the precept, whilst the fifth may be disregarded entirely, without rendering the rest invalid.

## **Talmud - Mas. Sanhedrin 89a**

it necessary, it is defective from the very outset. If so, in the case of tefillin too, if one [first] made four compartments [for the four inscriptions], and then a fifth was placed at their side, each stands separately. Whilst if one made five compartments,<sup>1</sup> it is defective from the very outset, for R. Zera said: If one compartment is open to the next, it is unfit.<sup>2</sup> — This must be taught only in the case of one who made a frontlet of four compartments, and then added a fifth thereto and joined it. [By this addition the original is impaired.] Even as Raba said: If the outer compartment does not look upon space, it is invalid.<sup>3</sup> MISHNAH. HE [THE REBELLIOUS ELDER] WAS EXECUTED NEITHER

BY HIS LOCAL BETH DIN NOR BY THE BETH DIN AT JABNEH,<sup>4</sup> BUT WAS TAKEN TO THE GREAT BETH DIN IN JERUSALEM AND KEPT THERE UNTIL THE [NEXT] FESTIVAL<sup>5</sup> AND EXECUTED THEREON, FOR IT IS WRITTEN, 'AND ALL THE PEOPLE SHALL HEAR AND FEAR, AND DO NO MORE PRESUMPTUOUSLY:'<sup>6</sup> THIS IS R. AKIBA'S OPINION. R. JUDAH SAID: HIS JUDGMENT MUST NOT BE DELAYED, BUT HE IS EXECUTED IMMEDIATELY, WHILST PROCLAMATIONS ARE INDITED AND SENT BY MESSENGERS TO ALL PLACE, 'SO AND SO HAS BEEN SENTENCED TO DEATH AT BETH DIN.

GEMARA. Our Rabbis taught: He was executed neither by his local Beth din nor by the Beth din at Jabneh, but taken to the great Beth din in Jerusalem and kept there until the [next] Festival and executed thereon, for it is written, And all the people shall hear and fear: this is R. Akiba's opinion. But R. Judah said to him: Is it then stated, 'shall see and fear'? Only 'shall hear and fear' is stated, why then delay his sentence? But he is executed immediately, and a proclamation is written and sent to all places: 'So and so has been sentenced to death at Beth din.'

Our Rabbis taught: Public announcements must be made for four [malefactors]: a mesith, a 'stubborn and rebellious' son, a rebellious elder, and witnesses who were proved zomemim.<sup>7</sup> In the case of all [others]<sup>8</sup> it is written, And all the people, or, and all Israel; but in the case of witnesses proved zomemim it is written, And those which remain [shall hear and fear],<sup>9</sup> since not all are eligible to be witnesses.<sup>10</sup>

MISHNAH. 'A FALSE PROPHET'; HE WHO PROPHESES WHAT HE HAS NOT HEARD, OR WHAT WAS NOT TOLD TO HIM,<sup>11</sup> IS EXECUTED BY MAN. BUT HE WHO SUPPRESSES HIS PROPHECY, OR DISREGARDS THE WORDS OF A PROPHET, OR A PROPHET WHO TRANSGRESSES HIS OWN WORD<sup>11</sup>, — HIS DEATH IS AT THE HANDS OF HEAVEN. FOR IT IS WRITTEN, [AND IT SHALL COME TO PASS, THAT WHOSOEVER WILL NOT HEarken UNTO MY WORDS WHICH THE PROPHET SHALL SPEAK IN MY NAME.] I WILL REQUIRE IT OF HIM.<sup>12</sup> HE WHO PROPHESES IN THE NAME OF AN IDOL, SAYING, 'THUS HATH THE IDOL DECLARED. EVEN IF HE CHANCED UPON THE RIGHT HALACHAH, DECLARING THE UNCLEAN, UNCLEAN, OR THE CLEAN, CLEAN; OR HE WHO WAS INTIMATE WITH A MARRIED WOMAN AFTER HER ENTRY INTO HER HUSBAND'S HOME FOR NESU'IN,<sup>13</sup> THOUGH THE MARRIAGE WAS NOT CONSUMMATED — HE IS STRANGLLED; LIKEWISE [WITNESSES PROVED ZOMEMIM [IN A CHARGE OF ADULTERY AGAINST] A PRIEST'S DAUGHTER, AND HER PARAMOUR [ARE STRANGLLED]. FOR ALL ZOMEMIM ARE LED FORTH TO MEET THE SELF-SAME DEATH [WHICH THEY SOUGHT TO IMPOSE,] SAVE ZOMEMIM IN A CHARGE AGAINST A PRIEST'S DAUGHTER — AND HER PARAMOUR.<sup>14</sup> GEMARA. Our Rabbis taught; Three are slain by man, and three by heaven; He who prophesies what he has not heard or what has not been told him, and he who prophesies in the name of an idol are slain by man. But he who suppresses his prophecy, or disregards the words of a prophet, and a prophet who transgresses his own words are slain by Heaven.

Whence do we know all this? — Rab Judah said in Rab's name: From the verse, But the prophet, which shall presume to speak a word in my name:<sup>15</sup> this applies to one who prophesies what he has not heard;<sup>16</sup> which I have not commanded him to speak,<sup>17</sup> implying but which I did command his neighbour, hence means one who prophesies what was not told to him personally; or that shall speak in the name of other gods,<sup>18</sup> this connotes prophesying in the name of idols. And then it is written, Even that prophet shall die,' and by every unspecified death sentence decreed in the Torah strangulation is meant. But he who suppresses his prophecy, or disregards the words of a prophet, or a prophet who transgresses his own words is slain by Heaven, for it is written, All it shall come to pass, that whosoever will not hearken [yishma']:<sup>19</sup> now this may be understood<sup>20</sup> [as implying] to

proclaim'<sup>21</sup> and 'hearkening himself'<sup>22</sup> unto my words;<sup>23</sup> and the verse concludes, I will require it of him, i.e., [he shall be slain] by Heaven.

HE WHO PROPHESES WHAT HE HAS NOT HEARD. E.g., Zedekiah the son of Chenaanah, as it is written, And Zedekiah the son of Chenaanah had made him horns of iron.<sup>24</sup> But what [else] could he have done, seeing that the spirit of Naboth had deceived him, it is written, And the Lord said, Who shall persuade Ahab, that he may go up and fall at Ramoth-gilead? . . . And there came forth a spirit and stood before the Lord, and said, I will persuade him . . . And he [the Lord] said, Thou shalt persuade him and prevail also; go forth and do so?<sup>25</sup> Rab Judah said: What is meant by 'Go forth'? 'Go forth' from My precincts.<sup>26</sup> What 'spirit' is meant? — R. Johanan said: The spirit of Naboth the Jezreelite?<sup>27</sup> — He should have scrutinised [the forecasts of the assembled prophets]. even as R. Isaac said; viz.: The same communication<sup>28</sup> is revealed to many prophets, yet no two prophets prophecy in the identical phraseology. [Thus,] Obadiah said, The pride of thine heart hath deceived thee;<sup>29</sup> whilst Jeremiah said, Thy terribleness hath deceived thee, and the pride of thine heart.<sup>30</sup> But since all these prophets<sup>31</sup> employed [exactly] the same expression,<sup>32</sup> it proved that they had nothing [really divinely inspired]. But perhaps he did not know of this [criterion laid down by] R. Isaac? — Jehoshopat was there and warned them thereof, as it is written, And Jehoshopat said, Is there not here a prophet of the Lord besides, that we may enquire of him?<sup>33</sup> Thereupon he [Ahab] exclaimed, 'But behold all these!' 'I have a tradition from my grandfather's house that the same communication is revealed to many prophets, but no two prophesy in the identical phraseology,' replied Jehosopat.

HE WHO PROPHESES WHAT WAS NOT TOLD HIM. E.g., Hananiah the son of Azur. Now Jeremiah stood in the upper market place, and said, Thus saith the Lord of Hosts, Behold, I will break the bow of Elam.<sup>34</sup> Thereupon, Hananiah the son of Azur drew an a minori conclusion; If Elam, which only came to assist Babylon, yet the Holy one, blessed be He, said, Behold, I will break the law of Elam; then how much more so the Chaldeans [i.e., Babylonians] themselves! So he went to the lower market place and proclaimed, Thus speaketh the Lord of hosts, the God of Israel saying, I have broken the yoke of the kingdom of Babylon.<sup>35</sup> R. Papa asked Abaye; But this was not told even to his colleagues [viz., Jeremiah]? He answered: Since the a minori reasoning has been given for [Biblical] exegesis, it is as though it had been told to him [Jeremiah]; hence only to Hananiah was it not revealed.<sup>36</sup>

HE WHO PROPHESES IN THE NAME OF AN IDOL. E.g., the prophets of Baal.

HE WHO SUPPRESSES HIS PROPHECY. E.g., Jonah the son of Amittai.<sup>37</sup>

OR WHO DISREGARDS THE WORDS OF A PROPHET. E.g., the colleague of Micah

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(1) One of which opened out to the other.

(2) I.e., not having been made according to rule, which requires that each compartment shall be entirely shut off from the next, it is not a case of tefillin having been rendered unfit, but of something that was never tefillin.

(3) [Hence the tefillin were fit in the first place, and rendered unfit through addition, but for a reason which cannot apply to the lulab or zizith. This rendering follows the reading in the MS. M.v.D.S a.l., which is that of R. Hananel and the Aruch.

(4) The great Sanhedrin was removed from the Hall of Hewn Stones and set up at Jabneh. If this took place between the sentence and the time fixed for the execution, the sentence was remitted (Rashi). Weiss, Dor. ii p. 37, assumes that the Great Sanhedrin at Jabneh was instituted by R. Johanan b. Zakkai shortly after the fall of Jerusalem in 70 C.E., although he made it into a seat of learning even before. Derenbourg, Essai, p. 288, however, quotes the present passage to prove that it existed, for some time at least, side by side with the Great Sanhedrin at Jerusalem.

(5) פֶּגַע regel, denotes one of the three pilgrimage festivals, Passover, Weeks, or Tabernacles.

(6) Deut. XVII, 13. Hence they had to wait till then, when all Israel assembled in Jerusalem, that the publicity of his

death should serve as a deterrent.

(7) V. Glos.

(8) I.e., the first three.

(9) Deut. XIX, 20.

(10) Thieves, usurers, etc. being ineligible; hence the warning is not to all Israel.

(11) Even though it had been revealed to another.

(12) Deut. XVIII, 19.

(13) V. Glos.

(14) I.e., he also affords an exception. Whereas all men who commit incest (including adultery) are executed with the same death as the women, the paramour of a priest's daughter is strangled, whilst she is burnt (Rashi). [Now, if the accusation was against both the priest's daughter and her paramour, and they were proved false, they are strangled, in accordance with the death they sought to impose upon the paramour. But if they brought an accusation merely against the priest's daughter, but not against her paramour, e.g., declaring that they did not know who he was, and subsequently proved zomemim, they are burnt, since that was the death they sought to impose. That is the meaning of the Mishnah save witnesses proved zomemim, in a charge against both a priest's daughter and her paramour, that is, both having been accused (so Tosaf. Yom Tob a.l.). Others take the words and her paramour as a mere incidental repetition of the phrase as it occurs earlier.]

(15) Deut. XVI, 20.

(16) That is the connotation of 'presume'.

(17) Ibid.

(18) Ibid.

(19) Ibid. 19.

(20) Lit., 'read'.

(21) Yashmia, **ישמיע**.

(22) Yishamea' **ישמע** the Nif'al, as reflexive.

(23) Hence all three are included in the verse, [which, in addition to the usual translation, will accordingly be rendered thus: and the man (i.e., the prophet) who will nor hearken unto my words which he has to speak in my name (namely he refuses to proclaim it.) For he (himself) will not hearken unto my words which he shall speak in my name (v. Meklenburg, a.l.).]

(24) I Kings XXII, 11; II Chron. XVIII, 10.

(25) I Kings XXII, 20ff.

(26) V. Shabb. 149b. Two possible reasons are suggested there for the spirit's expulsion from the sacred precincts, viz., either because one who is the means whereby another is punished must not come into the immediate neighbourhood of God, or because God cannot abide falsehood. Though in this case God himself sought to lure Ahab to his doom, He desired that this should nevertheless be done by arguments drawn from true facts (Maharsha).

(27) This is deduced from the use of the def. art. in the Heb. 'And the spirit came forth', implying a particular one, viz., that of Naboth the Jezreelite, whom Ahab had turned from a living human being into a spirit — by judicial murder; v. ibid. ch. XXI. Now, returning to the main point: what else could Zedekiah have done: how was he to know that a false spirit was leading all those prophets astray?

(28) Lit., 'watchword', 'signal'.

(29) Obad. I, 3.

(30) Jer. XLIX, 16. Thus, though the thought is the same in both (both referred to Edom), the wording differs.

(31) The four hundred prophets of Ahab, v. I Kings XXII, 6.

(32) V. ibid. 12

(33) I Kings XXII, 7.

(34) Jer. XLIX, 35.

(35) Ibid. XXVIII, 2.

(36) To the logical implications of the prophecy as deduced by the a minori reasoning, and which was true, viz., that the power of Babylon should be broken, Hananiah added on his own authority that this would take place within two years (ibid. 3). This was entirely false (Maharsha). In any case, only Jeremiah was permitted to draw an a minori conclusion from the prophecy revealed to him alone.

(37) Jonah I, 1-3.

## Talmud - Mas. Sanhedrin 89b

[i.e., Micaiah, the son of Imlah] as it is written, And a certain man of the son of the prophets said unto his neighbour in the word of the Lord, Smite me I pray thee. And the man refused to smite him.<sup>1</sup> . And it is further written, And he said unto him, Because thou has not obeyed [the voice of the Lord, behold as soon as thou art departed from me, a lion shall slay thee etc.]<sup>2</sup>

OR A PROPHET WHO TRANSGRESSES HIS OWN WORDS. E.g., Iddo the prophet, as instanced by the following verses, [i] For so it was charged me by the word of the Lord [saying, Eat no bread, nor drink water, nor turn again by the same way that thou camest].<sup>3</sup> [ii] And he [the self-styled prophet] said unto him, I am a prophet also as thou art [and an angel spake unto me by the word of the Lord, saying, Bring him back with thee into thine house that he may eat bread, and drink water].<sup>4</sup> [iii] So he went back with him; [iv] And when he was gone, a lion met him [by the way, and slew him].<sup>5</sup>

A tanna recited before R. Hisda; He who suppresses his prophecy is flogged. To which he retorted, 'One who eats dates out of a sieve is flogged!'<sup>6</sup> Who then warned him?<sup>7</sup> Abaye answered; His fellow prophets, Whence do they know? — Said Abaye; For it is written, Surely the Lord will do nothing but that he revealeth his secret [unto his servants the prophets].<sup>8</sup> But perhaps they [sc. the Heavenly Court] repented thereof?<sup>9</sup> — Had they repented, all prophets would have been informed. But in the case of Jonah they did repent, yet Jonah himself was not informed! — Jonah was originally told that Nineveh would be turned, but did not know whether for good or for evil.<sup>10</sup>

HE WHO DISREGARDS THE WORDS OF A PROPHET. But how does he know [that he is a true prophet], that he should be punished? — If he gives him a sign. But Micah did not give a sign, yet he [i.e., his colleague] was punished!<sup>11</sup> — If he was well established [as a prophet], it is different. For should you not admit this, how could Isaac listen to Abraham at Mount Moriah,<sup>12</sup> or the people hearken to Elijah at Mount Carmel and sacrifice without [the Temple]?<sup>13</sup> Hence the case, where the prophet is well established is different.

And it came to pass after these words, that God did tempt Abraham.<sup>14</sup> What is meant by 'after'? — R. Johanan said on the authority of R. Jose b. Zimra: After 'the words of Satan, as it is written, And the child grew, and was weaned: [and Abraham made a great feast the same day that Isaac was weaned].<sup>15</sup> Thereupon Satan said to the Almighty; 'Sovereign of the Universe! To this old man Thou didst graciously vouchsafe the fruit of the womb at the age of a hundred, yet of all that banquet which he prepared, he did not have one turtle-dove or pigeon to sacrifice before thee! Hath he done aught but in honour of his son!' Replied He, 'Yet were I to say to him, "Sacrifice thy son before Me", he would do so without hesitation.' Straightway, God did tempt Abraham . . . And he said, Take, I pray thee [na]<sup>16</sup> thy son.<sup>17</sup> R. Simeon b. Abba said; 'na' can only denote entreaty. This may be compared to a king of flesh and blood who was confronted by many wars, which he won by the aid of a great warrior. Subsequently he was faced with a severe battle. Thereupon he said to him, 'I pray thee, assist me in battle, that people may not say, there was no reality in the earlier ones.' So also did the Holy One, blessed be He, say unto Abraham, 'I have tested thee with many trials and thou didst withstand all. Now, be firm, for My sake in this trial, that men may not say, there was no reality in the earlier ones.

Thy son.

[But] I have two sons!

Thine only one.



Each is the only one of his mother!

Whom thou lovest.

I love them both!

Isaac!

And why all this [circumlocution]?<sup>18</sup> — That his mind should not reel [under the sudden shock]. on the way Satan came towards him and said to him. ‘If we assay to commune with thee, wilt thou be grieved? . . . Behold, thou hast instructed many, and thou hast strengthened the weak hands. Thy words have upholden him that was falling, and thou hast strengthened the feeble knees. But now it is come upon thee, and thou faintest.’<sup>19</sup> He replied, ‘I will walk in mine integrity.’<sup>20</sup> ‘But’, said [Satan] to him, ‘should not thy fear be thy confidence?’<sup>21</sup> ‘Remember’, he retorted, ‘I pray thee, whoever perished, being innocent?’<sup>22</sup> Seeing that he would not listen to him, he said to him, ‘Now’ a thing was secretly brought to me:<sup>23</sup> thus have I heard from behind the Curtain.<sup>24</sup> “the lamb, for a burnt-offering<sup>25</sup> but not Isaac for a burnt-offering.”<sup>25</sup> He replied, ‘It is the penalty of a liar, that should he even tell the truth, he is not listened to.’

R. Levi said [in explanation of ‘after these words’]; After Ishmael's words to Isaac. Ishmael said to Isaac: ‘I am more virtuous<sup>26</sup> than thee in good deeds, for thou wast circumcised at eight days, [and so couldst not prevent it], but I at thirteen years’. ‘On account of one limb wouldst thou incense me!’ he replied: ‘Were the Holy One, blessed be He, to say unto me, Sacrifice thyself before Me, I would obey’, Straightway, God did tempt Abraham.

Our Rabbis taught; A prophet who seduced [people to idolatry] is stoned; R. Simeon said; He is strangled. The seducers of a seduced city are stoned; R. Simeon said: They are strangled. ‘A prophet who seduced is stoned’. What is the reason of the Rabbis? — Similarity of law is learnt from the employment of ‘seduction’ here and in the case of a mesith:<sup>27</sup> just as there execution is by stoning, so here too. But R. Simeon maintained: [Simple] death is provided for in this case,<sup>28</sup> and by every unspecified death sentence in the Torah strangulation is meant.

‘The seducers of a seduced city are executed by stoning’. What is the reason of the Rabbis? — Similarity of law is learnt from the employment of ‘seduction’ here and in the case of either a mesith or a prophet who seduced.<sup>29</sup> But R. Simeon maintained: similarity of law is learned from the employment of ‘seduction’ here and in the case of a prophet who seduced.<sup>30</sup> But let us rather deduce it from mesith?<sup>31</sup> — An analogy is drawn between two who incite a multitude, and not between one who incites a multitude and another who seduces an individual.<sup>32</sup> On the contrary, should not an analogy be drawn between two laymen, rather than between a layman and a prophet? — R Simeon maintains, since he seduced, no man is more of a layman than he.<sup>33</sup>

R. Hisda said;

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(1) I Kings XX, 35.

(2) Ibid. 36. According to the Rabbis, the prophet here referred to was Micaiah the son of Imlah (v. ibid. XXII, 9 et seq.).

(3) Ibid. XIII, 9.

(4) Ibid. 18.

(5) Ibid. 24. It is nowhere stated that this was Iddo; possibly the Talmud had a tradition to that effect (Maharsha). Kimhi (Ibid. 1) however observes that Iddo was a contemporary of Jeroboam and prophesied against him, as is mentioned in II Chron. IX, 29.

(6) I.e., just as that would be absurd, so is the statement.

- (7) For how can anyone know that he suppressed a prophecy?
- (8) Amos III, 7.
- (9) When a prophecy of doom was revealed to a prophet, as in the case of Jonah, it might subsequently have been withdrawn and therefore the prophecy was suppressed. How then can that prophet be flogged?
- (10) I.e., whether 'turned' meant 'overturned', or 'turned to repentance'.
- (11) V. p. 593.
- (12) To permit himself to be sacrificed.
- (13) This being normally forbidden.
- (14) Gen. XXII, 1. The sacrifice of Isaac having been mentioned, the Talmud proceeds to discuss it.
- (15) Ibid. XXI, 8.
- (16) **סג**.
- (17) Ibid. 2.
- (18) Why not say, 'Take Isaac'?
- (19) Job. IV, 2-5; he taunted him upon being unable to withstand his great trial, or perhaps suggested it to him. Rashi explains and translates: Should One (sc. God) have so assayed to speak to thee (putting thee to such severe trial) that thou shouldst faint, i.e., lose thy seed.
- (20) Ps XXVI, 2.
- (21) Job. IV, 6, i.e., through fearing God, you should be entirely safe, instead of which you are about to sacrifice your son! So Tosaf. in B.M. 58b, s.v. **סג**.
- (22) Ibid. 6. Thus he reasserted his faith in God.
- (23) Ibid. 12.
- (24) I.e., from the most intimate secrets of God.
- (25) Cp. ibid. 7.
- (26) Lit., 'greater'.
- (27) Prophet: Because he hath spoken . . .to seduce thee from the way which thy Lord thy God commanded thee to walk in (Deut. XIII, 6); mesith: because he hath sought to seduce thee from the Lord thy God (Ibid. 11).
- (28) Ibid. 6: And that prophet . . . shall be put to death.
- (29) Here: and have seduced the inhabitants of their city. Ibid. 13, the other two: ibid. 6 and 11. V. p. 596. n. 9 for quotations.
- (30) And as the latter is strangled, in his opinion so are the former too.
- (31) Where stoning is distinctly stated (ibid. 11).
- (32) The maddiah and the false prophet seduce a community, the mesith an individual (or individuals).
- (33) V. p. 557, n. 5.

## Talmud - Mas. Sanhedrin 90a

They<sup>1</sup> differ only in respect of one who uproots the fundamental [prohibition] of idolatry,<sup>2</sup> or who partially confirms and partially annuls [the prohibition] of idolatry,<sup>3</sup> since the Divine Law said, [. . . to seduce thee] from [min] the way [which the Lord thy God commanded thee to walk in],<sup>4</sup> implying even part of the way.<sup>5</sup> But if one [a false prophet] fundamentally uproots any other precept,<sup>6</sup> all agree that he is strangled;<sup>7</sup> whilst if he partially annuls and partially confirms any other precept, all agree that he is exempt. R. Hamnuna objected; [It has been taught] [Because he hath spoken ...to seduce thee from the way which the Lord thy God commanded thee] to walk; this refers to positive commands;<sup>8</sup> therein [bah]: to negative commands.<sup>9</sup> But should you say that this refers to idolatry, — how is a positive command conceivable in respect of idolatry? — R. Hisda explained it [as referring to], And ye shall overthrow their altars.<sup>10</sup>

R. Hamnuna said; They<sup>11</sup> differ in respect of one who uproots the fundamental injunction, whether of idolatry or other precepts, or who partially annuls and partially confirms [the prohibition of] idolatry, since the Torah said, from the way, implying even part of the way;<sup>12</sup> but if he partly confirms and partly annuls any other precept, all agree that he is exempt.

Our Rabbis taught: If one prophesies so as to eradicate a law of the Torah, he is liable [to death]; partially to confirm and partially to annul it. — R. Simeon exempts him. But as for idolatry, even if he said, ‘Serve it to-day and destroy it to-morrow,’<sup>13</sup> all declare him liable. Now, Abaye agrees with R. Hisda,<sup>14</sup> and reconciles this with him; Raba holds with R. Hamnuna, and explains it according to his views. ‘Abaye, agrees with R. Hisda, and reconciles it with him.’ [Thus:] If one prophesies so as to uproot a law of the Torah, all agree that he is strangled; partially to confirm and partially to annul it, — R. Simeon exempts him, and the Rabbis likewise.<sup>15</sup> But as for idolatry, even if he said, ‘Serve it to-day and destroy it to-morrow’, he is liable — each according to his views.<sup>16</sup> ‘Raba holds with R. Hamnuna, and explains it according to his opinion’; If one prophesies to uproot an injunction of the Torah, whether idolatry or any other precept, he is liable, — each according to his views. Partially to confirm and partially to annul it. R. Simeon declares him exempt, and also the Rabbis.<sup>17</sup> But as for idolatry, even if he said, ‘Serve it to-day and destroy it to-morrow,’ he is liable — each according to his views.

R. Abbahu said in R. Johanan's name; In every matter, if a prophet tells you to transgress the commands of the Torah, obey him,<sup>18</sup> with the exception of idolatry; should he even cause the sun to stand still in the middle of the heavens for you [as proof of Divine inspiration], do not hearken to him.

It has been taught; R. Jose the Galilean said: The Torah understood the extreme depths [of depravity inherent in] idolatry,<sup>19</sup> therefore the Torah gave him [the false prophet] power therein, that should he even cause the sun to stand still in the middle of the heavens, thou must not hearken to him.<sup>20</sup> R. Akiba said; God forbid that the Almighty should cause the sun to stand still at the behest of those who transgressed His will, but [the Torah refers to one] as Hananiah the son of Azur, who was originally a true prophet and [only] subsequently became a false prophet.<sup>21</sup>

LIKEWISE [WITNESSES, PROVED] ZOMEMIM, [IN AN ACCUSATION OF ADULTERY AGAINST] A PRIEST'S DAUGHTER, — AND HER PARAMOUR. Whence do we know this? — R. Abba the son of R. Ika said; For it has been taught: R. Jose said; Why does Scripture state, Then shall ye do unto him, as he had thought to have done unto his brother?<sup>22</sup> For all falsified witnesses<sup>23</sup> [spoken of] in the Torah, — the zomemim and the paramours are assimilated to them;<sup>24</sup> but in the case of a priest's daughter. ‘She [profaneth]’ teaches, ‘She’ is executed by burning, but not her paramour. Hence, I do not know whether the zomemim are likened to him or to her:<sup>25</sup> but when the Writ saith . . . ‘to have done unto his brother’, it teaches, to his ‘brother,’ but not to his sister.<sup>26</sup>

## CHAPTER XI<sup>27</sup>

MISHNAH. ALL ISRAEL<sup>28</sup> HAVE A PORTION IN THE WORLD TO COME,<sup>29</sup> FOR IT IS WRITTEN, THY PEOPLE ARE ALL RIGHTEOUS; THEY SHALL INHERIT THE LAND FOR EVER, THE BRANCH OF MY PLANTING, THE WORK OF MY HANDS, THAT I MAY BE GLORIFIED.<sup>30</sup> BUT THE FOLLOWING HAVE NO PORTION THEREIN: HE WHO MAINTAINS THAT RESURRECTION IS NOT A BIBLICAL DOCTRINE,<sup>31</sup> THE TORAH WAS NOT DIVINELY REVEALED, AND AN EPIKOROS.<sup>32</sup> R. AKIBA ADDED: ONE WHO READS UNCANONICAL BOOKS.<sup>33</sup> ALSO ONE WHO WHISPERS [A CHARM] OVER A WOUND AND SAYS, I WILL BRING NONE OF THESE DISEASES UPON THEE WHICH I BROUGHT UPON THE EGYPTIANS: FOR I AM THE LORD THAT HEALETH THEE.<sup>34</sup> ABBA SAUL SAYS: ALSO ONE WHO PRONOUNCES THE DIVINE NAME AS IT IS SPELT.<sup>35</sup>

THREE KINGS AND FOUR COMMONERS HAVE NO PORTION IN THE WORLD TO COME: THE THREE KINGS ARE JEROBOAM, AHAB, AND MANASSEH.<sup>36</sup> R. JUDAH SAID: MANASSEH HATH A PORTION THEREIN, FOR IT IS WRITTEN, ‘AND HE PRAYED UNTO HIM, AND WAS INTREATED OF HIM, AND HE HEARKENED TO HIS SUPPLICATION AND

THEY RESTORED HIM TO JERUSALEM, TO HIS KINGDOM.<sup>37</sup> THEY [THE SAGES] ANSWERED HIM: THEY RESTORED HIM TO HIS KINGDOM, BUT NOT TO [HIS PORTION IN] THE WORLD TO COME. FOUR COMMONERS, VIZ., BALAAM, DOEG, AHITOPHEL, AND GEHAZI.<sup>38</sup>

GEMARA. And why such [severity]? — A Tanna taught: Since he denied the resurrection of the dead, therefore he shall not share in that resurrection, for in all the measures [of punishment or reward] taken by the Holy One, blessed be He, the Divine act befits the [human] deed.<sup>39</sup> As it is written, Then Elisha said, Hear ye the word of the Lord; Thus saith the Lord, To-morrow about this time shall a measure of fine flour be sold for a shekel, and two measures of barley for a shekel, in the gates of Samaria.<sup>40</sup> And it is written, Then a lord on whose hand the king leaned answered the man of God, and said, Behold, if the Lord made windows in heaven, might this thing be? And he said, Behold, thou shalt see it with thine eyes, but shalt not eat thereof.<sup>41</sup>

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(1) R. Simeon and the Rabbis, whether the seducing prophet is stoned or strangled.

(2) Stating in the name of God that idolatry is permissible, or even meritorious, as it is written . . . saying, let us go after other gods. Deut. XIII, 3.

(3) V. infra.

(4) Ibid. 6.

(5) Since *min* (מִן), is partitive and denotes limitation. The verses adduced by the Rabbis and R. Simeon refer to these cases.

(6) E.g., stating as a Divine communication that the Sabbath was no longer to be kept holy.

(7) Because this is prohibited in Deut. XVIII, 20: But the prophet, which shall presume to speak a word in my name, which I have not commanded him to speak . . . shall die. Unspecified death means strangulation.

(8) 'To walk' implies to do, not to abstain from doing.

(9) This is deduced in the Sifre by *gezerah shawah*.

(10) Ibid. XII, 3.

(11) V. p. 597, n. 7.

(12) He regards the deduction of 'to walk', which refers to positive commands, as applying to all precepts.

(13) That is partial annulment.

(14) Missing footnote.

(15) R. Simeon is mentioned for this reason; According to him, the death from which he is exempt is obviously strangulation. Consequently the first clause, teaching that he is liable, must mean to strangulation, and R. Simeon not being mentioned there, that is the general opinion. Had the second clause simply stated that he is exempt, it would imply from stoning or strangulation, according to either the Rabbis or R. Simeon, and hence the liability of the first clause would be the same.

(16) I.e., In the opinion of the Rabbis, to stoning; of R. Simeon, to strangulation.

(17) In R. Hammuna's view, R. Simeon is particularly mentioned to shew that he is exempt even from strangulation, a more lenient death than stoning; hence certainly from stoning.

(18) E.g., as in the case of Elijah, who ordered sacrifices to be offered on Mount Carmel.

(19) Or, the wiles by which idolatry attracts.

(20) Since Scripture says, and giveth thee a sign or a wonder, it follows that the false prophet must have been endowed with such powers.

(21) The 'sign' being given during his first phase, and he supported himself thereon in his second.

(22) Deut. XIX, 19: 'unto his brother' is redundant.

(23) [In cases of incest including adultery *Lec. var.* who are sentenced to death.]

(24) [I.e., the *zomemim*, to the death they sought to impose on the women, and the paramours, to that of the women the had dishonoured.]

(25) V. p. 347. n. 2.

(26) I.e., he is executed by her paramour's death, not her own.

(27) In the Jerusalem Talmud this is the tenth chapter, whilst 'These are strangled', which in the Babylonian version is the tenth, is there the eleventh. H. Danby, *Sanhedrin*, Introduction VIII, 2, defends the order of the Bab. Tal. as correct.

Rashi likewise states: 'Having first dealt with those who are executed by Beth din by one of the four modes of execution, the Mishnah proceeds to enumerate those who have no portion in the world to come.' Maimonides in his commentary places this as the tenth chapter (v. also his Introduction to Seder Zera'im), and Asheri does likewise. This order is adopted in the printed editions of the Mishnah and in the Jerusalem Talmud (cp. also Mak. 2a).

(28) This is not a dogmatic assertion that only Israel has a portion in the world to come, but is closely connected with the preceding chapters, and asserts that even those who were executed by Beth din are not shut out from the future world, as is stated in VI, 2.

(29) The conception of what is to be understood by the future world is rather vague in the Talmud. In general, it is the opposite of עולם הזה, this world. In Ber. I, 5, 'this world' is opposed to the days of the Messiah. Whether the Messianic era is thus identical with the future world, and these again with the period of resurrection, is a moot point (v. infra, 91b). The following quotation from G. Moore, 'Judaism' (Vol. 2, p. 389) is apposite: 'Any attempt to systematize the Jewish notions of the hereafter imposes upon them an order and consistency which does not exist in them.'

(30) Isa. LX, 22.

(31) Lit., 'that resurrection is not intimated in the Torah.' The doctrine of resurrection was denied by the Sadducees and the Samaritans. It was to oppose these that the doctrine was emphatically asserted in the second of the Eighteen Benedictions (v. W.O. Oesterley. The Jewish Background of Christian Liturgy, Oxford, 1925, 60ff.). According to the present text, however, the reference is not to one who denies the fact of resurrection, but that it is intimated in the Torah. (On the importance of conceding the Biblical origin of this tenet, v. p. 604, n. 12.) But D.S. omits the phrase as interpolated, and he is supported by the Tosef. XIII, 5.

(32) In the first place, the word denotes an adherent of the Epicurean philosophy, and then, one who lives a licentious and dissolute life. The word has also been derived from פקר (cf. הפקר) to be unbridled, and it is frequently used as a synonym of min (q.v. p. 604, n. 12), heretic. The Gemara defines it as one who speaks disparagingly of the Bible and its disciples.

(33) Lit., 'the external books'. Graetz, Gesch. IV, p. 99, regards this as referring to un-Jewish, particularly Gnostic literature. Weiss takes a similar view. The pernicious influence of Gnosticism, particularly as it impaired the pure monotheism of Judaism, made the Rabbis very anxious to stem its spread, and hence R. Akiba's dictum. (Weiss maintains that Elisha b. Abua's revolt against the Rabbis was in some measure occasioned by the influence of Gnosticism.) On this view, ordinary reading is referred to. There are indications, however, that something more is meant. The J. Tal. a.l. adds: 'E.g., the books of Ben Sira and Ben La'anah. But the reading of Homer and all subsequent books is as the reading of a letter.' In spite of the fact that the Bab. Tal. forbids the books of Ben Sira, it is evident from the discussion that all its contents were well-known, and Sira's wisdom is frequently quoted by the Talmudists. It is also difficult to see why greater exception should be taken to Sira than to Homer. To obviate these difficulties the theory has been put forward that the prohibition is against reading these uncanonical works publicly, treating them as the Scripture and expounding them to the community. Private reading, however, would on this theory not come within the ban. (V. Krochmal More Nebuche ha-Zeman, XI, 5.)

(34) Ex. XV, 26.

(35) Lit., 'according to its letters'.

(36) Jeroboam, the son of Nebat, who is frequently stigmatised in the Bible as having 'sinned and caused Israel to sin'. Ahab, the son of Omri, a later King; v. I Kings. XXI, 21. Manasseh, the son of Hezekiah, King of Judah; v. II Kings. XXI.

(37) II Chron. XXXIII, 13.

(38) Balaam: v. Num. XXXI. 8, 16; Doeg the Edomite: v. I Sam. XXI, 22; Ahitophel: v. II Sam. XV; Gehazi: v. II Kings V, 20.

(39) Lit., 'Measure for measure'.

(40) II Kings VII, 1.

(41) Ibid. 2.

## Talmud - Mas. Sanhedrin 90b

And it is [further] written, And so it fell unto him: for the people trod upon him in the gate, and he died.<sup>1</sup> But perhaps this was the result of Elisha's curse, for Rab Judah said in Rab's name: The curse of a Sage, even if unmerited, is fulfilled? — If so, Scripture should have written, they trod upon him

and he died. Why, trod upon him in the gate? — [To show that it was] on account of matters pertaining to the gate.<sup>2</sup>

How is resurrection derived from the Torah? — As it is written, And ye shall give thereof the Lord's heave offering to Aaron the priest.<sup>3</sup> But would Aaron live for ever; he did not even enter Palestine, that *terumah*<sup>4</sup> should be given him?<sup>5</sup> But it teaches that he would be resurrected, and Israel give him *terumah*. Thus resurrection is derived from the Torah. The school of R. Ishmael taught: To Aaron [means to one] like Aaron: just as Aaron was a *haber*,<sup>6</sup> so his sons must be *haberim*.<sup>7</sup> R. Samuel b. Nahmani said in R. Jonathan's name: Whence do we know that *terumah* must not be given to a priest and 'am ha-arez?<sup>8</sup> From the verse, Moreover he commanded the people that dwelt in Jerusalem to give the portion of the Levites, that they might hold fast to the law of the Lord:<sup>9</sup> [thus,] whoever holds fast to the law of the Lord, has a portion; whoever does not, has no portion. R. Aha b. Adda said in Rab Judah's name: One who gives *terumah* to an ignorant priest is as though he had placed it before a lion: just as a lion may possibly tear his prey and eat it and possibly not,<sup>10</sup> so is an ignorant priest — he may possibly eat it undefiled and possibly defiled. R. Johanan said: He even causes his [sc. the ignorant priest's] death, for it is written, and die therefore, if they profane it.<sup>11</sup> The School of R. Eliezer b. Jacob taught: He also embroils him in a sin of general trespass,<sup>12</sup> for it is written, Or suffer them to bear the iniquity of trespass when they eat their holy things.<sup>13</sup>

It has been taught: R. Simai said: Whence do we learn resurrection from the Torah? — From the verse, And I also have established my covenant with them, [sc. the Patriarchs] to give them the land of Canaan:<sup>14</sup> '[to give] you' is not said, but 'to give them' [personally]; thus resurrection is proved from the Torah.<sup>15</sup>

(Mnemonic: Zedek, Gam, Geshem, Kam.)<sup>16</sup> Sectarious [minim]<sup>17</sup> asked Rabban Gamaliel: Whence do we know that the Holy One, blessed be He, will resurrect the dead? He answered them from the Torah, the Prophets, and the Hagiographa, yet they did not accept it [as conclusive proof]. 'From the Torah': for it is written, And the Lord said unto Moses, Behold, thou shalt sleep with thy fathers and rise up [again].<sup>18</sup> 'But perhaps,' said they to him, '[the verse reads], and the people will rise up?' 'From the prophets': as it is written, Thy dead men shall live, together with my dead body shall they arise. Awake and sing, ye that dwell in the dust: for thy dew is as the dew of herbs, and the earth shall cast out its dead.<sup>19</sup> But perhaps this refers to the dead whom Ezekiel resurrected?<sup>20</sup> 'From the Hagiographa': as it is written, And the roof of thy mouth, like the best wine of my beloved, that goeth down sweetly, causing the lips of those that are asleep to speak.<sup>21</sup> But perhaps it means merely that their lips will move, even as R. Johanan said: If a *halachah* is said in any person's name in this world, his lips speak in the grave, as it is written, causing the lips of those that are asleep to speak? [Thus he did not satisfy them] until he quoted this verse, which the Lord swore unto your fathers to give to them;<sup>22</sup> not to you, but to them is said; hence resurrection is derived from the Torah. Others say that he proved it from this verse, But ye that did cleave unto the Lord your God are alive every one of you this day;<sup>23</sup> just as you are all alive to-day, so shall you all live again in the world to come.<sup>24</sup>

The Romans asked R. Joshua b. Hananiah: Whence do we know that the the Holy One, blessed be He, will resurrect the dead and knows the future? — He replied: Both are deduced from this verse, And the Lord said unto Moses, Behold thou shalt sleep with thy fathers, and rise up again; and this people shall go a whoring etc.<sup>25</sup> But perhaps 'will rise up, and go a whoring'? — He replied: Then at least you have the answer to half, viz., that He knows the future. It has been stated likewise: R. Johanan said on the authority of R. Simeon b. Yohai: Whence do we know that the Holy One, blessed be He, will resurrect the dead and knoweth the future? From, Behold, Thou shalt sleep with thy fathers, and . . . rise again etc.

It has been taught: R. Eliezer, son of R. Jose, said: In this matter I refuted the books of the

sectarians,<sup>26</sup> who maintained that resurrection is not deducible from the Torah. I said to them: You have falsified your Torah,<sup>27</sup> yet it has availed you nothing. For ye maintain that resurrection is not a Biblical doctrine, but it is written, [Because he hath despised the word of the Lord, and hath broken his commandment], that soul shall utterly be cut off<sup>28</sup> [Heb. hikkareth tikkareth]; his iniquity shall be upon him.<sup>29</sup> Now, [seeing that] he shall utterly be cut off in this world, when shall his iniquity be upon him? surely in the next world.<sup>30</sup> R. Papa said to Abaye: Could he not have deduced both [this world, and the next] from he shall be utterly cut off?<sup>31</sup> — They would have replied: The Torah employed human phraseology.

This is disputed by Tannaim: That soul shall utterly be cut off [hikkareth] he shall be cut off in this world and [tikkareth] in the next: this is R. Akiba's view. R. Ishmael said: But the verse has previously stated, he reproacheth the Lord, and that soul shall be cut off are there then three worlds? But [interpret thus]: and [that soul] shall be cut off — in this world: hikkareth, he is to be cut off — in the next; whilst as for [the repetition] tikkareth, that is because the Torah employs human phraseology.<sup>32</sup> How do both R. Ishmael and R. Akiba utilize his iniquity shall be upon him? — For that which has been taught: I might think that [this is so] even if he repented: therefore Scripture saith, his iniquity is upon him: I decreed [that he shall be cut off] only if his iniquity is still in him. Queen Cleopatra<sup>33</sup> asked R. Meir, 'I know that the dead will revive, for it is written, And they [sc. the righteous] shall [in the distant future] blossom forth out of the city [Jerusalem] like the grass of the earth.<sup>34</sup> But when they arise, shall they arise nude or in their garments?' — He replied, 'Thou mayest deduce by an a fortiori argument [the answer] from a wheat grain: if a grain of wheat, which is buried naked, sprouteth forth in many robes, how much more so the righteous, who are buried in their raiment!'

An emperor said to Rabban Gamaliel: 'Ye maintain that the dead will revive; but they turn to dust, and can dust come to life?'

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(1) Ibid. 20.

(2) I.e., Elisha had prophesied that wheat and barley would be sold cheaply at the gate of Samaria, and he denied it.

(3) Num. XVIII, 28.

(4) V. Glos.

(5) The priestly dues were rendered only in Palestine.

(6) V. Glos.

(7) Hence this verse is to teach that the priestly dues are not to be rendered to an ignoramus, and affords no basis for resurrection.

(8) Lit., 'people of the earth,' peasants, and then denoting the ignorant and irreligious in general.

(9) II Chron. XXXI, 4.

(10) I.e., when a lion steals an animal and mauls it, we do not know whether it was to appease his hunger, or merely to satisfy his blood lust.

(11) Lev. XXII, 9.

(12) I.e., a sin which leads to guilt in a number of ways.

(13) Ibid. 16.

(14) Ex. VI, 4.

(15) The promise could be literally fulfilled only by the Patriarchs' resurrection.

(16) An apt mnemonic, meaning lit., 'As to the Righteous, also the Body Riseth.'

(17) Term used generally as a designation for Judeo-Christians. Herford, *Christianity in the Talmud*, pp. 232-4, conjectures that this discussion took place in Rome, whither R. Gamaliel journeyed in 95 C.E., since this is followed by 'The Romans asked R. Joshua.' He maintains that both sides accepted the fact of resurrection of the dead, the dispute being whether it is intimated in the Torah. The importance of the debate lay in the fact that the Christians maintained that the resurrection of the dead was consequent upon the resurrection of Christ this doctrine of course would be weakened if it could be shewn that resurrection was already taught in the Torah.

(18) Deut. XXXI, 16.

(19) Isa. XXVI, 19.

(20) V. Ezek. XXVII.

(21) Cant. VII, 9. As the entire Song is interpreted by the Rabbis as a dialogue between God and Israel, the last phrase is understood to refer to the dead, whom God will cause to speak again.

(22) Deut. XI, 21.

(23) Ibid. IV, 4.

(24) This is deduced from 'this day', which is superfluous.

(25) Deut. XXXI, 16.

(26) Herford, op. cit. states that **מינים** is an error for **כותים** Cutheans, Samaritans, as is proved by parallel passages in the Sif.; cf. 87a, and D.S.

(27) [The words 'to them', from which R. Gamaliel (p. 605) deduced the resurrection are left out in the Samaritan text.]

(28) **הכרת תכרת**.

(29) Num. XV, 31.

(30) I.e., at the resurrection.

(31) V. next passage in text.

(32) V. supra 64b.

(33) [Not of 'Anthony and Cleopatra' fame. Bacher, Agada der Tanaiten, I, 68, n. 2, regards **קליאופטרא מלכתא** (Cleopatra, the Queen) as a corruption of **פטרוקי דכותאי** the Patriarch of the Samaritans (v. Gen. Rab. XCIV, 6). Cp. Koh. Rab. V, 12, where the disputant of the belief of the resurrection of the dead with R. Meir is a Samaritan, **כותי**.]

(34) Ps. LXXII, 16: the bracketed addition gives the sense according to Rabbinic interpretation; v. Keth. 111a.

## Talmud - Mas. Sanhedrin 91a

Thereupon his [the emperor's] daughter said to him [the Rabbi]: 'Let me answer him: In our town there are two potters; one fashions [his products] from water, and the other from clay: who is the more praiseworthy?' 'He who fashions them from water, he replied.<sup>1</sup> 'If he can fashion [man] from water,<sup>2</sup> surely he can do so from clay!'<sup>3</sup>

The School of R. Ishmael taught: It can be deduced from glassware: if glassware, which, though made by the breath of human beings,<sup>4</sup> can yet be repaired when broken;<sup>5</sup> then how much more so man, created by the breath of the Holy One, blessed be He.

A sectarian [min]<sup>6</sup> said to R. Ammi: 'Ye maintain that the dead will revive; but they turn to dust, and can dust come to life?' — He replied: I will tell thee a parable. This may be compared to a human king who commanded his servants to build him a great palace in a place where there was no water or earth [for making bricks]. So they went and built it. But after some time it collapsed, so he commanded them to rebuild it in a place where water and earth was to be found; but they replied, 'We cannot'. Thereupon he became angry with them and said, 'If ye could build in a place containing no water or earth, surely ye can where there is!'<sup>7</sup> 'Yet,' [continued R. Ammi], 'If thou dost not believe, go forth in to the field and see a mouse, which to-day is but part flesh and part dust,<sup>8</sup> and yet by to-morrow has developed and become all flesh. And shouldst thou say, 'That takes a long time,'<sup>9</sup> go up to the mountains, where thou wilt see but one snail, whilst by to-morrow the rain has descended and it is covered with snails.'<sup>10</sup>

A sectarian [min] said to Gebiha b. Pesisa, 'Woe to you, ye wicked, who maintain that the dead will revive; if even the living die, shall the dead live!' He replied, 'Woe to you, ye wicked, who maintain that the dead will not revive: if what was not,[now] lives, — surely what has lived, will live again!' 'Thou hast called me wicked,' said he, 'If I stood up I could kick thee and strip thee of thy hump!'<sup>11</sup> 'If thou couldst do that,' he retorted, 'thou wouldst be called a great doctor, and command large fees.'



Our Rabbis taught: On the twenty-fourth of Nisan<sup>12</sup> the revenue farmers<sup>13</sup> were removed from Judah and Jerusalem. For when the Africans<sup>14</sup> came to plead against the Jews before Alexander of Macedon, they said, 'Canaan belongs to us, as it is written, The land of Canaan with the coasts thereof;<sup>15</sup> and Canaan was the ancestor of these people [i.e., ourselves].' Thereupon Gebiha b. Pesisa<sup>16</sup> said to the Sages, 'Authorise me to go and plead against them before Alexander of Macedon: should they defeat me, then say, "ye have defeated but an ignorant man of us;" whilst if I defeat them, then say to them thus: "The Law of Moses has defeated you." 'So they authorised him, and he went and pleaded against them. 'Whence do ye adduce your proof?' asked he. 'From the Torah,' they replied. 'I too,' said he, 'will bring you proof only from the Torah, for it is written, And he said, Cursed be Canaan; a servant of servants shall he be unto his brethren.<sup>17</sup> Now if a slave acquires property, to whom does he belong, and whose is the property?'<sup>18</sup> Moreover, it is now many years that ye have not served us.'<sup>19</sup> Then Alexander said to them, 'Answer him!' 'Give us three days' time,' they pleaded. So he gave them a respite; they sought but found no answer. Immediately thereon they fled, leaving behind their sown fields and their planted vineyards. And that year was a Sabbatical year.

On another occasion the Egyptians came in a lawsuit against the Jews before Alexander of Macedon. They pleaded thus: 'Is it not written, And the Lord gave the people favour in the sight of the Egyptians, and they lent them [gold and precious stones, etc.]<sup>20</sup> Then return us the gold and silver which ye took!' Thereupon Gebiha b. Pesisa said to the Sages, 'Give me permission to go and plead against them before Alexander of Macedon: should they defeat me, then say, "Ye have merely defeated an ignorant man amongst us;" whilst if I defeat them then say, "The Law of Moses has defeated you.'" So they gave him permission, and he went and pleaded against them. 'Whence do ye adduce your proof?' asked he, 'From the Torah,' they replied. 'Then I too,' said he, 'will bring you proof only from the Torah, for it is written, Now the sojourning of the children of Israel, who dwelt in Egypt, was four hundred and thirty years.<sup>21</sup> Pay us for the toil of six hundred thousand men whom ye enslaved for four hundred thirty years.' Then King Alexander said to them, 'Answer him!' 'Give us three days' time,' they begged. So he gave them a respite; they sought but found no answer. Straightway they fled, leaving behind their sown fields and planted vineyards. And that year was a Sabbatical year.<sup>22</sup>

On another occasion the Ishmaelites and the Keturians<sup>23</sup> came for a lawsuit against the Jews before Alexander of Macedon. They pleaded thus: 'Canaan belongs jointly to all of us, for it is written, Now these are the generations of Ishmael, Abraham's son;<sup>24</sup> and it is [further] written, And these are the generations of Isaac,' Abraham's son.'<sup>25</sup> Thereupon Gebiha b. Pesisa said to the Sages: 'Give me permission to go and plead against them before Alexander of Macedon. Should they defeat me then say, "Ye have defeated one of our ignorant men; whilst if I defeat them, say, "The Law of Moses has defeated you.'" So they gave him permission, and he went and pleaded against them. 'Whence do ye adduce your proof?' asked he. 'From the Torah,' they replied. 'Then I too,' said he, 'will bring you proof only from the Torah, for it is written, And Abraham gave all that he had unto Isaac. But unto the sons of the concubines which Abraham had, Abraham gave gifts:<sup>26</sup> if a father made a bequest to his children in his lifetime and sent them away from each other, has one any claim upon the other? [Obviously not.]'

What gifts [did he give them]? — R. Jeremiah b. Abba said: This teaches that he imparted to them [the secrets of] the unhallowed arts.<sup>27</sup>

Antoninus<sup>28</sup> said to Rabbi: 'The body and the soul can both free themselves from judgment. Thus, the body can plead: The soul has sinned, [the proof being] that from the day it left me I lie like a dumb stone in the grave [powerless to do aught]. Whilst the soul can say: The body has sinned, [the proof being] that from the day I departed from it I fly about in the air like a bird [and commit no sin].' He replied, 'I will tell thee a parable. To what may this be compared? To a human king who

owned a beautiful orchard which contained

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- (1) This being far more difficult.
  - (2) Vis.:, the sperm.
  - (3) I.e., the dust into which the dead are turned.
  - (4) A reference to the blowing of glass.
  - (5) By being melted down again.
  - (6) V. Herford, op. cit. p. 281. In R. Ammi's time (end of the third and beginning of the fourth centuries) there was no class of heretic which denied resurrection. The Sadducees no longer existed, whilst the Gnostics did not deny it. Herford therefore suggests that R. Ammi's opponent was really a heathen.
  - (7) Thus if God can make man without these, surely He will be able to resuscitate their dust.
  - (8) I.e., only partly formed, it being believed that there is a species of mice developing from the earth. Maim. on Hullin IX, 6 states that many people have claimed to have seen a mouse, part earth and part clay.
  - (9) Whereas resurrection must happen in a moment.
  - (10) Thus proving that God can create life with great speed.
  - (11) He was hunchbacked.
  - (12) The first month of the Jewish calendar.
  - (13) דִּימוֹסְנַיִי \*\* = publican; Graetz, Geschichte, III, 2, pp. 573-4. connects this celebration with the defeat and retreat of Florus from Jerusalem, when the people ceased to pay tribute to Caesar (v. Josephus, Wars, II, 16, 5). For other views, v. HUCA, VII-VIII, 302ff.]
  - (14) The Phoenicians, the descendants of Ham through Canaan (v. Gen. X, 15) and who ruled over a large part of N. Africa (Carthage).
  - (15) Num. XXXIV, 2.
  - (16) [A legendary character traditionally contemporary with Alexander the Great.]
  - (17) Gen. IX, 25.
  - (18) Obviously to his owner. Therefore, even if the land was given to the Canaanites, it belongs to their masters, the Jews, descendants of Shem.
  - (19) So that you owe us your toil too for all that time.
  - (20) Ex. XII, 36.
  - (21) Ibid. 40.
  - (22) [On the dispute between the Egyptians and Jews, v. Levi, REJ. LXIII, 211ff.]
  - (23) V. Gen. XXV, 1-4.
  - (24) Ibid. 12.
  - (25) Ibid. 19. Hence, both being sons of Abraham, they had equal claims upon the land. For the same reason the Ketureans too made a claim.
  - (26) Ibid. 5f.
  - (27) I.e., the knowledge of sorcery, demons, etc.
  - (28) Antoninus has been variously identified: with Marcus Aurelius (Rapport); Severus (Graetz, who, however, assumes that it was the second R. Judah the Prince who was the friend of Antoninus); Caracalla (Jast. and N. Krochmal), and others; v. 'A. Z. 10a, and J. E. I, 656.

## **Talmud - Mas. Sanhedrin 91b**

splendid figs. Now, he appointed two watchmen therein, one lame and the other blind. [One day] the lame man said to the blind, "I see beautiful figs in the orchard. Come and take me upon thy shoulder, that we may procure and eat them." So the lame bestrode the blind, procured and ate them. Some time after, the owner of the orchard came and inquired of them, "Where are those beautiful figs?" The lame man replied, "Have I then feet to walk with?" The blind man replied, "Have I then eyes to see with?" What did he do? He placed the lame upon the blind and judged them together. So will the Holy One, blessed be He, bring the soul, [re]place it in the body, and judge them together, as it is written, He shall call to the heavens from above, and to the earth, that he may judge his people:<sup>1</sup> He shall call to the heavens from above-this refers to the soul; and to the earth, that he may judge his

people-to the body.'

Antoninus said to Rabbi, 'Why does the sun rise in the east and set in the west?' He replied, 'Were it reversed, thou wouldst ask the same question.' 'This is my question,' said he, 'why set in the west?'<sup>2</sup> He answered, 'In order to salute its Maker, as it is written, And the host of the heavens make obeisance to thee.'<sup>3</sup> 'Then,' said he to him, 'it should go only as far as mid-heaven, pay homage, and then re-ascend?'<sup>4</sup> — 'On account of the workers and wayfarers.'<sup>5</sup>

Antoninus also said to Rabbi, 'When is the soul placed in man; as soon as it is decreed [that the sperm shall be male or female, etc.], or when [the embryo] is actually formed?' He replied, 'From the moment of formation.' He objected: 'Can a piece of meat be unsalted for three days without becoming putrid?'<sup>6</sup> But it must be from the moment that [God] decrees [its destiny].' Rabbi said: This thing Antoninus taught me, and Scripture supports him, for it is written, And thy decree hath preserved my spirit [i.e., my soul].<sup>7</sup>

Antoninus also enquired of Rabbi, 'From what time does the Evil Tempter hold sway over man; from the formation [of the embryo], or from [its] issuing forth [into the light of the world]?! — 'From the formation,' he replied. 'If so,' he objected, 'it would rebel in its mother's womb and go forth. But it is from when it issues.' Rabbi said: This thing Antoninus taught me, and Scripture supports him, for it is said, At the door [i.e., where the babe emerges] sin lieth in wait.<sup>8</sup>

Resh Lakish opposed [two verses to each other]. It is written, [I will gather them . . .] with the blind and the lame, the woman with child and her that travaileth with child together;<sup>9</sup> whilst it is also written, Then shall the lame man leap as an hart, and the tongue of the dumb sing, for in the wilderness shall waters break out, and streams in the desert.<sup>10</sup> How so?<sup>11</sup> — They shall rise with their defects and then be healed.

'Ulla opposed [two verses]. It is written, He will destroy death for ever, and the Lord God will wipe away tears from all faces;<sup>12</sup> whilst elsewhere it is written, For the child shall die an hundred years old . . . there shall be no more thence an infant of days!<sup>13</sup> — It is no difficulty: the one refers to Jews, the other to heathens. But what business have heathens there?<sup>14</sup> — [The reference is to] those of whom it is written, and strangers shall stand and feed your flocks, and the sons of the alien shall be your plowmen and your vinedressers.<sup>15</sup>

R. Hisda opposed [two verses]. It is written, Then the moon shall be confounded, and the sun ashamed, when the Lord of Hosts shall reign;<sup>16</sup> whilst [elsewhere] it is written, Moreover the light of the moon shall be as the light of the sun, and the light of the sun shall be sevenfold, as the light of seven days.<sup>17</sup> — It is no difficulty: the latter refers to the Messianic era, the former to the world to come.<sup>18</sup> And according to Samuel, who maintained, This world differs from the Messianic era only in respect of the servitude of the Diaspora, it is still no difficulty: the latter refers to the camp of the righteous, the former to the camp of the Divine Presence.<sup>19</sup>

Raba opposed [two verses]: It is written, I kill, and I make alive;<sup>20</sup> whilst it is also written, I wound, and I heal!<sup>21</sup> — The Holy One, blessed be He, said, What I slay, I resurrect [i.e., in the same state], and then, what I wound, I heal [after their revival].

Our Rabbis taught: I kill, and I make alive. I might interpret, I kill one person and give life to another, as the world goes on:<sup>22</sup> therefore the Writ states, I wound, and I heal. Just as the wounding and healing [obviously] refer to the same person, so putting to death and bringing to life refer to the same person. This refutes those who maintain that resurrection is not intimated in the Torah.

It has been taught: R. Meir said, Whence do we know resurrection from the Torah? From the

verse, Then shall Moses and the children of Israel sing this song unto the Lord:<sup>23</sup> not sang but shall sing<sup>24</sup> is written: thus resurrection is taught in the Torah.<sup>25</sup> Likewise thou readest, Then shall Joshua build an altar unto the Lord God of Israel:<sup>26</sup> not 'built', but shall build is written: thus resurrection is intimated in the Torah. If so, Then did Solomon build an high place for Chemosh, the abomination of Moab:<sup>27</sup> does that too mean that he shall build?<sup>28</sup> But [there] the Writ regards him as though he had built.<sup>29</sup>

R. Joshua b. Levi said: Whence is resurrection derived from the Torah? From the verse, Blessed are they that dwell in thy house: they shall ever praise thee. Selah.<sup>30</sup> Not 'praised thee,' but they shall praise thee is stated: thus resurrection is taught in the Torah.

R. Joshua b. Levi also said: Whoever uttereth song [of praise to God] in this world shall be privileged to do so in the next world too, as it is written, Blessed are they that dwell in thy house: they shall ever praise thee. Selah.

R. Hiyya b. Abba said in R. Johanan's name: Whence do we learn resurrection from the Torah? — From the verse, Thy watchmen shall lift up the voice; with the voice together shall they sing.<sup>31</sup> Not 'sang,' but shall sing is written: thus resurrection is derived from the Torah.

Rab Judah said in Rab's name: Whoever withholdeth a halachah from his disciple is as though he had robbed him of his ancestral heritage, as it is written, Moses commanded us a law, even the inheritance of the congregation of Jacob.<sup>32</sup> it is an inheritance destined for all Israel from the six days of Creation. R. Hanah b. Bizna said in the name of R. Simeon the Pious: Whoever withholds a halachah from a disciple, even the embryo in its mother's womb curses him, as it is written, He that withholdeth bar [corn] yikkebuhu le'om

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(1) Ps. L, 4.

(2) I.e., rising in any quarter, it should return to the same for setting-a question possible, of course, since the earth was assumed to be flat.

(3) Neh. IX. 6. Thus, the sun having reached the west, where the Divine Presence is, sinks down in homage, and therefore does not return to the east to set.

(4) Because it is not etiquette to go right up to one in saluting him.

(5) Were the sun to set suddenly in mid-heaven, i.e., at midday, they would have no sign when to cease work or halt.

(6) Likewise, if the sperm-cell is not immediately endowed with a soul, it would become putrid, and then could not fertilize the ovum.

(7) Job X, 12.

(8) Gen. IV, 7.

(9) Jer. XXXI, 8; implying that they shall retain their defects at the resurrection.

(10) Isa. XXXV, 6.

(11) I.e., how reconcile these verses?

(12) Ibid. XXV, 9.

(13) Isa. LXV, 20. The order of the phrases has been reversed here.

(14) I.e., in the re-established state after the resurrection.

(15) Ibid. LXI, 5.

(16) Ibid. XXIV, 23.

(17) Ibid. XXX, 26.

(18) Then the sun and the moon shall be ashamed, i.e., fade into insignificance — because of the light radiating from the righteous (Rashi).

(19) Both verses referring to the world to come.

(20) Deut. XXXII, 39. This implies, I resurrect him just as he was at death: if one died with a blemish, he is resurrected with it too.

(21) Ibid. This implies that at the resurrection all wounds, i.e., blemishes, are healed.

(22) People dying and others being born.

(23) Ex. XV, I.

(24) Lit. rendering of **ישיר** yashir.

(25) For the verse implies that they shall sing in the future. As they did not sing a second time in this life, it must mean after their resurrection.

(26) Josh. VIII, 30.

(27) I Kings XI, 7.

(28) In the three quotations the imperfect tense is used, which generally, though not always, connotes the future in Heb.

(29) The imperfect there denotes that he merely wished to build, but so heinous is even the mere intention, that he is stigmatised as having actually done so. But in the first two verses the imperfect cannot bear that meaning, since Moses did sing, and Joshua did build. Therefore the future meaning must be complementary to the past, and the imperfect implies that as they sang once, so will they again.

(30) Ps. LXXXIV, 5.

(31) Isa. LII, 8.

(32) Deut. XXXIII, 4.

## Talmud - Mas. Sanhedrin 92a

:<sup>1</sup> 'le'om' can only mean 'embryo,' as it is written, And one le'om shall be stronger than the other people;<sup>2</sup> and 'yikkebuhu' can only denote cursing, as it is written, how shall I curse [ekkob]<sup>3</sup> whom God hath not cursed?<sup>4</sup> and 'bar' can refer to nothing but the Torah, as it is written, Nourish yourselves bar<sup>5</sup> [on the Torah] lest he be angry.<sup>6</sup> 'Ulla b. Ishmael said: He is riddled with holes like a sieve:<sup>7</sup> here is written, 'the people yikkebuhu;' whilst elsewhere is written, wa-yikkob [and he bored] a hole in the lid of it.'<sup>8</sup> Abaye said: Like a fuller's trough.<sup>9</sup> But if he teaches him, what is his reward? — Raba said in the name of R. Shesheth: He will receive blessings like Joseph's, as it is written, but blessing shall be upon the head of mashbir [him who selleth it]:<sup>10</sup> 'mashbir' can only refer to Joseph, as it is said, And Joseph was the Governor over the land, and it was he ha-mashbir [that sold] to all the people of the land.<sup>11</sup>

R. Shesheth said: Whoever teaches the Torah in this world will be privileged to teach it in the next, as it is written, And he that watereth shall water again too.<sup>12</sup>

Raba said: Whence is resurrection derived from the Torah? From the verse, Let Reuben live, and not die:<sup>13</sup> meaning, let Reuben live, in this world, and not die, in the next.<sup>14</sup> Rabina said, [it is derived] from this verse, And many of them that sleep in the dust of the earth shall awake, some to everlasting life, and some to shame and everlasting contempt.<sup>15</sup> R. Ashi said: From this verse, But go thou thy way till the end be; for thou shalt rest and stand in thy lot at the end of the days.<sup>16</sup>

R. Eleazar said: Every leader who leads the community with mildness will be privileged to lead them in the next world [too], as it is written, for he that hath mercy on them shall lead them; even by the springs of water shall he guide them.<sup>17</sup>

R. Eleazar also said: Great is knowledge,<sup>18</sup> since it was placed between two Letters,<sup>19</sup> as it is written, For a God of knowledge is the Lord.<sup>20</sup> R. Eleazar also said: Great is the Sanctuary, since it was placed between two Letters, as it is written, Thou hast made for thee, O Lord, a Sanctuary: O Lord, thy hands have established it.<sup>21</sup> R. Adda Karhina demurred: If so, then great is vengeance, since it was placed between two Letters, as it is written, O God of vengeance, O Lord: O God of vengeance, manifest thyself!<sup>22</sup> — He replied: For its purposes it is so indeed. Even as 'Ulla said: Why these two manifestations?<sup>23</sup> One as a measure of reward [for the righteous] and the other as a measure of punishment [for the wicked].

R. Eleazar also said: Whenever one has knowledge, it is as though the Temple was built in his days, since each [sc. knowledge and the Temple] was placed between two letters.

R. Eleazar also said: Whoever has knowledge will eventually be wealthy, as it is written, And by knowledge shall the chambers be filled with all precious and pleasant riches.<sup>24</sup> R. Eleazar also said: Whosoever lacks knowledge, one may have no mercy upon him, as it is written, For it is a people of no understanding: therefore he that made them will not have mercy upon them, and he that formed them will show them no favour.<sup>25</sup>

R. Eleazar also said: Whoever gives of his bread to one who lacks knowledge will be assailed by suffering, as it is written, They that eat thy bread have laid mazor [a wound]<sup>26</sup> under thee: there is no understanding in him;<sup>27</sup> 'mazor' can refer only to suffering, as it is written, When Ephraim saw his sickness, and Judah his mezero [suffering].<sup>28</sup>

R. Eleazar also said: Whoever lacks knowledge will ultimately be exiled, for it is written, Therefore my people are gone into exile, because they have no knowledge.<sup>29</sup>

R. Eleazar also said: The house in which the words of the Torah are not heard at night shall be consumed by fire, as it is written, All darkness is hid in his secret places: a fire not blown shall consume him; he grudgeth [sarid]<sup>30</sup> him that is left in his tabernacle:<sup>31</sup> now, 'sarid' can refer only to the scholar, as it is written, And in those left [u-base-ridim]<sup>32</sup> whom the Lord shall call.<sup>33</sup>

R. Eleazar also said: Whoever does not benefit a scholar with his goods will never see a sign of blessing, as it is written, There be none ['sarid'] that remaineth to eat it; therefore shall he not hope for prosperity.<sup>34</sup> now 'sarid' refers to none but the scholar, as it is written, And in those left whom the Lord shall call.<sup>35</sup>

R. Eleazar also said: He who leaves no bread on the table [at the end of his meal] will never see a sign of blessing, as it is written, There be none of his meat left; therefore shall he not hope for his prosperity.<sup>36</sup> But did not R. Eleazar say: He who leaves crumbs on his table is as though he engaged in idol worship, for it is written, That prepare a table for Gad, and that furnish the drink offering unto Meni?<sup>37</sup> — It is no difficulty: in the latter case a whole loaf is left therewith [i.e., with the pieces],<sup>38</sup> but in the former there is no whole loaf left therewith.<sup>39</sup>

R. Eleazar also said: Whoever dissembles in his speech is as though he had engaged in idolatry: here it is written, And I shall seem to him as a deceiver,<sup>40</sup> and elsewhere it is said, They are vanity, and the work of deceivers.<sup>41</sup>

R. Eleazar also said: Whoever gazes upon one's shame,<sup>42</sup> his virility shall be emptied,<sup>43</sup> for it is written, Shame shall empty thy bow [i.e., strength].<sup>44</sup>

R. Eleazar also said: Be always humble.<sup>45</sup> so shalt thou endure. R. Zera said: We have learned likewise. The windows of a dark house may not be opened to examine its leprosy.<sup>46</sup> This proves it.

R. Tabi said in R. Josia's name: What is meant by, The grave; and the barren womb; and the earth that is not filled by water:<sup>47</sup> now, what connection has the grave with the womb? But it is to teach thee: just as the womb receives and brings forth,<sup>48</sup> so does the grave too receive and bring forth.<sup>49</sup> Now, does this not furnish us with an a fortiori argument? If the womb, which receives in silence, yet brings forth amid great cries [of jubilation]; then the grave, which receives the dead amid cries [of grief], will much more so bring them forth amid great cries [of joy]! This refutes those who maintain that resurrection is not intimated in the Torah. [The] Tanna debe Eliyyahu [states]: The righteous, whom the Holy One, blessed be He, will resurrect, will not revert to dust,<sup>50</sup> for it is said, And it shall come to pass. that he that is left in Zion and he that remaineth in Jerusalem, shall be called holy, even every one that is written among the living in Jerusalem:<sup>51</sup> just as the Holy One endures for ever, so shall they endure for ever.

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(1) **יִקְבְּהוּ לְאָוִם** translated in the versions, the people shall curse him. Prov. XI, 26.

(2) Gen. XXV, 23: as Jacob and Esau were not yet born, it must refer to them in their embryonic state.

(3) **אֶקֶב**.

(4) Num. XXIII, 8.

(5) **נִשְׁקוּ** nashku, translated, 'do homage' (A.J.V.) or 'kiss' (A.V.) is here connected with **יִשְׁק** and by thy command shall my people be provided for (Gen. XLI, 40).

(6) Ps. II, 12.

(7) I.e., with ridicule and curses. According to Maharsha it denotes that all his knowledge will escape him as corn through a sieve, or water through a fuller's trough.

(8) II Kings XII, 10.

(9) Upon which the washing is placed for the water to drain off; hence it is perforated.

(10) **מִשְׁבִּיר** Prov. XI, 26.

(11) Gen. XLII, 6.

- (12) Prov. XI, 25. Having watered i.e., taught, in this world, he will do so in the next too.
- (13) Deut. XXXIII, 6.
- (14) But rise at the resurrection: it is so interpreted on account of its redundancy.
- (15) Dan. XII, 2.
- (16) Ibid. 13.
- (17) Isa. XLIX, 10.
- (18) Knowledge in the sense of moral discernment.
- (19) I.e., two Divine Names.
- (20) 1 Sam. II, 3.
- (21) Ex. XV, 17.
- (22) Ps. XCIV, 1.
- (23) The verse being divided into two stichs, 'manifest thyself' is applied to each separately.
- (24) Prov. XXIV, 4.
- (25) Isa. XXVII, 11
- (26) **מזור**
- (27) Obad. I,7.
- (28) **מזורו** Hos.V,13.
- (29) Isa.V, 13.
- (30) **שריד**
- (31) Job XX, 26.
- (32) **בשרידים**
- (33) Joel III, 5: the first part of the verse, all darkness is hid etc., is interpreted as, 'his secret places are not illumined by the study of the law;' the last part, he grudgeth etc., as 'he looks with disfavour upon any student who enters his house for a meal.'
- (34) Job XX, 21.
- (35) Joel III, 5.
- (36) Job XX, 21.
- (37) Isa. LXV, 11. Gad and Meni are the names of two idols; v. p. 432, n. 4.
- (38) Then it appears to have been set specially for these deities.
- (39) So that the pieces appear to have been left for the poor.
- (40) Gen. XXVII, 12.
- (41) Jer. X, 15. The reference is to idols.
- (42) Either the pudenda, or metaphorically, whoever lusts after a married woman.
- (43) I.e., he will lose the power to beget children.
- (44) Hab. III, 9.
- (45) Lit., 'obscure'.
- (46) If leprosy breaks out in the walls of a house and the priest, coming to examine it, (v. Lev. XIV, 36) finds the house too dark for a proper survey, the windows must not be opened to allow the light to enter, as it must be examined by its usual light. Thus its darkness protects it, since in the absence of a proper examination it cannot be pronounced unclean. Similarly, the darkness in which a man wraps himself, i.e., obscurity and humility, protects his life.
- (47) Prov. XXX, 16.
- (48) The child.
- (49) The dead are laid there, and will be taken out at the resurrection.
- (50) In the interval between the Messianic era and the time of the world to come; but their flesh will remain intact upon them until they live again in the future.
- (51) Isa. IV, 3.

## **Talmud - Mas. Sanhedrin 92b**

And should you ask, in those years during which the Almighty will renew his world, as it is written, And the Lord alone shall be exalted in that day,<sup>1</sup> what will the righteous do?<sup>2</sup> — The Lord will make them wings like eagles', and they will fly above the water, as it is written, Therefore we will not fear



when the earth be removed and the mountains be carried into the midst of the sea.<sup>3</sup> And should you imagine that they will suffer pain — therefore Scripture saith, But they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run and not be weary; and they shall walk and not faint.<sup>4</sup> But should we not deduce [the reverse] from the dead whom Ezekiel resurrected?<sup>5</sup> — He accepts the view that in the truth [the story of the resurrection of the dry bones] was [but] a parable.<sup>6</sup> For it was taught: R. Eliezer said: The dead whom Ezekiel resurrected stood up, uttered song, and [immediately] died. What song did they utter? — The Lord slayeth in righteousness and reviveth in mercy.<sup>7</sup> R. Joshua said: They sang thus, The Lord killeth and maketh alive: he bringeth down to the grave, and bringeth up.<sup>8</sup> R. Judah said: It was truth; it was a parable. R. Nehemiah said to him: If truth, why a parable; and if a parable, why truth? — But [say thus]: In the truth there was but a parable.<sup>9</sup>

R. Eliezer the son of R. Jose the Galilean said: The dead whom Ezekiel revived went up to Palestine, married wives and begat sons and daughters. R. Judah b. Bathyra rose up and said: I am one of their descendants, and these are the tefillin<sup>10</sup> which my grandfather left me [as an heirloom] from them.

Now, who were they whom Ezekiel revived? — Rab said: They were the Ephraimites, who counted [the years] to the end [of the Egyptian bondage], but erred therein,<sup>11</sup> as it is written, And the sons of Ephraim; Shuthelah, and Bared his son, and Tahath his son, and Eladah his son, and Tahath his son. And Zabad his son, and Shuthelah his son, and Ezzer, and Elead, whom the men of Gath that were born in that land slew.<sup>12</sup> And it is written, And Ephraim their father mourned many days, and his brethren came to comfort him.<sup>13</sup>

Samuel said: They were those who denied resurrection, as it is written, Then he said unto me, Son of man, these bones are the whole house of Israel; behold, they say, Our bones are dried, and our hope is lost: we are cut off for our parts.<sup>14</sup>

R. Jeremiah b. Abba said: They were the men who lacked the [vitalizing] sap of good deeds, as it is written, O ye dry bones, head the word of the Lord.<sup>15</sup>

R. Isaac Nappaha said: They were the men who covered the whole Temple with abominations and creeping things, as it is written, So I went in and saw; and behold every form of creeping things, and abominable beasts, and all the idols of the house of Israel, portrayed upon the wall round about.<sup>16</sup> whilst there [in the case of the dry bones] it is written, And caused me to pass by them round about.<sup>17</sup>

R. Johanan said: They were the dead of the plain of Dura.<sup>18</sup> R. Johanan also said: The plain of Dura extends from the river Eshel to Rabbath. Amongst the Israelites whom Nebuchadnezzar drove into exile there were young men who shamed the sun by their beauty. The Chaldean women, looking upon them, were inflamed with passion. Their husbands, being informed thereof, reported it to the king, who ordered the execution of these exiles; yet they still burned with desire:<sup>19</sup> so by royal command they were trampled [out of recognition].

Our Rabbis taught: When the wicked Nebuchadnezzar threw Hananiah, Mishael and Azariah into the fiery furnace, the Holy One, blessed be He, said to Ezekiel: ‘Go and resurrect the dead in the plain of Dura.’ This being done, the bones came and smote the wicked man upon his face. ‘What kind of bones are these!’ he exclaimed. They [his courtiers] answered him, ‘Their companion<sup>20</sup> is resurrecting the dead in the plain of Dura.’ Thereupon he broke into utterance, How great are His signs, and how mighty are His wonders! His kingdom is an everlasting kingdom, and His dominion is from generation to generation!<sup>21</sup> R. Isaac said: May molten gold be poured into the mouth of that wicked man [sc. Nebuchadnezzar]! Had not an angel come and struck him upon his mouth he would

have eclipsed<sup>22</sup> all the songs and praises uttered by David in the Book of Psalms.<sup>23</sup>

Our Rabbis taught: Six miracles were wrought on that day, viz.: [i] The furnace floated upward;<sup>24</sup> [ii] its walls [partly] fell in;<sup>25</sup> [iii] its foundations crumbled [with the heat];<sup>25</sup> [iv] the image [which Nebuchadnezzar had set up to be worshipped] was overthrown upon its face; [v] four royal suites were burned;<sup>26</sup> [vi] Ezekiel resurrected the dead in the valley of Dura. All these are [known by] tradition, but [that pertaining to] the four royal suites is Scriptural, for it is written, Then Nebuchadnezzar the king sent to gather together the princes, the governors, and the captains, the judges, the treasurers, the counsellors, the sheriffs, and all the rulers of the provinces, [to come to the dedication of the image etc.];<sup>27</sup> and it is further written, There are certain Jews [. . . serve not thy god etc.];<sup>28</sup> also, And the princes, governors and captains, and the king's counsellors, being gathered together, saw these men, upon whom the fire had no power.<sup>29</sup>

The School of R. Eliezer b. Jacob taught: Even in times of danger one should not lay aside his insignia of office, for it is written, Then these men were bound in their coats, their hosen, and their hats, and their other garments etc.<sup>30</sup>

R. Johanan said:

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- (1) Isa. II, 11, i.e., during this era of change the universe will be totally destroyed.
  - (2) [Where will they be in this period of complete desolation?]
  - (3) Ps. XLIV, 3.
  - (4) Isa. XL, 31. [For parallel passages in the book as we have it, v. Friedmann's edition, Introduction, p. 46.]
  - (5) Just as they died again, so will the righteous whom God will resurrect also return to dust.
  - (6) I.e., a symbol of the revival of the Jewish State.
  - (7) Cp. I Sam. II, 6.
  - (8) Ibid.
  - (9) I.e., their resurrection did in fact take place, and that was a foreshadowing of the renaissance of the Jewish people.
  - (10) Phylacteries, v. Glos.
  - (11) They counted the four hundred years foretold by God to Abraham (Gen. XV, 13) as commencing there and then, whereas in reality they dated from Isaac's birth, which according to tradition took place thirty years later. As a result, they left Egypt thirty years before the rest of Israel.
  - (12) I Chron. VII, 20f.
  - (13) Ibid. 22.
  - (14) Ezek. XXXVII, 11. Though they personally were not entitled to resurrection, since they denied it (v. supra 90a), yet the miracle was wrought for them that the belief might become established for Israel.
  - (15) Ibid. 4. Though lacking good deeds to their credit, they were resurrected to shew that the wicked, provided they deny not resurrection, after undergoing their punishment, will participate therein (Maharsha).
  - (16) Ibid. VIII, 10. The identification is based on the use of 'round about' in both narratives. In his view even those who in their despair surrender themselves to abominable worship are not excluded from the bliss of resurrection. (Adapted from Maharsha.)
  - (17) Ibid. XXXVII, 2.
  - (18) [Dan. III, 1. The plain of Dura has not yet been identified. Obermeyer, op. cit. 310, suggests a locality near Nahr Dura, a small river which flows into the Euphrates, some six miles south of Babylon.]
  - (19) Lit., 'discharged issue'.
  - (20) Lit., 'The companion of these', (viz., of Hananiah, Mishael and Azariah).
  - (21) Dan. III, 23.
  - (22) Lit., 'shamed'.
  - (23) On seeing the great miracle performed for Hananiah, Mishael and Azariah. This being praiseworthy, R. Isaac expressed his curse euphemistically.
  - (24) It was originally built in the earth, but floated upwards, that all might see the miracle.
  - (25) For the same reason.

(26) Other versions, based on different readings: his (Nebuchadnezzar's) pride crumbled, (he confessed his wrong); the lime in it melted and burned those who cast them in (v. Rashi).

(27) Ie., four kings and their retinues, who had assisted Nebuchadnezzar in casting them into the furnace.

(28) Ibid. 2.

(29) Ibid. 27. Those who are omitted in this verse from the enumeration of v. 2 were burned.

(30) Ibid. 21. These were garments specially worn by men in their exalted position, and they did not doff them, though cast into the furnace.

## Talmud - Mas. Sanhedrin 93a

The righteous are greater than the ministering angels, for it is said, He answered and said, Lo, I see four men loose, walking in the midst of the fire, and they have no hurt; and the form of the fourth is like the son of God.<sup>1</sup>

R. Tanhum b. Hanilai said: When Hananiah, Mishael and Azariah emerged unscathed from the fiery furnace, all the nations of the world came and smote the enemies of Israel<sup>2</sup> upon their faces, saying to them, 'Ye have such a God, yet ye worship an image!' Immediately they [the apostate Jews] opened their mouths and confessed, O Lord, righteousness belongeth unto thee, but unto us shamefacedness, as at this day.<sup>3</sup>

R. Samuel b. Nahmani said in R. Jonathan's name: What is meant by, I said, I will go up to the palm tree, I will take hold of the boughs thereof?<sup>4</sup> 'I said, I will go up to the palm tree, [etc.]' this refers to Israel;<sup>5</sup> but now I grasped but the one bough of Hananiah, Mishael and Azariah.

R. Johanan said: What is meant by, I saw by night, and behold a man riding upon a red horse, and he stood among the myrtle trees that were in the bottom, etc.?<sup>6</sup> What means, 'I saw by night'? — The Holy One, blessed be He, wished to turn the whole world into night,<sup>7</sup> 'but behold, A man riding'. 'Man' can refer to none but the Holy One, blessed be He, as it is written, The Lord is a man of war: the Lord is his name;<sup>8</sup> 'upon a red horse' — the Holy One, blessed be He, wished to turn the whole world to blood;<sup>9</sup> but as soon as he looked upon Hananiah, Mishael and Azariah his anger was appeased, for it is written, and he stood among [hadasim]<sup>10</sup> the myrtle trees that were in the deep. Now 'hadasim' refers but to the righteous, as it is written, And he brought up Hadassah;<sup>11</sup> and 'deep' refers to Babylon, as it is said, that sayeth to the deep, Be dry, and I will dry up thy rivers.<sup>12</sup> Straightway He who was filled with wrath was partially calmed, and then completely pacified.<sup>13</sup> R. Papa said: This shows that a white horse is a favourable omen in a dream.<sup>14</sup> Whither did the Rabbis go?<sup>15</sup> — Rab said: They died through an evil eye;<sup>16</sup> Samuel said: They drowned in the spittle;<sup>17</sup> R. Johanan said: They went up to Palestine, married and begat sons and daughters. [This is] as [the dispute] of Tannaim. R. Eliezer said: They died through an evil eye. R. Joshua said: They drowned in the spittle. The Sages said: They went up to Palestine, married and begat sons and daughters, as it is written, Hear now, O Joshua the High Priest and thy fellows that sit before thee: for they are men wondered at.<sup>18</sup> Now for which men was a wonder wrought? — Hananiah, Mishael and Azariah.

Whither had Daniel gone?<sup>19</sup> — Rab said: To dig a great spring at Tiberias;<sup>20</sup> Samuel said: To procure animal fodder; R. Johanan said: To obtain pigs from Alexandria of Egypt.<sup>21</sup> But that is not so. For we learnt that Theodos the doctor said: No cow or pig leaves Alexandria of Egypt without its uterus being cut out, to prevent reproduction.<sup>22</sup> — She procured small ones, to which they paid no attention.<sup>23</sup>

Our Rabbis taught: Three were involved in that conspiracy [to keep Daniel out of the furnace]: The Holy One, blessed be He, Daniel and Nebuchadnezzar. The Holy One, blessed be He, said: 'Let Daniel depart hence, lest it be said that they were delivered through his merit.'<sup>24</sup> Daniel said: 'Let me go from here, that I be not a fulfilment of, the graven images of their gods shall ye burn with

fire.’<sup>25</sup> Whilst Nebuchadnezzar said: ‘Let Daniel depart, lest people say he has burnt his god in fire.’ And whence do we know that he worshipped him? — From the verse, Then the king Nebuchadnezzar fell upon his face, and worshipped Daniel etc.<sup>26</sup>

Thus saith the Lord of hosts, the God of Israel, of Ahab the son of Kolaiah, and of Zedekiah the son of Maaseiah, which prophecy a lie unto you in my name etc.<sup>27</sup> And it is written, And of them shall be taken up a curse by all the captivity of Judah which are in Babylon, saying, the Lord make thee like Zedekiah, and like Ahab, whom the King of Babylon roasted in the fire.<sup>28</sup> Not ‘whom he burnt’, but ‘whom he roasted,’ is written. R. Johanan said on the authority of R. Simeon b. Yohai: This teaches that he made them like parched sheaves of corn.<sup>29</sup>

Because they have committed villainy in Israel, and have committed adultery with their neighbours’ wives etc.<sup>30</sup> What did they do? They went to Nebuchadnezzar's daughter: Ahab said to her, ‘Thus saith God, "Give thyself unto Zedekiah;"’ whilst Zedekiah said to her, ‘Thus saith God, "Surrender to Ahab.”’ So she went and told her father, who said to her, ‘The God of these hates unchastity: when they [again] approach thee, send them to me.’ So when they came to her, she referred them to him. ‘Who told this to you?’ asked he of them. ‘The Holy One, blessed be He,’ replied they. But I have enquired of Hananiah, Mishael, and Azariah, who informed me that it is forbidden.’ They answered, ‘We too are prophets, just as he: to him He did not say it, but to us.’ ‘Then I desire that ye be tested, just as Hananiah, Mishael and Azariah were,’ he retorted. ‘But they are three, whilst we are only two,’ they protested.<sup>31</sup> ‘Then choose whom ye wish to accompany you,’ said he. ‘Joshua the High Priest,’ they answered, thinking, ‘Let Joshua be brought, for his merit is great, that he may protect us.’ So he was brought, and they were all thrown [into the furnace]. They were burned, but as to Joshua the High Priest, only his garments were singed, for it is said, And he shewed me Joshua the High Priest standing before the angel of the Lord;<sup>32</sup> and it is written, And the Lord said unto Satan, the Lord rebuke thee, O Satan etc.<sup>33</sup> [Thus] said he to him, ‘I know that thou art righteous, but why should the fire have affected thee even slightly; Hananiah, Mishael and Azariah were not affected at all.’ ‘They were three,’ said he, ‘but I am only one.’<sup>34</sup> ‘But,’ he remonstrated, ‘Abraham [too] was only one.’ ‘No wicked were with him, so the fire was not empowered [to do any harm]; but here, I had wicked men with me, so the fire was enabled [to do its work],’ he rejoined. Thus people say, ‘If there are two dry billets and one wet one, the former burn the latter.’ Now why was he [thus] punished? — R. Papa said: Because his sons married wives unfit for the priesthood; and he did not protest, as it is said, Now Joshua was clothed with filthy garments.<sup>35</sup> Now, surely it was not his wont to wear filthy garments! But this intimates that his sons married women unfit for the priesthood and he did not forbid them.

R. Tanhum said: Bar Kappara expounded in Sepphoris:<sup>36</sup> What is meant by, These six of barley gave he to me?<sup>37</sup> What are ‘six of barley’? Shall we say it is meant literally?<sup>38</sup> But was it Boaz's practice to give [only] six barley grains?

(1) Ibid. 25. Thus the angel is mentioned last, as being least esteemed.

(2) A euphemism for the Jews who had worshipped the image set up by the king.

(3) Ibid. IX, 7.

(4) Cant. VII, 9.

(5) Who should have been as full of righteousness as a palm tree of dates.

(6) Zech. I, 8.

(7) Because the people had bowed down to the image set up by Nebuchadnezzar.

(8) Ex. XV, 3.

(9) This may be based upon either the similarity in Hebrew of blood (dam, דָּם) and red (adom, אָדוּם) or the natural association of blood with redness.

(10) הַדָּמִים

(11) הַדָּמָה Esth. II, 7; the reference is to Esther.

- (12) Isa. XLIV, 27, i.e., to Babylon, situated in a hollow.
- (13) I.e., metaphorically, the redness of his anger gave way to more subdued tints, denoting partial calm, and then became white, a sign of complete appeasement.
- (14) Since the white horse signifies complete appeasement.
- (15) I.e., Hananiah, Mishael and Azariah; after emerging from the furnace, they are never mentioned again.
- (16) The belief that the eye has power to effect harm, whether through excessive admiration or astonishment, as here, or by actual malignant intent, was and is widespread among many peoples. Rab's statement here is in accordance with his dictum in B.M. 107b that ninety-nine people out of a hundred die through an evil eye.
- (17) V. supra; when the nations expressed their scorn of the apostates, they spat at them, and so much spittle collected, that the three heroes were drowned in it. It is hard to believe that this is meant to be taken seriously; it is more probably said in a humorous vein; v. Lazarus, Ethics of Judaism, ¶ 48a, p. 62, and Appendix 9, pp. 256ff on 'Humour in the Talmud.' Maharsha explains that this is metaphorical. The heroes, having by their action caused Israel to be spat upon, died to save them from further disgrace.
- (18) Zech. III, 8.
- (19) Not being mentioned in connection with this story.
- (20) Another meaning (based probably on a different reading), 'laboriously to dig a canal in the mountain side.'
- (21) Which were of a distinguished breed. Perhaps this is a tilt at certain Alexandrians.
- (22) The Alexandrians being anxious for the monopoly of that breed (Bek. 28b; v. supra, 33a). How then could Daniel have obtained them?
- (23) Not thinking that these would be required for breeding purposes.
- (24) Whereas they were delivered through their own.
- (25) Deut. VII, 25. Nebuchadnezzar had exalted him to a deity.
- (26) Dan. II, 46.
- (27) Jer. XXIX, 21.
- (28) Ibid. 22.
- (29) I.e., he burnt them to a cinder.
- (30) Ibid. 23.
- (31) The combined merit of three may be sufficient for a miracle, but not of two.
- (32) Zech. III, 1.
- (33) Ibid. 2.
- (34) V. p. 624, n. 8.
- (35) Ibid. 3.
- (36) Sepphoris, Heb. **שֶׁפּוֹרִי**, derived its name from the fact that it was perched, bird-like, on a mountain. It is identified with the modern Saffusiah, a village north-west of Nazareth.
- (37) Literal rendering of Ruth III, 17.
- (38) I.e., six grains of barley.

### **Talmud - Mas. Sanhedrin 93b**

But [if it means] six se'ahs,<sup>1</sup> can a woman take six se'ahs?<sup>2</sup> — But he symbolically intimated to her [by giving her six barley grains] that six sons were destined to come forth from her, who should each be blessed with six blessings. Viz, David, Messiah, Daniel, Hananiah, Mishael and Azariah. David, for it is written, Then answered one of the servants, and said, Behold, I have seen a son of Jesse, the Bethlehemite, that is cunning in playing, and a mighty valiant man, and a man of war, and understanding in matters, and a comely person, and the Lord is with him.<sup>3</sup> And Rab Judah said in Rab's name: This whole verse was said by Doeg with nothing but evil intent.<sup>4</sup> Thus: 'that is cunning in playing' — skillful in asking questions [of law]; 'a mighty valiant man' — an adept in answering them; 'a man of war' — well versed in the battle of the Torah;<sup>5</sup> 'understanding in matters' — understanding [how to deduce] one thing from another; 'and a comely person' — who sustains his ruling by weighty reasons;<sup>6</sup> 'and the Lord is with him' — everywhere the halachah is determined in accordance with his views.<sup>7</sup> With respect to all he replied, My son Jonathan is equally so. But when he said, 'And the Lord is with him' — a privilege which even he himself did not enjoy,<sup>8</sup> — he felt

humiliated and envied him. For in the case of Saul it is written, And whithersoever he turned about, he vexed them,<sup>9</sup> whereas of David it is said, ' And whithersoever he turned about, he prospered.<sup>10</sup>

Whence do we know that this was Doeg? — Here is written, Then answered one of the servants, implying one distinguished from the other young men; whilst elsewhere it is written, Now a man of the servants of Saul was there that day, detained before the Lord; and his name was Doeg, an Edomite, the chiefest of the herdmen that belonged to Saul.<sup>11</sup>

The Messiah-as it is written, And the spirit of the Lord shall rest upon him, the spirit of wisdom and understanding, the spirit of counsel and might, the spirit of knowledge of the fear of the Lord. And shall make him of quick understanding [wa-hariho] in the fear of the Lord.<sup>12</sup> R. Alexandri said: This teaches that he loaded him with good deeds and suffering as a mill[is laden].<sup>13</sup> Raba said: He smells [a man] and judges,<sup>14</sup> as it is written, and he shall not judge after the sight of his eyes, neither reprove after the hearing of his ears, yet with righteousness shall he judge the poor.<sup>15</sup>

(Bar Koziba<sup>16</sup> reigned two and a half years, and then said to the Rabbis, 'I am the Messiah.' They answered, 'Of Messiah it is written that he smells and judges: let us see whether he [Bar Koziba] can do so.' When they saw that he was unable to judge by the scent, they slew him.)

Daniel, Hananiah, Mishael and Azariah, as it is written of them, In whom was no blemish, but well favoured, and skillful in all wisdom, and cunning in knowledge, and understanding science, and such as had ability in them to stand in the king's palace, and whom they might teach the learning and the tongue of the Chaldeans.<sup>17</sup> What is meant by in whom there was no blemish? — R. Hama b. Hanina said: They did not even bear the scar made by bleeding. What is the meaning of and such as had ability in them to stand in the king's palace? — R. Hama b. Hanina said: This teaches that they restrained themselves from levity, conversation, and sleep, and suppressed the call of Nature out of royal respect.

Now among these were of the children of Judah, Daniel, Hananiah, Mishael and Azariah.<sup>18</sup> — R. Eleazar said: They were all of the children of Judah; but R. Samuel b. Nahmani said: Daniel was of the tribe of Judah, whilst Hananiah, Mishael and Azariah were of the other tribes.<sup>19</sup>

And of thy sons which shall issue from thee, which thou shalt beget, shall they take away: and they shall be eunuchs in the palace of the King of Babylon.<sup>20</sup> What is meant by 'eunuchs'? — Rab said: Literally eunuchs. R. Hanina said: In their days the idols were sterilized.<sup>21</sup> Now, according to the opinion that the idols were sterilized in their days, it is well to state, And there is no hurt in them.<sup>22</sup> But on the view that 'eunuchs' is literally meant, what is meant by, And there is no hurt in them?<sup>23</sup> — No hurt of fire. But is it not written, nor the smell of fire had passed on them?<sup>24</sup> They were neither hurt [by the fire] nor even smelled thereof. Now according to the opinion that the idols were sterilized in their days, it is well to write, For thus saith the Lord unto the eunuchs that keep my Sabbaths.<sup>25</sup> But on the view that 'eunuchs' is literally meant, would Scripture recount the shame of the righteous? — There were both among them.<sup>26</sup>

Now, the literal rendering is in conformity with the verse, [Even unto them will I give] in mine house, and within my walls a place, and a name better than of sons and of daughters.<sup>27</sup> But on the view that the idols were sterilized in their days, why state 'better than of sons and of daughters'?<sup>28</sup> — R. Nahman b. Isaac answered: [Better] than the children whom they had formerly possessed, but had died.

What is meant by, I shall give them an everlasting name, that shall not be cut off?<sup>29</sup> — R. Tanhum said: Bar Kappara expounded in Sepphoris: This alludes to the Book of Daniel, which was named after him.

Now let us consider. The whole subject matter of [the book of] Ezra was narrated by Nehemiah the son of Hachalia; why then was the book not called by his name?<sup>30</sup> — R. Jeremiah b. Abba said: Because he claimed merit for himself, as it is written, Think upon me, my God, for good.<sup>31</sup> But did not David say likewise, Remember me, O Lord, with the favour that thou bearest unto thy people; O visit me with thy salvation?<sup>32</sup> — David [merely] supplicated in prayer.<sup>33</sup> R. Joseph said:<sup>34</sup> Because he spoke disparagingly of his predecessors, as it is written, But the former governors that had been before me were chargeable unto the people, and had taken of them bread, and wine, beside forty shekels of silver etc.<sup>35</sup> Moreover, he spoke thus even of Daniel, who was greater than he. And whence do we know that Daniel was greater than he? From the verse, And I Daniel alone saw the vision: for the men that were with me saw not the vision; but a great quaking fell upon them, so that they fled to hide themselves.<sup>36</sup> ‘For the men that were with me saw not the vision.’ now who were these men? — R. Jeremiah — others say R. Hiyya b. Abba-said: Haggai, Zecharia and Malachi.<sup>37</sup>

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- (1) For if it refers to a measure, se'ah must be understood, it being the measure generally used on the field and in the threshing floor. (Rashi).
- (2) She cannot carry such a heavy weight.
- (3) I Sam. XVI, 18. The six epithets viz., cunning in playing, a mighty, valiant man, etc., are regarded as blessings applicable to each of the six persons mentioned.
- (4) That these praises should excite Saul's jealousy.
- (5) I.e., in Biblical dialectics.
- (6) Lit., ‘shows a face in halachah’.
- (7) To the Rabbis there were no higher virtues than those pertaining to study, thus they homiletically interpreted a series of military and other virtues as referring to the Torah.
- (8) That his ruling should be accepted as the halachah.
- (9) Ibid. XIV, 47.
- (10) There is no such verse in the Bible. Possibly it is a misquotation or a copyist's error of and David behaved himself wisely in all his ways (ibid. XVIII, 14). Thus David was ‘wise, i.e., his view always became halachah, whereas Saul merely ‘vexed them,’ i.e., he was a redoubtable opponent in halachah, yet was not successful in having his views adopted.
- (11) Ibid. XXI, 8. Thus ‘a man,’ i.e., ‘one distinguished,’ is the epithet applied to Doeg.
- (12) Isa. XI, 2f.
- (13) This is a play of words on **והריחו** (wa-hariho) and **ריחיים** (rehayyim).
- (14) Thereby definitely knowing whether he is guilty or innocent. **והריחו** is thus derived from **ריח** reah, smell.
- (15) Ibid. 3f. Since he uses neither his eyes nor his ears, he must judge through his sense of smell.
- (16) Bar Koziba was the leader of the third war against Rome in the reign of Hadrian, which terminated disastrously at Bethar (132-135 C.E.). Many scholars believe that this name was derived from Chezib (Gen. XXXVIII, 5) or Chozeba (I Chron. IV, 22). Others believe that it means ‘Son of Lies,’ bestowed upon him after the tremendous defeat which he sustained, and on account of his alleged claims to be the Messiah. Probably, however, Kozeba was an actual patronym, which was thus disparagingly applied to him (Lam. R. II, 2). He is also referred to as Bar Cochba, but this was certainly merely because R. Akiba applied to him the verse, There shall come a star (kokab) out of Jacob (Num. XXIV, 17). The revolt met with initial success, and Bar Koziba maintained his independence for some time. [Our sources do not agree as to the length of his reign, varying between two and a half years as in our text, and three and a half (so Seder ‘Olam according to reading of Dei Rossi). Derenbourg, Essai (v. pp. 413 and 431) gives preference to the period given in the Talmud. Graetz, Geschichte iv, 418, accepts three and a half years as the total duration of the war, but gives only one year to the actual siege of Bethar. It is nevertheless possible that the last year, marking the disastrous siege of Bethar, was omitted in the Talmudic statement on the length of his ‘reign.’]
- (17) Dan. I, 4.
- (18) Ibid 6.
- (19) In Heb. the verb **ויהי** (rendered ‘they were’) is singular. Thus he does not accept the homiletical interpretation of ‘six barley grains’ as stated above.
- (20) II Kings XX, 18; Isa, XLIX, 7.

- (21) I.e., their impotency was demonstrated.
- (22) Dan. III, 25; v. next note.
- (23) Since castration itself, which eunuchs underwent, is a hurt.
- (24) Ibid. 27, which renders the former verse on this interpretation superfluous.
- (25) Isa. LVI, 4.
- (26) Among those who were exiled to Babylon, some were actually castrated for eunuchs, and others lived to see the 'sterilization of the idols', and Isa. LVI, 4 refers to the latter.
- (27) Ibid. 5.
- (28) Seeing that they had children. Here it cannot be answered that there were both among them, as above, for in that case there is no conflict at all between Rab and R. Hanina (Rashi).
- (29) Ibid.
- (30) The reference is to the Book of Nehemiah, as it is, in fact, called in our canon. It is evident from this query that according to the Talmudic canon it was called Ezra. In some canons it bears the title Esdras II or Esdras III.
- (31) Nehem. V, 19.
- (32) Ps. CVI, 4.
- (33) Whereas Nehemiah was boasting.
- (34) Reverting to the question why the Book does not bear his name.
- (35) Nehem. V, 15.
- (36) Dan. X, 7.
- (37) Since he was vouchsafed the vision, whilst they were not, he was greater than they, though they were prophets; hence he was certainly greater than Nehemiah, who was not a prophet.

### **Talmud - Mas. Sanhedrin 94a**

They were greater than he [in one respect], and he was superior to them [in another]. [Thus:] They were greater than he, since they were prophets, whilst he was not. He [on the other hand] was superior to them, since he saw [the vision] which they did not. But since they did not see it, why were they terrified? — Though they themselves saw nothing, their guardian angel did see it.<sup>1</sup> Rabina said: This proves that when one is terrified [and knows not why], though he has not seen anything, his guardian angel has.<sup>2</sup> What shall he do [to dissipate his fears]? — Let him leap four cubits from his place; alternatively, let him read the shema'.<sup>3</sup> But if he is standing in an unclean place [where the shema' may not be recited], let him say thus: 'the butcher's goat is fatter than I.'<sup>4</sup>

Of the increase<sup>5</sup> of his government and peace there shall be no end.<sup>6</sup> R. Tanhum said: Bar Kappara expounded in Sepphoris, Why is every mem in the middle of a word open, whilst this is closed?<sup>7</sup> — The Holy One, blessed be He, wished to appoint Hezekiah as the Messiah, and Sennacherib as Gog and Magog;<sup>8</sup> whereupon the Attribute of Justice<sup>9</sup> said before the Holy One, blessed be He: 'Sovereign of the Universe! If Thou didst not make David the Messiah, who uttered so many hymns and psalms before Thee, wilt Thou appoint Hezekiah as such, who did not hymn Thee in spite of all these miracles which Thou wroughtest for him?' Therefore it [sc. the mem] was closed.<sup>10</sup> Straightway the earth exclaimed: 'Sovereign of the Universe! Let me utter song before Thee instead of this righteous man [Hezekiah], and make him the Messiah.' So it broke into song before Him, as it is written, From the uttermost part of the earth have we heard songs, even glory to the righteous.<sup>11</sup> Then the Prince of the Universe<sup>12</sup> said to Him: 'Sovereign of the Universe! It [the earth] hath fulfilled Thy desire [for songs of praise] on behalf of this righteous man.'<sup>13</sup> But a heavenly Voice cried out, 'It is my secret, it is my secret.'<sup>14</sup> To which the prophet rejoined, 'Woe is me, woe is me.'<sup>15</sup> how long [must we wait]?' The heavenly Voice [again] cried out, 'The treacherous dealers have dealt treacherously; yea, the treacherous dealers have dealt very treacherously:<sup>16</sup> which Raba — others say, R. Isaac — interpreted: until there come spoilers, and spoilers of the spoilers.'<sup>17</sup>

The burden of Dumah. He calleth to me out of Seir, Watchman, what of the night? Watchman, what of the night?<sup>18</sup> R. Johanan said: The angel in charge of the souls is named Dumah. All the souls



assembled before Dumah and said to him, What [sayeth] the Watchman [sc. God] of the night, What [sayeth] the Watchman of the night?<sup>19</sup> The watchman said, The morning cometh, and also the night: if ye will enquire, enquire ye: return, come.<sup>20</sup> A Tanna reported in the name of R. Pappias: It was a reproach to Hezekiah and his company<sup>21</sup> that they uttered no song [to God] until the earth broke into song, as it is written, From the uttermost part of the earth have we heard songs, even glory to the righteous. Similarly we read, And Jethro said, Blessed be the Lord who hath delivered you,<sup>22</sup> whereon a Tanna taught in the name of R. Pappias: It was a reproach to Moses and the six hundred thousand [Israelites] that they did not bless [the Lord] until Jethro came and did so.

And Jethro rejoiced [wa-yihad].<sup>23</sup> Rab and Samuel [dispute its meaning]. Rab said: He caused a sharp knife to pass over his flesh;<sup>24</sup> Samuel said: His flesh crept [with horror at the destruction of the Egyptians].<sup>25</sup> Rab<sup>26</sup> observed: Thus people say, Before a proselyte, even unto the tenth generation, insult not an Aramean.<sup>27</sup>

Therefore shall the Lord, the Lord of hosts, send among his fat ones leanness.<sup>28</sup> What is meant by, among his fat ones [bemishmanav]<sup>29</sup> leanness? — The Holy One, blessed be He, said: Let Hezekiah, who hath eight [shemoneh] names, come and mete out punishment to Sennacherib, who hath [likewise] eight.<sup>30</sup> Hezekiah, as it is written, For unto us a child is born, unto us a son is given; and the government shall be upon his shoulder: and his name shall be called [i] Wonderful, [ii] Counsellor, [iii] Mighty, [iv] Judge,<sup>31</sup> [v] Everlasting, [vi] Father, [vii] Prince, and [viii] Peace.<sup>32</sup> But is there not Hezekiah too?<sup>33</sup> — That means, ‘whom God hath strengthened;’ alternatively, Hezekiah denotes ‘Who strengthened’ Israel [in their devotion] to their father in Heaven.<sup>34</sup> Sennacherib, of whom it is written, [i] Tiglath-pileser,<sup>35</sup> [ii] [Tilgath-] pilneser,<sup>36</sup> [iii] Shalmaneser,<sup>37</sup> [iv] Pul,<sup>38</sup> [v] Sargon,<sup>39</sup> [vi] Asnapper,<sup>40</sup> [vii] Rabba,<sup>41</sup> and [viii] Yakkira.<sup>42</sup> But is there not Sennacherib too? — [That means,] that his very conversation was strife; alternatively, that he prated with inflammatory speech against the Most High.<sup>43</sup>

R. Johanan said: Why did that evil man merit the titles of the great and noble Asnapper? — Because he did not speak slightly of the Land of Israel, as it is written, Until I come and take you away to a land like your own land.<sup>44</sup> Rab and Samuel [dispute the matter]: one maintained that he was a wise king; the other that he was foolish. The view that he was a wise king is because had he said, ‘a land that is better than your own,’ they would have replied, ‘Thou liest;’ whilst the opinion that he was foolish is because if so [i.e., that the land of exile would be no better than their own], what inducement [did he offer]?

Whither did he deport them? — Mar Zutra said: To Africa,<sup>45</sup> R. Hanina maintained: To the mountains of Salug.<sup>46</sup>

But Israel spoke with contempt about Palestine, for when they came to Shush,<sup>47</sup> they said: This is as good as our land;<sup>48</sup> to ‘Almin,<sup>49</sup> they said: This is like the House of Eternities [i.e., Jerusalem, or the Temple];<sup>50</sup> on arriving at Shush Tere,<sup>51</sup> they said: This is twice as good [as our land].<sup>52</sup>

And beneath his glory shall he kindle a burning like the burning of a fire.<sup>53</sup> R. Johanan said: That which was beneath his glory [would be burnt], but ‘glory’ is not literal;<sup>54</sup> even as R. Johanan called his garments ‘my honourers.’ R. Eleazar said: ‘Beneath his glory’ is literal, as the burning of the sons of Aaron: just as there the burning of the soul [is meant], the body remaining intact, so here too.<sup>55</sup>

A Tanna taught in the name of R. Joshua b. Karha: Pharaoh, who personally blasphemed, was punished by the Holy One, blessed be He, in Person; Sennacherib, who blasphemed

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(1) According to the Talmud, every man has a special guardian angel, who accompanies him: Hag. 16a; cf. Targ. Jer. on

Gen. XXXIII, 10: I have seen thy face, as though I had seen the face of thy angel. In the present passage, the word מַזְלֵל *Mazzal* is used, which really implies the angel or spirit of one's destiny; as far as individuals are concerned, it is not clear whether the guardian angel is identical with the angel of destiny or not. In the German mysticism of the thirteenth century the two were most probably identified, the term מַלְאֲכַי מַזְלֵל 'angel of destiny' being used in the 'Book of Angels' by Eliezer of Worms, a disciple of R. Judah Hasid; v. J.E. I. p. 588.

(2) May there be a connection between this 'guardian spirit' and the modern idea of the 'subconscious mind'?

(3) V. Glos.

(4) Go to them for a victim.

(5) לְסַרְבֵּה.

(6) Isa. IX, 6.

(7) There are two forms of mem: medial, which is open (מ) and final, which is closed (ם). In this sentence, however, the closed form occurs in the middle of a word (לְסַרְבֵּה).

(8) Gog and Magog are, in Jewish eschatology, the tribes who shall lead all nations in a tremendous attack upon Israel; their final defeat ushers in the halcyon days of the Messiah, (Ezek. XXXVIII, XXXIX). It is not clear whom the prophet had in mind, the whole passage having the mystic form of apocalyptic prediction. The present passage is remarkable in that it shews that in the opinion of its author no particular nation was intended, but any great heathen power whose destruction, by the will of God, is to precede the millenium.

(9) [The attributes of Justice and Mercy are often hypostasized and represented as interceding with the Almighty.]

(10) Shewing that God's original intention was 'closed', i.e., revoked. Other interpretations: God wished to 'close' i.e., end the troubles of Israel by making Hezekiah the Messiah; or Hezekiah's mouth was closed, i.e., he sang no psalms to the Almighty.'

(11) Ibid. XXIV, 16.

(12) This is a special angel set over the world, distinct from the guardian angels of the separate nations. He has been identified with Metatron; Tosaf. Yeb. 16b however rejects this identification.

(13) So translated by Maharsha. The passage might also mean: Fulfil the desire of this righteous man, i.e., appoint him the Messiah.

(14) Ibid., i.e., the delay of Messiah's advent is God's secret.

(15) Ibid.

(16) Ibid.

(17) I.e., until Israel's enemies and their enemies' enemies are destroyed.

(18) Ibid. XXI, 11.

(19) The verse is thus interpreted: The burden of the angel Dumah. One (i.e., the souls) calleth out to me concerning Seir, which, as a synonym of Edom, is symbolic of Rome, the power responsible for Israel's exile.

(20) Ibid. 12. Rashi gives a number of versions: (i) The watchman said, 'Has then the morning come? Surely not!' i.e., it is not yet time for redemption; (ii) 'The morning cometh,' i.e., redemption will surely come, 'but also the night' — a long exile will precede it; (iii) 'The morning cometh,' i.e., the Babylonian exile will end and a second Temple be built, but 'also the night' — only to be succeeded by another exile; (iv) 'The morning cometh,' i.e., redemption cometh for the righteous, 'but also the night,' i.e., punishment for the wicked, a rendering which is borne out by the Targum.

(21) A band of scholars who assisted him in his literary labours, v. B.B. 15a.

(22) Ex. XVIII, 10.

(23) וַיִּחַד, Ibid. 9.

(24) I.e., he circumcised himself, וַיִּחַד thus being derived from חָדַד, sharp.

(25) Lit., 'his flesh became full of sharp edges,' 'Prickles,' deriving it likewise from חָדַד, the goosiness of the flesh caused by fear or horror.

(26) Yalk.: R. Papa.

(27) General term for a non-Jew. Jethro, though according to tradition a proselyte, was nevertheless horror-stricken at the fate of the Egyptians.

(28) Isa. X, 16.

(29) בְּמִשְׁמַנֵּי

(30) בְּמִשְׁמַנֵּי is here derived from שְׂמוֹנֶה.

(31) For this meaning of el, cf. Ex. XXI, 6; XXII, 8.

(32) Isa. IX, 5. It is assumed that the verse refers to Hezekiah.

- (33) A ninth name.
- (34) According to both these answers, Hezekiah, as a combination of **חזק** (hazak) and **יה** (Jah) — to be strong and God-is not a proper name, but an epithet.
- (35) II Kings XV, 29.
- (36) I Chron. V, 26.
- (37) II Kings XVII, 3.
- (38) Ibid. XV, 29.
- (39) Isa. XX, 1.
- (40) Ezra IV, 20.
- (41) Ibid.
- (42) Ibid. The E.V. of the last three is ‘the great and noble Asnapper,’ but here the phrase is regarded as consisting of three proper nouns (Rashi). But the Wilna Gaon gives a different reading, which renders this unnecessary.
- (43) Sennacherib is treated as a combination of a verb or verbs **סיה** and **נחר** with a noun, rib, ‘strife;’ cp. n. 1.
- (44) II Kings XVIII, 32.
- (45) [Obermeyer, Die Landschaft Babylonien, 11ff., identifies it with Abrik, 150 Km. N. W. of Diarbekir.]
- (46) [Identified by Obermeyer, *ibid.*, with the mountains of Salak in the district of Adiabene.]
- (47) The modern Susa. Shushan.
- (48) [‘Shush’ in Persian meaning ‘beautiful,’ ‘good,’ op. cit. 212.]
- (49) Elymais (Elam).
- (50) Heb. **עלמי**, which may denote also ‘Almin.
- (51) [Sushtar, 18 parasangs East of Susa (op. cit. 213).]
- (52) [Lit., ‘double shush’ (good), here used as a proper noun.]
- (53) Isa. X, 16.
- (54) For the literal meaning of ‘glory’ in reference to a man is his body, the outer flesh which gives him his beauty; hence ‘beneath his glory’ would have to mean his soul, which R. Johanan regards as unsuited to the context. Therefore ‘glory’ cannot be literal, but refers to the garments, which lend dignity to a person; whilst ‘beneath his glory’ denotes the body.
- (55) V. supra 52a; cp. Shab. 113b.

## Talmud - Mas. Sanhedrin 94b

through an agent,<sup>1</sup> was punished by the Holy One, blessed be He, through an agent.<sup>2</sup> [Thus:] Pharaoh, of whom it is written, [And Pharaoh said,] Who is the Lord, that I should obey his voice?<sup>3</sup> was punished by the Holy One, blessed be He, in Person, as it is written, And<sup>4</sup> the Lord overthrew the Egyptians in the midst of the sea;<sup>5</sup> and it is also written, Thou didst walk through the sea with thine horses.<sup>6</sup> But Sennacherib, of whom it is written, By thy messengers hast thou reproached the Lord,<sup>7</sup> was punished by the Holy One, blessed be He, through an angel, as it is said, And the angel of the Lord went out, and smote in the camp of the Assyrians an hundred fourscore and five thousand.<sup>8</sup>

R. Hanina b. Papa opposed [two verses]: It is written, [I will enter the height of his border;<sup>9</sup> but elsewhere it is written, [I will enter into] the lodgings of his borders!<sup>3</sup> — That wicked man said: First will I destroy [His] nether abode [sc. the Temple on earth], and then the upper.<sup>10</sup>

R. Joshua b. Levi said: What is meant by Am I now come up without the Lord against this place to destroy it? The Lord said to me, Go up against this land, and destroy it.<sup>11</sup> How so?<sup>12</sup> He had heard the prophet declare, Forasmuch as this people refuseth the waters of Shiloah that go softly, and rejoice in Rezin and Ramaliah's son.<sup>13</sup> R. Joseph said: But for the Targum<sup>14</sup> of this verse, I would not know its meaning: Because this people have wearied of the Davidic dynasty, which rules them with gentleness like the waters of Shiloah which flow tranquilly, and have set their desire upon Rezin and the son of Ramaliah.

R. Johanan said: What is meant by, The curse of the Lord is in the house of the wicked: but he

blesseth the habitation of the just?<sup>15</sup> ‘The curse of the Lord is in the house of the wicked’ refers to Pekah the son of Ramaliah, who ate forty se’ahs of young birds as a [mere] dessert;<sup>16</sup> ‘but he blesseth the habitation of the just’ applies to Hezekiah, king of Judah, who ate [but] a litra of vegetables for his [entire] meal.)<sup>17</sup>

Now therefore, behold, the Lord bringeth up upon them the waters of the river, strong and many, even the king of Assyria: and all his glory.<sup>18</sup> And it is further written, And he shall pass through Judah; he shall overflow and go over, he shall reach even to the neck.<sup>19</sup> Then if so, why was he [Sennacherib] punished? — The prophet prophesied with respect to the Ten Tribes, whereas he set his face against the whole of Jerusalem. [Thereupon] the prophet came and said to him, For the wearied is not for the oppressor.<sup>20</sup> R. Eleazar b. Berechiah said: [This means], the people that is tired out by [intensive study of] the Torah will not be delivered into the hands of her oppressor.

What is meant by, When aforetime the land of Zebulun and the land of Naphtali did lighten [its burden], but in later times it was made heavy by the way of the sea, beyond Jordan, in Galilea of the nations?<sup>21</sup> — It is not as the early generations,<sup>22</sup> who rejected<sup>23</sup> the yoke of the Torah; but as for the latter generations<sup>24</sup> who strengthened<sup>25</sup> the yoke of the Torah upon themselves and are therefore worthy of having a miracle wrought for them, like those who passed over the [Red] Sea and the Jordan — should he [Sennacherib] repent [of his attack upon Jerusalem], ‘tis well; but if not, I will render him the butt of the nations’ scorn.<sup>26</sup>

After these things, and the truth thereof, Sennacherib, king of Assyria, came and entered into Judah, and encamped against the fenced cities, and thought to win them for himself.<sup>27</sup> Is such a reward meet for such a gift?<sup>28</sup> But what is meant by, ‘After these things and the truth thereof’? — Rabina said: After the Holy One, blessed be He, had anticipated [events] by an oath.<sup>29</sup> For he reasoned thus: If I say to Hezekiah, ‘I will bring Sennacherib and deliver him into thy hands’, he will reply, ‘I require neither [the ultimate victory over] him nor the [preceding] terror’; therefore the Holy One, blessed be He, forestalled him by swearing that he would bring him, as it is written, the Lord of Hosts hath sworn, saying, Surely as I have thought, so shall it come to pass, and as I have purposed, so shall it stand: That I will break the Assyrian in my land, and upon my mountains tread him under foot: then shall his yoke depart from off them, and his burden depart front off their shoulders.<sup>30</sup> R. Johanan said: The Holy one, blessed be he, said thus: ‘Let Sennacherib and his army<sup>31</sup> come and be a crib for Hezekiah and his army.’<sup>32</sup>

And it shall come to pass in that day, that his burden shall be taken away from off thy shoulders, and his yoke from off thy neck, and the yoke shall be destroyed because of the oil.<sup>33</sup> R. Isaac, the Smith, said: [This means,] the yoke of Sennacherib shall be destroyed on account of the oil of Hezekiah, which burnt in the synagogues and schools. What did he do? — He planted a sword by the door of the schoolhouse and proclaimed, ‘He who will not study the Torah will be pierced with the sword.’ Search was made from Dan unto Beer Sheba, and no ignoramus was found; from Gabbath<sup>34</sup> unto Antipris,<sup>35</sup> and no boy or girl, man or woman was found who was not thoroughly versed in the laws of cleanliness and uncleanness.<sup>36</sup> And concerning that generation it is said, And it shall come to pass in that day, that a man shall nourish a young cow, and two sheep;<sup>37</sup> and it is further said, And it shall come to pass on that day, that every place shall be, where there were a thousand vines at a thousand silverlings, it shall even be for briers and thorns:<sup>38</sup> though a thousand vines be worth a thousand silverlings, yet shall it be for briers and thorns.<sup>39</sup>

And your spoil shall be gathered like the gathering of a caterpillar.<sup>40</sup> The prophet said unto Israel: ‘Gather your spoil.’ Thereupon they questioned him, ‘To take it as our own booty, or to divide it?’<sup>41</sup> ‘Like the gathering of a caterpillar’, replied he: just as caterpillars gather, each one for itself, so take your spoil, each one for himself. ‘But’, objected they, ‘the wealth of the Ten tribes is mixed up therein.’ He answered, ‘As the watering of pools doth he water it:’<sup>42</sup> just as pools purify the

unclean,<sup>43</sup> so are the possessions of Israel, which having fallen into the hands of heathens,<sup>44</sup> become clean [i.e., legitimate].<sup>45</sup>

R. Huna said: That wicked man<sup>46</sup> made ten marches on that day, as it is written, [i] He is come to Aiath; [ii] he is passed at Migron; [iii] at Michmash he hath laid up his carriages; [iv] they are gone over the passage; [v] they have taken up their lodgings at Geba; [vi] Ramah is afraid; [vii] Gibeah of Saul is fled. [viii] Lift up thy voice, O daughter of Gallim, [ix] cause it to be heard unto Laish, [x] O poor Anathoth. [xi] Madmenah is removed; [xii] the inhabitants of Gebim gather themselves to flee.<sup>47</sup> But these are more [than ten]! Lift up thy voice, O daughter of Gallim was said by the prophet to the people of Israel: Lift up thy voice, O daughter of Gallim, thou daughter of Abraham, Isaac and Jacob, who performed good deeds as the waves<sup>48</sup> of the sea [in multitude]. Cause it to be heard unto Laish: Fear not this man, but be in dread of the wicked Nebuchadnezzar, who is likened to a lion, as it is written, The Lion [sc. Nebuchadnezzar] is come up from his thicket.<sup>49</sup> What is meant by

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(1) Which is a greater insult.

(2) Which is a more humiliating punishment.

(3) Ex. V, 2.

(4) Ibid. XIV, 27.

(5) Hab. III, 15.

(6) II Kings XIX, 23.

(7) Ibid. 35.

(8) Isa. XXXVII, 24.

(9) II Kings XIX, 23. Both refer to the same. 'The height of his border' would seem to apply to the Temple, cf. Jer. XVII,12: a glorious high throne from the beginning is the place of our sanctuary. 'The lodging' etc. on the other hand is applicable to God's heavenly dwelling.

(10) The Heavenly Temple.

(11) II Kings XVIII, 25.

(12) I.e., how could Sennacherib claim that he had God's orders to destroy Jerusalem?

(13) Isa. VIII, 6. this concludes: Now therefore, behold the Lord bringeth up upon them the waters of the river, strong and many, even the king of Assyria, and all his glory: and he shall come up over all his channels, and go over all his banks. This was understood by Sennacherib as an order to possess Jerusalem.

(14) The Aramaic version of the Prophets was written, according to a Tannaitic tradition, by Jonathan b. Uzziel, 'from the mouths of Haggai, Zechariah and Malachi' (Meg. 3a). The present passage shews clearly that by R. Joseph's time (beginning of the fourth century) it was recognized as authoritative, hence ancient.

(15) Prov. III, 33.

(16) Lit., 'wiping away the meal', i.e., he could never satisfy his hunger.

(17) And was nevertheless satisfied therewith.

(18) Isa. VIII, 7. This resumes the thread of the previous discussion, viz., 'How could Sennacherib claim to have been ordered by God to destroy Jerusalem?' which was interrupted by the digression on Pekah and Hezekiah.

(19) Ibid. 8.

(20) Ibid. 23, this makes **מוצק**, though in reality a passive, into an active.

(21) Ibid.

(22) I.e., the Ten Tribes, who, having been destroyed in 722 B. C. E. could be thus referred to by Isaiah.

(23) Lit., 'lightened from themselves'.

(24) Hezekiah and his contemporaries.

(25) Lit., 'who made heavy'.

(26) Lit., 'I will make him wallow in the scorn of the nations'; another version: 'I will make him as dung (gelalim) among the nations.' These are renderings of **גליל הגוים** (Gelil ha-goyim), 'the Galilee of the Nations', **גליל** (gelil) being connected with **גלל** (galal), to roll.

(27) II Chron. XXXII, 1.

(28) The previous verse relates that Hezekiah turned earnestly to the service of God. Was then this — Sennacherib's invasion-his just reward?

- (29) This oath is referred to as 'the truth', (E.V. establishment) since 'God's seal is truth' (Rashi).
- (30) Isa. XIV, 24f.
- (31) Lit., 'retinue'.
- (32) R. Johanan connects אַבִּוּסְנִי (E.V. 'tread him under foot') with אַבִּוּס, the trough or crib from which an animal feeds (cf. Isa. I, 3). Hezekiah's cattle would forage for food among the dead bones of Sennacherib's army as in a crib.
- (33) Ibid. X, 27.
- (34) Later name for Biblical Gibbethon, in the territory of Dan (Josh. XIX, 44); this was later given to the Levites (ibid. XXI, 23). In the reign of Nadab it belonged to the Philistines (I Kings XV, 27).
- (35) Also called Antipatris, a town northwest of Jerusalem, founded by Herod the Great and named after his father. (Jast.). The mention here of the locality by this name is an anachronism.
- (36) These are probably mentioned on account of their difficulty. The reference to girls and women is interesting as shewing that in the ideal Jewish state they too must be educated.
- (37) Isa. VII, 21; i.e., one shall possess a minimum of cattle, so that very little time be required for its tending.
- (38) Ibid. 23.
- (39) I.e., in spite of the high price, people shall neglect the cultivation of the vines for the study of the law.
- (40) Ibid. XXXIII, 4.
- (41) Shall the booty belong to us, or must we divide it amongst other peoples, since it contains the spoil taken from the ten tribes, which is forbidden to us as theft? (Rashi.)
- (42) Ibid.
- (43) Lit., 'raise man from uncleanness to cleanness'.
- (44) [I.e., Sennacherib and his armies plundered Israel of their possessions.]
- (45) When the latter abandoned all hope of the return thereof; hence other Jews may take it. Here follows in the text a bracketed passage, which is rightly deleted as having no bearing upon the subject.
- (46) Sennacherib.
- (47) Isa. X, 28-31.
- (48) Heb. galle, constr. of gallim.
- (49) Jer. IV, 7: laish (layyish) too is a 'lion'. 'Cause it to be heard unto laish' therefore means, 'thy cries should be on account of Nebuchadnezzar, the lion, not Sennacherib'.

## Talmud - Mas. Sanhedrin 95a

O poor Anathoth? — Jeremiah the son of Hilkiyah, from Anathoth, is destined to prophesy thereon, [sc. concerning Jerusalem],<sup>1</sup> as it is written, The words of Jeremiah the son of Hilkiyah, of the priests that were in Anathoth in the land of Benjamin.<sup>2</sup> But what comparison is it? there<sup>3</sup> [Nebuchadnezzar is called] 'ari,' whilst here 'laish' [is written]? — R. Johanan answered: The lion has six names, viz. ari,<sup>4</sup> kefir,<sup>5</sup> labi,<sup>6</sup> laish,<sup>7</sup> shahal,<sup>8</sup> and shahaz.<sup>9</sup> But if so, there were less [than ten]? — [i] They are gone over, [ii] the passage, implies two.

What is meant by, As yet shall he halt at Nob that day?<sup>10</sup> — R. Huna said: [Only] that day was left for [the punishment of] the crime [committed] in Nob.<sup>11</sup> So his soothsayers said to him, 'If thou proceedest now [to attack], thou wilt conquer it; if not, thou wilt not conquer it.' Therefore the journey that should have taken ten days to make he completed in one day.<sup>12</sup> When Jerusalem was reached, mattresses were piled up for him until, by ascending and sitting on the uppermost, he saw the whole of Jerusalem. On beholding it, it appeared small in his eyes. 'Is this the city of Jerusalem,' he exclaimed, 'for which I set all my troops in motion, and conquered the whole country? Why, it is smaller and weaker than all the cities of the nations which I have subdued by my might!'<sup>13</sup> Then he arose and shook his head and waved his hand to and fro contemptuously toward the Temple in Zion, against the [Temple] Court in Jerusalem.<sup>14</sup> They [the astrologers] urged, 'Let us attack immediately.'<sup>15</sup> 'Ye are too worn out,' he replied, 'but to-morrow let each of you bring me a stone, and we shall stone it.'<sup>16</sup> Straightway, And it came to pass that night that the angel of the Lord went out, and smote in the camp of the Assyrians an hundred fourscore and five thousand: and when they arose early in the morning, behold, they were all dead corpses.<sup>17</sup> R. Papa said: Thus men say: If the

verdict is postponed overnight, it comes to nought.<sup>18</sup>

And Ishbi-benob, which was of the sons of the giant, the weight of whose spear weighed three hundred shekels of brass in weight, he being girded with a new sword, thought to have slain David.<sup>19</sup> What is meant by 'And Ishbi-be-nob'? — Rab Judah said in Rab's name: A man who came on account of Nob.<sup>20</sup> [For] the Holy One, blessed be He had said to David, 'How long will this crime be hidden in thy hand. [i.e.. unpunished]. Through thee Nob, the city of Priests, was massacred; through thee Doeg the Edomite was banished; and through thee Saul and his three sons were slain:<sup>21</sup> wouldst thou rather thy line to end, or be delivered unto the enemy's hand? He replied: 'Sovereign of the Universe! I would rather be delivered into the enemy's hand than that my line should end.'<sup>22</sup> One day, when he [David] ventured forth to Sekhor Bizzae,<sup>23</sup> Satan appeared before him in the guise of a deer. He shot arrows at him, but did not reach him, and was thus led on until inveigled into the land of the Philistines. When Ishbi-benob espied him, he exclaimed, 'It is he who slew my brother Goliath.' So he bound him, doubled him up and cast him under an olive press; but a miracle was wrought, and the ground softened under him. Hence it is written, Thou hast enlarged my steps under me, that my feet did not slip.<sup>24</sup> Now that day was Sabbath Eve, and Abishai the son of Zeruah,<sup>25</sup> washing his head in four gribahs<sup>26</sup> of water, remarked some blood-stains [therein]. Others say a dove came and beat [its wings] before him. Thereupon he reasoned: Israel<sup>27</sup> is likened to a dove, as it is written, ye are as the wings of a dove covered with silver;<sup>28</sup> this must be an intimation that David is in trouble. So he went to his house, but did not find him. Now, said he, we learnt, One may not ride upon his [sc. a king's] horse, nor sit upon his seat, nor use his sceptre:<sup>29</sup> but how is it in a time of danger? So he went and propounded the question in the schoolhouse, and was answered, 'In time of danger, it is permitted.' He then mounted his [sc. David's] mule and rode off,<sup>30</sup> and the earth contracted under him.<sup>31</sup> Whilst riding, he saw Orpah his [sc. Ishbi-benob's] mother spinning. On descrying him, she broke off [the thread of] the spindle and threw it [the spindle] at him, intending to kill him. Then she said, 'Young man, bring me the spindle.'<sup>32</sup> but he threw it on the top of her head instead, and killed her. When Ishbi-benob beheld him, he said [to himself], Now that there are two they will slay me. So he threw David up [in the air] and stuck his spear [into the earth], Saying. 'Let him fall upon it, and perish;' but Abishai pronounced the Divine Name, by means of which David was held suspended between heaven and earth. (Why did not David pronounce it himself? — Because 'a prisoner cannot free himself from prison.') [Abishai] then enquired of him, 'What dost thou here?' — 'Thus did God speak unto me,<sup>33</sup> and thus did I answer Him,' replied he. 'Reverse thy prayer.' said he: 'let thy grandson sell wax rather than that thou shouldst suffer.'<sup>34</sup> 'If so,' said he, 'do thou aid me [to reverse it].' Hence it is written, But Abishai the son of Zeruah succoured him,<sup>35</sup> upon which Rab Judah commented in Rab's name: He succoured him in prayer. Abishai then [again] pronounced the Divine Name and brought him down<sup>36</sup> [from midair, where he was still suspended]. Now Ishbi-benob was pursuing them. When they reached Kubi<sup>37</sup> they said to [each other], 'Let us stand [and fight] against him.' [But they were still afraid, and proceeded further.] When they reached Bethre<sup>38</sup> they said, 'Can two whelps kill a lion?'<sup>39</sup> So they taunted him, 'Go and find thy mother Orpah in the grave.' On their mentioning his mother's name to him<sup>40</sup> his strength failed, and they slew him. Hence it is written, Then the men of David swore unto him, saying, Thou shalt no more go out with us unto battle, that thou quench not the light of Israel.<sup>41</sup>

Our Rabbis taught: For three did the earth shrink: Eliezer, Abraham's servant, our father Jacob, and Abishai the son of Zeruah. Abishai the son of Zeruah, as has just been narrated. Eliezer, Abraham's servant, as it is written, And I came this day unto the well,<sup>42</sup> implying that he had set out on that day.<sup>43</sup> Our father Jacob,

(1) 'O poor' ענייה, is thus derived from ענה, to answer, and thence to prophesy.

(2) Jer. I, 1. Thus viii, ix, and x must be deducted. The Talmud objects further that in that case there are less than ten, but it first questions the identification of laish with Nebuchadnezzar.

(3) In Jer. IV, 7.

- (4) Gen. XLIX, 9.
- (5) Judges XIV, 5.
- (6) Gen. *ibid.*
- (7) Isa. XXX, 6.
- (8) Ps. XCI, 13.
- (9) Job XXVIII, 8.
- (10) Isa. X, 32.
- (11) When the priests of Nob were massacred (I Sam. XXII, 17-19). God set a term for punishment, of which that day was the last. The verse is thus interpreted: 'That day yet remained (of the fixed term) on which(Sennacherib) might stand (against Jerusalem) on account of Nob.'
- (12) These are the ten marches referred to above.
- (13) Lit., 'the might of my hand.'
- (14) Zion was one of the hills-which is a matter of dispute-upon which Jerusalem was built. By a synecdoche, it is often, though not here, used for Jerusalem itself.
- (15) Lit., 'stretch forth a hand against it.'
- (16) So Jast., whose reading differs slightly from our text. Rashi: Bring you each a portion of the wall, i.e., any weak stone you may find which can easily be dislodged. [Another rendering: Bring me as much mortar as is necessary to seal a letter (v. Levy, s. v. גולמהרג)].
- (17) II Kings XIX, 35.
- (18) I.e., what is not done immediately may never be done.
- (19) II Sam. XXI, 16.
- (20) As an avenger, Ish = a man.
- (21) When David, on his flight from Saul, received succour in Nob, (I Sam. XXI.) he was seen there by Doeg the Edomite. On the latter's reporting this to Saul, he slew all the priests of Nob for treason (Ibid. XXII, 17-19), Doeg being his instrument. For this Doeg was banished from his portion in the future world (the phrase may also mean lost his life — נטרד מן העולם; v. II Sam. I, 2; Pesik. ed. Buber III, 28b) and the defeat and death of Saul and his three sons at Mount Gilboa (I Sam. XXX, 1, 6) was a punishment for the same. Thus all this was indirectly caused by David.
- (22) Lit., 'thy seed to cease'.
- (23) The name of a place (Rashi). Other interpretations: 'to fill up breaches'; ['to limit', the word being a composite: 'net and falcon' (Levy)].
- (24) Ps. XVIII, 37.
- (25) David's sister's son, and brother of Joab, and one of the captains of David's army.
- (26) A gribah = one se'ah.
- (27) Lit., 'The Assembly of Israel.'
- (28) Ibid. LXVIII, 14; v. Ber. 53b.
- (29) V. *supra* 22a.
- (30) Hoping that the animal's instinct would lead it to its master.
- (31) That he might cover the distance quickly.
- (32) Pretending that it had merely fallen out of her hand.
- (33) The alternative mentioned above.
- (34) [Juvenal, Saturnalia, 6,542. alludes to the Jews selling wax-candles in Rome. V. Ginzberg, Legends. VI, 264, n. 87.]
- (35) II Sam. XXI, 17.
- (36) At some distance from where Ishbi stood (Rashi).
- (37) A town near the border. [Horowitz, Palestine, p. 158 identifies it with El-Kabbu S.W. of Bethar.]
- (38) Bethar, where the last stand in the Bar Cochba revolt was made (Neubauer, op. cit. 103).
- (39) Surely not; i.e., 'we are too weak, even combined, to slay him.' The remark was suggested by the place name Bethre, which means 'by two', as previously 'let us arise' — קום בי — was suggested by קובי.
- (40) I.e., that she was dead.
- (41) Ibid.
- (42) Gen. XXIV, 42.
- (43) Since the journey could not be normally done in a day, the earth must have shrunk for him.



## Talmud - Mas. Sanhedrin 95b

as it is written, And Jacob went out from Beer-sheba, and went to Haran;<sup>1</sup> which is followed by and he lighted upon a certain place, and tarried there all night, because the sun was set.<sup>2</sup> For when he reached Haran, he said [to himself], 'Shall I have passed through a place in which my fathers prayed, without doing so likewise!' He wished therefore to return, but no sooner had he thought of this than the earth contracted, and immediately he lighted upon a place [the objective of his journey]. An alternative exegesis is this: Pegi'ah<sup>3</sup> can only mean prayer, as it is written, Therefore pray thou not for this people, neither lift up cry nor prayer for them, neither make intercession<sup>4</sup> to me.<sup>5</sup>

And tarried there all night, because the sun was set. Having prayed, he wished to proceed: thereupon the Holy One, blessed be He, said: This righteous man has come to my habitation:<sup>6</sup> shall he depart without a night's rest? Immediately the sun set [before its time].<sup>7</sup> Hence it is written, [And as he passed over Penuel,] the sun rose for him.<sup>8</sup> Now, had the sun risen for him alone: surely it had risen for the whole world! But, said R. Isaac, the sun which had [prematurely] set on his account, now rose [prematurely] on his account too.

Now, whence do we know that David's seed ceased?<sup>9</sup> — From the verse, And when Athaliah the mother of Ahaziah saw that her son was dead, she arose and destroyed all the seed royal.<sup>10</sup> But was not Joash left? — There too Abiathar was left, as it is written, And one of the sons of Ahimelech the son of Ahitub, named Abiathar, escaped.<sup>11</sup> Rab Judah said in Rab's name: Had not Abiathar been left of Ahimelech the son of Ahitub, not the slightest remnant<sup>12</sup> would have remained of David's seed.

Rab Judah said in Rab's name: The wicked Sennacherib advanced against them<sup>13</sup> with a force consisting of forty-five thousand princes, each enthroned in a golden chariot and accompanied by his ladies and harlots, eighty thousand warriors in coat-of-mail, and sixty thousand swordsmen of the front line, the rest cavalymen. A similar host attacked Abraham,<sup>14</sup> and a like force will accompany Gog and Magog.<sup>15</sup> In the Baraitha it was taught: The length of his army was four hundred parasangs, the horses standing neck to neck formed a line forty parasangs long, and the grand total of his army two million, six hundred thousand less one. Abaye inquired: Less one ribbo [ten thousand], one thousand, one hundred, or one? The question stands over.

A Tanna taught: The first company swam across, as it is written, he shall overflow and go over;<sup>16</sup> the second walked across,<sup>17</sup> as it is written, he shall reach even to the neck; the third cast up the dust [of the river bed] with their feet and found no water in the river to drink, until it was brought from elsewhere and they drank, as it is written, I have digged, and drunk water.<sup>18</sup>

But is it not written, Then the angel of the Lord went forth, and smote in the camp of the Assyrians an hundred and fourscore and five thousand: and when they arose early in the mornings behold, they were all dead corpses?<sup>19</sup> — R. Abbahu replied: These were the army captains. R. Ashi said: This may be deduced too, for it is written, [Therefore shall the Lord . . . send] among his fat ones leanness,<sup>20</sup> meaning, amongst the cream [i.e., the leaders] of them. Rabina said: This may be also deduced, for it is written, And the Lord sent an angel, which cut off all the men of valour, and the leaders and the princes in the camp of the king of Assyria. So he returned with shamefacedness to his own land. And when he entered into the house of his god, they that came forth of his own bowels slew him there with the sword.<sup>21</sup> This proves it.

Wherewith did he [the angel] smite them? — R. Eliezer said: He smote them with his hand, as it is written, And Israel saw the great hand,<sup>22</sup> implying the hand that was destined to exact vengeance of Sennacherib.<sup>23</sup> R. Joshua said: He smote them with his finger, as it is written, Then the magicians said unto Pharaoh, This is the finger of God,<sup>24</sup> implying this is the finger destined to punish Sennacherib. R. Eliezer, the son of R. Jose, said: The Holy One, blessed be He, said to Gabriel, 'Is

thy sickle sharpened [to mow down the Assyrians]?’ He replied: ‘Sovereign of the Universe! It has been sharpened since the Six days of Creation’, as it is written, For they fled from the swords, from the sharpened sword etc.<sup>25</sup> R. Simeon b. Yohai said: It was the time for the ripening of fruits, so the Holy One, blessed be He, said to Gabriel, ‘When thou goest forth to ripen the fruits,<sup>26</sup> attack them, as it is written, As he passeth<sup>27</sup> he shall take you:’ for morning by morning shall he pass by, by day and by night, and it shall be a sheer terror to understand the report.’<sup>28</sup> R. Papa said: Thus people say, ‘In passing, reveal thyself to thine enemy.’<sup>29</sup>

Others say: He [Gabriel] breathed into their nostrils, and they died, as it is written, and he shall also blow upon them, and they shall wither.<sup>30</sup> R. Jeremiah b. Abba said: He smote his hands at them, and they died, as it is written, I will also smite mine hands together, and I will cause my fury to rest.<sup>31</sup> R. Isaac the Smith said: He unsealed their ears for them, so that they heard the Hayyoth<sup>32</sup> sing [praises to God] and they died, as it is written, at thine exaltation the people were scattered.<sup>33</sup>

Now how many were left of them. [sc. the Assyrians host]? — Rab said: Ten, as it is written, And the rest of the trees of his forest shall be few, that a child may write them:<sup>34</sup> What figure can a child write? — Ten.<sup>35</sup> Samuel said: Nine [were left], as it is written, yet gleaning grapes shall be left in it, as the shaking of an olive tree, two and three berries in the top of the uppermost bough, four and five in the utmost fruitful branches thereof.<sup>36</sup> R. Joshua b. Levi said: Fourteen, as it is written, two, three . . . four five.<sup>37</sup> R. Johanan said: Five, viz., Sennacherib and his two sons, Nebuchadnezzar and Nebuzaradan. [That] Nebuzaradan [survived] is a tradition. Nebuchadnezzar, as it is written, And the form of the fourth is like an angel of God:<sup>38</sup> Had he not seen [an angel], how did he know [his appearance]?<sup>39</sup> Sennacherib and his two sons, as it is written, And it came to pass, as he was worshipping in the house of Nisroch his god, that Adrammelech and Sharezer his sons smote him with the sword.<sup>40</sup>

R. Abbahu said: Were not the [following] verse written, it would have been impossible to conceive of it: viz., In the same day shall the Lord shave with a razor that is hired, namely, by the riverside, by the king of Assyria, the head, and the hair of the feet: and it shall consume the beard.<sup>41</sup> The Holy one, blessed be He, went and appeared before him [Sennacherib] as an old man, and said to him, ‘When thou goest to the kings of the east and the west, whose sons thou didst lead [to battle]<sup>42</sup> and cause their death, what wilt thou say to them?’ He replied, ‘I<sup>43</sup> too entertain that fear. What then shall I do?’ asked he. ‘Go,’ He replied,

(1) Ibid. XXVIII, 10.

(2) Ibid. 11. The first verse implies that he had reached Haran, the second that he had not. The Talmud therefore proceeds to reconcile the discrepancy.

(3) פגיעה, the root idea of ויפגע ‘he lighted upon’.

(4) תפגע.

(5) Jer. VII, 16. Rashi, in his teacher's name, and the Wilna Gaon both delete the passage ‘an alternative . . . me’ as being out of place here.

(6) According to tradition, he was on the future site of the Temple.

(7) This exegesis is based on the use of the plus perfect **בא**, instead of the continuous imperfect **בא**, which is interpreted as implying that its setting was premature.

(8) Ibid. XXXII, 32.

(9) Since David reversed his prayer; v. supra 95a.

(10) II Kings XI, 1.

(11) I Sam. XXII, 20. Since the cessation of David's seed was in expiation of the crime against the city of Nob, it was but just that as one had escaped on that occasion, so should one now too be saved.

(12) Lit., ‘one that escaped or remained.’

(13) The Israelites in the days of Hezekiah.

(14) On the occasion of his pursuit of the four kings. (Gen. XIV).

- (15) V. p. 630, n. 6.
- (16) Isa. VIII, 8.
- (17) Lit., 'passed over in an upright position.'
- (18) Ibid. XXXVII, 25. The passage of the first company, effected by swimming, so diminished the water of the river that the second had to walk across, while the second thoroughly emptied it, leaving it quite dry.
- (19) Ibid. 36, proving that this was the size of the army.
- (20) Ibid. X, 16.
- (21) II Chron. XXXII, 21. This is another proof that the reference is only to the leaders.
- (22) Ex. XIV, 31.
- (23) This is deduced from the def. art.
- (24) Ibid. VIII, 14.
- (25) Isa. XXI, 15.
- (26) Gabriel being the angel in charge of this.
- (27) On his mission of ripening the fruits.
- (28) Ibid. XXVIII, 19.
- (29) Lit., 'on the way make thyself heard by the enemy,' i.e., take revenge when the opportunity is afforded.
- (30) Ibid. XL, 24.
- (31) Ezek. XXI, 22.
- (32) [The celestial 'living creatures' mentioned in Ezekiel's mystic vision; v. Ezek. I and X.]
- (33) Isa. XXXIII, 3. The first half of the verse reads, At the noise of the tumult the people fled. 'Tumult' is taken to refer to the song of the Hayyoth in their 'exaltation' of the Lord.
- (34) Ibid. X, 19.
- (35) [A yod<sup>ו</sup>], being formed by a mere stroke of the pen, is the easiest letter for a child to write.]
- (36) Ibid. XVII, 6. This is rendered: 'just as after the shaking of an olive tree there may remain two olives here and three there, so shall there be left of the army four here and five there-nine in all.'
- (37) Interpreting, 'two here, three there, four here, five there- fourteen in all.'
- (38) Dan. III, 25.
- (39) Hence he must have been present when Gabriel destroyed the army. — The speaker is Nebuchadnezzar.
- (40) II Kings XIX, 37. It is assumed that they all must have been in the army before Jerusalem.
- (41) Isa. VII, 20.
- (42) V. supra.
- (43) Lit., 'that man', frequently employed euphemistically for I'.

## Talmud - Mas. Sanhedrin 96a

'and disguise thyself'. 'How shall I disguise myself?' 'Bring me a razor, and I myself will shave thee'. He answered. 'Whence shall I procure it?' 'Enter that house and take it', He rejoined. So he went and found it there. But the Ministering angels appeared to him in the shape of men grinding palm kernels. 'Give me the razor,' said he. 'Grind a griwah<sup>1</sup> of palm kernels,' they replied, 'and we will give it thee'. So he ground a griwah of palm kernels, and they gave him the razor. By the time he returned, it had become dark. 'Go and bring some fire', He ordered. So he went and brought fire. Whilst he was blowing it [into a blaze], it caught hold of his beard, whereupon He shaved off the hair of his head together with his beard.<sup>2</sup> They [sc.' the scholars] said: That is what is meant by the phrase, and it shall also consume the beard.<sup>3</sup> R. Papa said: Thus men say, If thou art singeing [the hair of] an Aramean, and he is pleased therewith, set light to his beard; so wilt thou not suffer his mockery.<sup>4</sup> He then went away and found a plank of Noah's ark. 'This', said he, 'must be the great God who saved Noah from the flood. If I<sup>5</sup> go [to battle] and am successful, I will sacrifice my two sons to thee', he vowed. But his sons heard this, so they killed him, as it is written, And it came to pass, as he was worshipping in the house of Nisroch his god, that Adrammelech and Sharezer his sons smote him with the sword etc.<sup>6</sup>

And he fought against them, he and his servants, by night [lailah]<sup>7</sup> and smote them.<sup>8</sup> R. Johanan

said: The angel who was appointed to [aid] Abraham was named Lailah [Night]. as it is written, [Let the day perish wherein I was born], and the Lailah which said, There is a man child conceived.<sup>9</sup> R. Isaac, the smith, said: He [the angel] set into motion the activities of the night [viz.. the stars] on his behalf, as it is written, They fought from heaven; the stars in their courses fought against Sisera.<sup>10</sup> Resh Lakish said: The smith's interpretation is better than the son of the smith's.<sup>11</sup> And he pursued them unto Dan.<sup>12</sup> R. Johanan said: As soon as that righteous man came unto Dan, his strength failed him, for he [prophetically] saw his descendants who would practise idolatry in Dan, as it is written, And he set the one in Beth-el, and the other put he in Dan.<sup>13</sup> That wicked man [Nebuchadnezzar] too did not prevail until he reached Dan, as it is written, The snorting of his horses was heard from Dan.<sup>14</sup>

R. Zera said: Though R. Judah b. Bathyra<sup>15</sup> sent a message from Nisibis,<sup>16</sup> [saying]. Observe [the respect due to] a scholar<sup>17</sup> who has forgotten his learning through a misfortune [e.g., illness]; and be careful [to cut] the jugular veins, in accordance with R. Judah's ruling;<sup>18</sup> and be heedful of the honour due to the children of the ignorant, for from them proceedeth the Torah:<sup>19</sup> yet such a thing as this is made known to them.<sup>20</sup> [Viz..] Righteous art thou, O Lord, when I plead with thee: Yet let me talk to thee of thy judgments: wherefore doth the way of the wicked prosper? Wherefore are all they happy that deal very treacherously? Thou hast planted them, yea, they have taken root: they grow, yea, they bring forth fruit.<sup>21</sup> What was he answered? — If thou hast run with the footmen, and they have wearied thee, then how canst thou contend with the horses? And if in the land of peace, wherein thou trustedst, they wearied thee, then how wilt thou do in the swelling of the Jordan?<sup>22</sup> This may be compared to a man who boasted, 'I can run three parasangs in front of horses on marshy land.' But happening to meet a pedestrian, he ran three miles<sup>23</sup> before him on dry land, and was exhausted. Thereupon he said to him: 'If thou art thus before a pedestrian, how much more so before horses: and if three miles have so [tired thee], how much more so three parasangs; and if on dry land it is thus, how much more so on marshy swamps!' It is even so with thee: if thou art thus astonished at the reward wherewith<sup>18</sup> requited that wicked man for the four steps which he ran in my honour,<sup>24</sup> how much more when I give their due reward to Abraham, Isaac, and Jacob, who ran before me like horses [i.e., eagerly and swiftly]! Hence it is written, My heart within me is broken because of the prophets;<sup>25</sup> all my bones shake; I am like a drunken man, and like a man whom wine hath overcome; because of the Lord, and because of the words of his holiness.<sup>26</sup>

To what does the 'four steps' refer? — As it is written, At that time, Merodach-baladan, the son of Baladan, king of Babylon, sent letters and a present to Hezekiah: [for he had heard that he had been sick, and was recovered].<sup>27</sup> But just because Hezekiah had fallen sick and was recovered, he sent him letters and a present!<sup>28</sup> Indeed 'to enquire of the wonder that was done in the land.'<sup>29</sup> For R. Johanan said: The day on which Ahaz died consisted of but two hours;<sup>30</sup> and when Hezekiah sickened and recovered, the Holy One, blessed be He, restored those ten hours, as it is written, Behold, I will bring again the shadow of the degrees, which is gone down in the sun dial of Ahaz, ten degrees backward. So the sun returned ten degrees, by which degrees it was gone down.<sup>31</sup> Thereupon he [Merodach-baladan] inquired of them [his courtiers], 'What is this?' They replied, 'Hezekiah has sickened and recovered.' 'There is such a [great] man,' exclaimed he, 'and shall I not send him a greeting! Write thus to him: "Peace to King Hezekiah, peace to the city of Jerusalem, and peace to the great God!"' Now Nebuchadnezzar was Baladan's scribe, but just then he was not present. When he came, he asked them, 'How did ye write?' And they told him, 'We wrote thus and thus.' 'Ye called him the great God,' said he, 'yet ye mentioned him last! Thus,' said he, 'should ye have written: "peace to the great God, peace to the city of Jerusalem, and peace to King Hezekiah."' 'Let the reader of the letter,' said they to him, 'become the messenger.'<sup>32</sup> So he ran after him;<sup>33</sup> but when he had taken four steps, Gabriel came and made him halt. R. Johanan observed: Had not Gabriel come and stopped him, nothing could have saved<sup>34</sup> the enemies of Israel.<sup>35</sup>

Why was he called [Merodach-]Baladan the son of Baladan?<sup>36</sup> It is told: Baladan was a king

whose face turned into that of a dog,<sup>37</sup> so that his son sat upon his throne instead. In his documents he wrote his own name, and the name of his father, King Baladan, [i.e., Merodach-baladan]. This is the meaning of the verse, A son honoureth his father, and a servant his master.<sup>38</sup>

Now, 'a son honoureth his father' refers to what has just been said. 'And a servant his master' — as it is written, Now in the fifth month, in the tenth day of the month, which was the nineteenth year of Nebuchadnezzar, king of Babylon, came Nebuzaradan, captain of the guard, and stood before the king of Babylon in Jerusalem, And burned the house of the Lord, and the king's house.<sup>39</sup>

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- (1) A dry measure: the quantity put in one time into a handmill.
- (2) Thus he was shaved with a razor hired by his own work, a work which is done 'by the riverside', viz., grinding, the water providing power for the mill.
- (3) 'Consume' not being applicable to the action of a razor, something else must be intended, viz., the fire.
- (4) I.e., even when he is pleased with a Jew, he is still a potential source of danger.
- (5) V. p. 646, n. 6.
- (6) II Kings XIX, 37.
- (7) לִיָּהּ
- (8) Gen. XIV, 15.
- (9) Job III, 3 the verse is translated: And Lailah fought on their behalf; he (Abraham) and his etc.
- (10) Judges V, 20; thus, just as there, so here too.
- (11) So Rashi, assuming that R. Johanan was the son of a smith. But Bar Nappaha may simply mean a smith (Jast.); R. Johanan was so occasionally dubbed; e.g., B.M. 85b. Rashi also suggests that the name may allude to his beauty. In that case נִפְיָהּ may be understood, the sense being, inflaming one's desires.
- (12) Gen. XIV, 14.
- (13) I Kings XII, 29. The reference is to the golden calves set up by Jeroboam.
- (14) Jer. VIII, 16.
- (15) Var. lec., R. Joshua b. Levi; but v. next note.
- (16) Nisibis was on the frontier of Armenia, not far from Mesopotamia. There R. Judah b. Bathyra had his school. (V. supra, 32b — this fact supports the reading of our text.)
- (17) Lit., 'elder,' but generally used of a mature scholar.
- (18) When a fowl is slaughtered, the jugular vein, which contains much blood, must be cut too; otherwise the fowl may not be roasted whole. This is R. Judah's opinion.
- (19) Though the fathers may be unlearned, the children, if scholars, must be duly respected, for they may be the forebears of great scholars, as is evidenced by Shemaiah and Abtalion who were the descendants of Sennacherib (Rashi); v. infra 96b.
- (20) The reference is not quite clear. Rashi gives two alternatives: (i) They are honoured on account of the slight merit which their father possessed; or (ii) they are honoured solely on account of their learning, not their ancestry, lest they forget their ignoble origin.
- (21) Jer. XII, 1f. The question refers to Nebuchadnezzar's military successes, particularly in Palestine.
- (22) Ibid, 5.
- (23) Mil=1/4 parasang.
- (24) The allusion is explained further on.
- (25) I.e., Abraham, Isaac and Jacob: I am filled with wonderment at the magnitude of their reward. Maharsha explains this more naturally: My heart is broken because of the false prophets, who assure Israel that Nebuchadnezzar will not meet with success in Palestine, being a greater sinner than the Jews. But that is a false hope: he shall be rewarded with victory on account of the four steps which he ran in God's honour.
- (26) Ibid. XXIII, 9.
- (27) Isa. XXXIX, 1.
- (28) Surely not!
- (29) II Chron. XXXII, 31.
- (30) I.e., it set ten hours too soon, to allow of no time for the funeral obsequies and eulogies. This was in order to make atonement for his sins, for the disgrace of being deprived of the usual funeral honours expiates one's misdeeds, as stated

supra 46b and 47a.

(31) Isa. XXXVIII, 8. The return of the ten degrees is assumed to mean a prolongation of the day by ten hours, light having healing powers.

(32) I.e., let him who gave the advice carry it out.

(33) I.e., the messenger, who was already on his way, to recall him and rewrite it.

(34) Lit., 'there would have been no remedy for . . .

(35) A euphemism for the Jews themselves. Had he run further and actually carried out his desire, his title to reward would have been so great as to enable him to wipe out Israel. The scholarly children of the ignorant — a synonym here for the wicked — should thus be informed that the honour paid to them is due to the slight merit of their fathers, as in this case.

(36) It being unusual for father and son to bear the same name.

(37) [In Assyrian-Babylonian Monuments there are to be seen dogs in the company of Merodach, and this is very likely an explanation of this conception of Baladan's dog-face; v. Ginzberg, Legends, VI, 368, 82.]

(38) Mal. I, 6.

(39) Jer. LII, 12f.

## Talmud - Mas. Sanhedrin 96b

But had Nebuchadnezzar gone up to Jerusalem? Surely it is written, They carried him up unto the King of Babylon to Riblah,<sup>1</sup> and R. Abbahu said that this was Antioch? — R. Hisda and R. Isaac b. Abudimi [replied as follows] — One answered: His [Nebuchadnezzar's] portrait was engraved on his [Nebuzaradan's] chariot; and the other explained: He stood in such awe before him that it is as though he were in his presence.<sup>2</sup>

Raba said: Nebuchadnezzar sent Nebuzaradan three hundred mules laden with iron axes that could break iron,<sup>3</sup> but they were all shattered<sup>4</sup> on a single gate of Jerusalem, for it is written, And now they attack its gate [lit., 'door'] together: with axes and hammers they smite.<sup>5</sup> He desired to return, but said, 'I am afraid lest I meet the same fate which befell Sennacherib.'<sup>6</sup> Thereupon a voice cried out, 'Thou leaper, son of a leaper, leap, Nebuzaradan, for the time has come for the Sanctuary to be destroyed and the Temple burnt.' He had but one axe left, so he went and smote [the gate] with the head thereof, and it opened, as it is written, A man was famous according as he had lifted up axes upon the thick trees.<sup>7</sup> He hewed down [the Jews] as he proceeded, until he reached the Temple. Upon his setting fire thereto, it sought to rise up, but was trodden down<sup>8</sup> from Heaven, as it is written, The Lord hath trodden down the virgin daughter of Judah [the Temple] as in a winepress.<sup>9</sup> His mind was now elated [with his triumph], when a voice came forth from Heaven saying to him, 'Thou hast slain a dead people, thou hast burned a Temple already burned, thou hast ground flour already ground, as it is written, Take the millstones, and grind meal: uncover thy locks, make bare the leg, uncover the thigh, pass over the rivers:'<sup>10</sup> not 'wheat' but meal is said.<sup>11</sup>

[After that] he saw the blood of Zechariah<sup>12</sup> seething. 'What is this?' cried he. 'It is the blood of sacrifices, which has been spilled,' they answered. 'Then,' said he, 'bring [some animal blood] and I will compare them, to see whether they are alike.' So he slaughtered animals and compared them, but they were dissimilar. 'Disclose [the secret] to me, or if not, I will tear your flesh with iron combs,' he threatened. They replied: 'This is [the blood of] a priest and a prophet, who foretold the destruction of Jerusalem to the Israelites, and they killed him.' 'I,' said he, 'will appease him.' So he brought the scholars and slew them over him,<sup>13</sup> yet it did not cease [to boil]. He brought schoolchildren and slew them over him, still it did not rest; he brought the young priests and slew them over him, and still it did not rest, until he had slain ninety four thousand, and still it did not rest. Whereupon he approached him and cried out, 'Zechariah, Zechariah, I have destroyed the flower of them: dost thou desire me to massacre them all?' Straightway it rested. Thoughts of repentance came into his mind: if they, who killed one person only, have been so [severely punished], what will be my fate? So he fled, sent his testament to his house, and became a proselyte.

Our Rabbis taught: Naaman was a resident alien,<sup>14</sup> Nebuzaradan was a righteous proselyte,<sup>15</sup> the descendants of Sisera studied Torah in Jerusalem; the descendants of Sennacherib taught Torah to the multitude: Who were these? — Shemaiah and Abtalion.<sup>16</sup> The descendants of Haman studied Torah in Benai Berak. The Holy One, blessed be He, purposed to lead the descendants of that wicked man<sup>17</sup> too under the Wings of the Shechinah,<sup>18</sup> but the ministering Angels protested before Him, ‘Sovereign of the Universe! Shalt Thou bring him under the wings of the Shechinah who laid Thy House in ruins, and burnt Thy Temple?’ That is meant by the verse, We would have healed Babylon, but she is not healed.<sup>19</sup> ‘Ulla said: This refers to Nebuchadnezzar;<sup>20</sup> R. Samuel b. Nahmani said: By this are meant the rivers of Babylon<sup>21</sup> which run along the palm-trees of Babylonia.<sup>22</sup> ‘Ulla said: Ammon and Moab were evil neighbours of Jerusalem. As soon as they heard the prophets predicting the destruction of Jerusalem, they sent to Nebuchadnezzar, ‘Leave [thy country] and come hither.’ He replied, ‘I am afraid lest I be treated as my predecessors. Thereupon they sent word, ‘For the man is not at home;<sup>23</sup> and ‘man’ refers only to the Holy One, blessed be He, as it is written, The Lord is a man of war.<sup>24</sup> He sent answer, ‘But he may be near, to which they returned, ‘He hath gone a long journey.’<sup>25</sup> He again sent word: ‘They have among them righteous men who may pray to Him and bring Him back.’ They answered, ‘He hath taken a bag of money with him;’<sup>26</sup> and ‘money’ refers to none but the righteous, as it is written, So I bought her to me for fifteen pieces of silver, and for an homer of barley, and an half homer of barley.<sup>27</sup> He sent back: ‘The wicked may repent, pray for mercy, and bring Him back.’ They answered, ‘He hath already fixed a time for them,’<sup>28</sup> as it is written, And will come home at the day appointed [ha-kese]<sup>29</sup> and ‘kese’ can only refer to time, as it is written, in the time appointed [ba-kese] on our solemn feast day.<sup>30</sup> He then sent word, ‘It is winter, and I cannot come on account of the approaching snows and rains.’ They replied, ‘Come by way of the mountains, [which will protect you];’<sup>31</sup> as it is written, Send ye a messenger to the ruler of the earth [i.e., Nebuchadnezzar] [that he may come] by way of the rocks [i.e., mountains] to the wilderness, [unto the mount of the daughter of Zion].<sup>32</sup> He sent back, ‘If I come, I have no place for encamping.’<sup>33</sup> They replied, ‘Their graveyards are better than thy palaces’; as it is written, At that time, saith the Lord, they shall bring out the bones of the King of Judah, and the bones of his princes, and the bones of the priests, and the bones of the prophets, and the bones of the inhabitants of Jerusalem, out of their graves: And they shall spread them before the sun, and the moon, and all the host of heaven, whom they have loved, and whom they have served, and after whom they have walked.<sup>34</sup>

R. Nahman said to R. Isaac: ‘Have you heard when Bar Nafle<sup>35</sup> will come?’ ‘Who is Bar Nafle?’ he asked. ‘Messiah,’ he answered, ‘Do you call Messiah Bar Nafle?’ — ‘Even so,’ he rejoined, ‘as it is written, in that day I will raise up

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(1) Ibid. 9.

(2) According to both answers the verse shews the singular honour which he paid him.

(3) Lit., ‘that has power over iron;’ to hew down the gate of Jerusalem.

(4) Lit., ‘swallowed up.’

(5) Ps. LXXIV, 6.

(6) Who was assassinated on his return from Jerusalem, II Kings XIX, 37.

(7) Ps. LXXIV, 5.

(8) I.e., forced down.

(9) Lam. I, 15.

(10) Isa. XLVII, 2.

(11) I.e., he had no cause for pride, for the destruction of Israel having been decreed, they were already as destroyed.

(12) Zechariah, the son of Jehoiada, was a priest who flourished during the reign of Joash, king of Judah. On account of his stern denunciation of idolaters a conspiracy was formed against him, and he was stoned in the Temple Court at the king's command — II Chron. XXIV, 20-22. In his dying words he called for vengeance. [V. however, Baeck, MGWJ, pp. 313ff.]

- (13) I.e., his blood.
- (14) One who renounces idolatry for the sake of certain rights of citizenship in Palestine.
- (15) One who accepts all the laws of Judaism with no ulterior motive.
- (16) The teachers of Hillel.
- (17) Nebuchadnezzar.
- (18) I.e., make them proselytes.
- (19) Jer. 21, 9.
- (20) That God desired his descendants to become proselytes.
- (21) Which are unfit for drinking purposes (v. Obermeyer, op. cit. 195). [The reference is to Ps. CXXXVII, 1; v. Strashun, a.l.]
- (22) [Which stand by the river's edge and bear no fruit. Thus Rashi on the basis of a slightly different reading. According to Obermeyer, op. cit. 295, following our text, it may be rendered thus: 'By this are meant the rivers of Babylonia which, as is explained, run along the palm trees of Babylon.' The water, that is to say, is rendered unfit for drinking purposes by reason of the salt it absorbs from the soil, as palm trees need salty ground for their cultivation.]
- (23) Prov. VII, 19.
- (24) Ex. XV, 3.
- (25) Prov. Ibid.
- (26) Ibid. 20.
- (27) Hos. III, 2: This is figuratively interpreted: I redeemed the Israelites from Egypt on the fifteenth of Nisan, in the merit of the forty five righteous men (a homer and a half is forty five se'ahs) by whose virtue the world exists (Hul. 92a). Thus 'silver', the price of redemption, is an allegorical reference to the righteous.
- (28) That He will not return to them until seventy years of exile have passed.
- (29) **סכסכ** Prov. Ibid.
- (30) Ps. LXXXI, 1, 3.
- (31) So Rashi. Jast. renders: 'Come, even if it be necessary to march over the cliffs and mountains.'
- (32) Isa. XVI, 1.
- (33) 'There is no sheltered place outside Jerusalem where I may encamp with my whole army.'
- (34) Jer. VIII, 1f. I.e., the great burial vaults will be cleaned to give shelter to Nebuchadnezzar's army.
- (35) [Lit., 'son of the fallen.' Bar Nafle is generally assumed to represent the Greek \*\*, the 'son of the clouds;' cf. Dan. VII, 13, there came with the clouds of heaven one like a son of man, which R. Nahman gave a Hebrew connotation.]

## Talmud - Mas. Sanhedrin 97a

the tabernacle of David ha-nofeleth [that is fallen].'<sup>1</sup> He replied, 'Thus hath R. Johanan said: in the generation when the son of David [i.e., Messiah] will come, scholars will be few in number, and as for the rest, their eyes will fail through sorrow and grief. Multitudes of trouble and evil decrees will be promulgated anew, each new evil coming with haste before the other has ended.'

Our Rabbis taught: in the seven year cycle at the end of which the son of David will come—in the first year, this verse will be fulfilled: And I will cause it to rain upon one city and cause it not to rain upon another city;<sup>2</sup> in the second, the arrows of hunger will be sent forth;<sup>3</sup> in the third, a great famine, in the course of which men, women, and children, pious men and saints<sup>4</sup> will die, and the Torah will be forgotten by its students; in the fourth, partial plenty;<sup>5</sup> in the fifth, great plenty, when men will eat, drink and rejoice, and the Torah will return to its disciples; in the sixth, [Heavenly] sounds;<sup>6</sup> in the seventh, wars; and at the conclusion of the septennate the son of David will come. R. Joseph demurred: But so many septennates have passed, yet has he not come! — Abaye retorted: Were there then [Heavenly] sounds in the sixth and wars in the seventh! Moreover, have they [sc. the troubles] been in this order<sup>7</sup> !

[Wherewith thine enemies have reproached, O Lord,' wherewith they have reproached the footsteps of thine anointed.]<sup>8</sup> it has been taught, R. Judah said: in the generation when the son of David comes, the house of assembly<sup>9</sup> will be for harlots, Galilee in ruins, Gablan lie desolate,<sup>10</sup> the



border inhabitants<sup>11</sup> wander about from city to city, receiving no hospitality, the wisdom of scribes in disfavour, God-fearing men despised, people<sup>12</sup> be dog-faced,<sup>13</sup> and truth entirely lacking, as it is written, Yea, truth faileth, and he that departeth from evil maketh himself a prey.<sup>14</sup> What is meant by 'yea, truth faileth [ne'edereth<sup>15</sup> ]'? — The Scholars of the School of Rab<sup>16</sup> said: This teaches that it will split up into separate groups<sup>17</sup> and depart.<sup>18</sup> What is the meaning of 'and he that departeth from evil maketh himself a prey [mishtollel<sup>19</sup> ]'? — The School of R. Shila said: He who departs from evil will be dubbed a fool by his fellow-men.<sup>20</sup>

Raba said: I used to think at first that there is no truth in the world.<sup>21</sup> Whereupon one of the Rabbis, by name of R. Tabuth — others say, by name of R. Tabyomi — who, even if he were given all the treasures of the world, would not lie, told me that he once came to a place called Kushta,<sup>22</sup> in which no one ever told lies, and where no man ever died before his time. Now, he married one of their women, by whom he had two sons. One day his wife was sitting and washing her hair, when a neighbour came and knocked at the door. Thinking to himself that it would not be etiquette [to tell her that his wife was washing herself], he called out, 'She is not here.' [As a punishment for this] his two sons died. Then people of that town came to him and questioned him, 'What is the cause of this?' So he related to them what had happened. 'We pray thee,' they answered, 'quit this town, and do not incite Death against us.'<sup>23</sup>

It has been taught: R. Nehorai said: in the generation when Messiah comes, young men will insult the old, and old men will stand before the young [to give them honour]; daughters will rise up against their mothers, and daughters-in-law against their mothers-in-law. The people shall be dog-faced, and a son will not be abashed in his father's presence.

It has been taught, R. Nehemiah said: in the generation of Messiah's coming impudence will increase, esteem be perverted,<sup>24</sup> the vine yield its fruit, yet shall wine be dear,<sup>25</sup> and the Kingdom will be converted to heresy<sup>26</sup> with none to rebuke them. This supports R. Isaac, who said: The son of David will not come until the whole world is converted to the belief of the heretics. Raba said: What verse [proves this]? it is all turned white: he is clean.<sup>27</sup>

Our Rabbis taught: For the Lord shall judge his people, and repent himself of his servants, when he seeth that their power is gone, and there is none shut up, or left:<sup>28</sup> the son of David will not come until denunciators are in abundance.<sup>29</sup> Another interpretation [of their power is gone]: until scholars are few. Another interpretation: until the [last] perutah has gone from the purse. Yet another interpretation: until the redemption is despaired of, for it is written, there is none shut up or left, as — were it possible [to say so] — Israel had neither Supporter nor Helper. Even as R. Zera, who, whenever he chanced upon scholars engaged thereon [I.e., in calculating the time of the Messiah's coming], would say to them: I beg of you, do not postpone it, for it has been taught: Three come unawares:<sup>30</sup> Messiah, a found article and a scorpion.<sup>31</sup>

R. Kattina said: Six thousand years shall the world exist, and one [thousand, the seventh], it shall be desolate, as it is written, And the Lord alone shall be exalted in that day.<sup>32</sup> Abaye said: it will be desolate two [thousand], as it is said, After two days will he revive us: in the third day, he will raise us up, and we shall live in his sight.<sup>33</sup>

It has been taught in accordance with R. Kattina: Just as the seventh year is one year of release in seven, so is the world: one thousand years out of seven shall be fallow, as it is written, And the Lord alone shall be exalted in that day,' and it is further said, A Psalm and song for the Sabbath day,<sup>34</sup> meaning the day that is altogether Sabbath —<sup>35</sup> and it is also said, For a thousand years in thy sight are but as yesterday when it is past.<sup>36</sup>

The Tanna debe Eliyyahu teaches: The world is to exist six thousand years. In the first two

thousand there was desolation;<sup>37</sup> two thousand years the Torah flourished,<sup>38</sup> and the next two thousand years is the Messianic era,<sup>39</sup>

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(1) Amos, IX, 11.

(2) *ibid.* IV, 7.

(3) I.e., not actual famine, but the first signs thereof, no one being completely satisfied.

(4) Lit., 'men on whose behalf miracles occur.' — Jast.

(5) Lit., 'plenty and no plenty'.

(6) Either Heavenly voices announcing the advent of Messiah, or the blasts of the great Shofar; cf. Isa. XXVII, 13.

(7) Though troubles and evil decrees have come in abundance, they were not in the order prescribed.

(8) Ps. LXXXIX, 52.

(9) Where scholars assemble.

(10) [Gaulan, E. of the Sea of Galilee and the upper Jordan].

(11) The Jews living by the borders of Palestine. אנשי גזית the men of (the Hall of) Hewn Stones, I.e., the Sanhedrin.

(12) Lit., 'the face of the generation.'

(13) I.e., brazen, without shame of each other.

(14) Isa. LIX, 15.

(15) נעדרת

(16) V. p. 387, n. 7.

(17) עדרים עדרים 'Adarim, 'adarim. נעדרת is connected with עדר, meaning 'drove,' 'group.'

(18) Probably meaning that there will be so many conflicting opinions as to what is the truth as to render it, for all practical purposes, inaccessible.

(19) משתולל

(20) Cf. Job XII, 17: He leadeth counsellors away spoiled (שולל) and maketh the judges fools. Sholal being parallel to 'fools', it bears the same connotation.

(21) I.e., no person always speaks the truth.

(22) Lit., 'truth'.

(23) Lit., 'against these men.'

(24) I.e., none shall esteem another. Another opinion: even the most esteemed shall be perverted and deceitful.

(25) Everyone will be drunk, so that in spite of the abundant yield, there will be a scarcity.

(26) [Heb. Minuth. By 'the Kingdom' is meant the Roman Empire, and the statement is a remarkable forecast by R. Nehemia (150 C.E.) of the conversion of Rome to Christianity under Constantine the Great in 313; v. however, Herford, Christianity in the Talmud, 207ff.]

(27) Lev. XIII, 13. This refers to leprosy: a white swelling is a symptom of uncleanness; nevertheless, if the whole skin is so affected, it is declared clean. So here too; when all are heretics, it is a sign that the world is about to be purified by the advent of Messiah.

(28) Deut. XXXII, 36.

(29) 'When he seeth that their power is gone' is interpreted as meaning that they will be at the mercy of informers; then God will judge his people — redeem them through the Messiah.

(30) Lit., 'when the mind is diverted.'

(31) Hence by thinking of him they were postponing his coming.

(32) Isa. II, 11.

(33) Hosea VI, 2: the 'two days' meaning two thousand years. Cf. Ps. XC, 4. quoted below.

(34) Ps. XCII, 1.

(35) I.e., the period of complete desolation.

(36) Ps. XC, 4; thus 'day' in the preceding verses means a thousand years.

(37) I.e., no Torah. It is a tradition that Abraham was fifty-two years old when he began to convert men to the worship of the true God; from Adam until then, two thousand years elapsed.

(38) I.e., from Abraham's fifty-second year until one hundred and seventy-two years after the destruction of the second Temple. This does not mean that the Torah should cease thereafter, but is mentioned merely to distinguish it from the next era.

(39) I.e., Messiah will come within that period.

## Talmud - Mas. Sanhedrin 97b

but through our many iniquities all these years have been lost.<sup>1</sup>

Elijah said to Rab Judah, the brother of R. Salia the pious: 'The world shall exist not less than eighty five jubilees,<sup>2</sup> and in the last jubilee the son of David will come.'<sup>3</sup> He asked him, 'At the beginning or at the end?'<sup>4</sup> — He replied, 'I do not know.' 'Shall [this period] be completed or not?'<sup>5</sup> - 'I do not know,' he answered. R. Ashi said: He spoke thus to him, 'Before that, do not expect him; afterwards thou mayest await him.'<sup>6</sup>

R. Hanan b. Tahlifa sent [word] to R. Joseph: I once met a man who possessed a scroll written in Hebrew in Assyrian characters.<sup>7</sup> I said to him: 'Whence has this come to thee?' He replied, 'I hired myself as a mercenary in the Roman army, and found it amongst the Roman archives. In it is stated that four thousand, two hundred and thirty<sup>8</sup> -one years after the creation the world will be orphaned.<sup>9</sup> [As to the years following,] some of them will be spent in the war of the great sea monsters,<sup>10</sup> and some in the war of Gog and Magog, and the remaining [period] will be the Messianic era, whilst the Holy One, blessed be He, will renew his world only after seven thousand years.' R. Abba the son of Raba said: The statement was after five thousand years.

It has been taught; R. Nathan said: This verse pierces and descends to the very abyss:<sup>11</sup> For the vision is yet for an appointed time, but at the end it shall speak, and not lie: though he tarry, wait for him; because it will surely come, it will not tarry.<sup>12</sup> Not as our Masters, who interpreted the verse, until a time and times and the dividing of time;<sup>13</sup> nor as R. Simlai who expounded, Thou feedest them with the bread of tears; and givest them tears to drink a third time;<sup>14</sup> nor as R. Akiba who expounded, Yet once, it is a little while, and I will shake the heavens, and the earth:<sup>15</sup> but the first dynasty [sc. the Hasmonean] shall last seventy years, the second [the Herodian], fifty two, and the reign of Bar Koziba<sup>16</sup> two and a half years.<sup>17</sup>

What is meant by 'but at the end it shall speak [we-yafeah] and not lie?' — R. Samuel b. Nahmani said in the name of R. Jonathan: Blasted be<sup>18</sup> the bones of those who calculate the end.<sup>19</sup> For they would say, since the predetermined time has arrived, and yet he has not come, he will never come. But [even so], wait for him, as it is written, Though he tarry, wait for him. Should you say, We look forward [to his coming] but He does not: therefore Scripture saith, And therefore will the Lord wait, that he may be gracious unto you, and therefore will he be exalted, that he may have mercy upon you.<sup>20</sup> But since we look forward to it, and He does likewise, what delays [his coming]? — The Attribute of Justice delays it.<sup>21</sup> But since the Attribute of Justice delays it, why do we await it? — To be rewarded [for hoping], as it is written, blessed are all they that wait for him.<sup>22</sup>

Abaye said: The world must contain not less than thirty-six righteous men in each generation who are vouchsafed [the sight of] the Shechinah's countenance, for it is written, Blessed are all they that wait lo<sup>23</sup> [for him]; the numerical value of 'lo' is thirty-six. But that is not so, for did not Raba say: The row [of righteous men immediately] before the Holy One, blessed be He, consists of eighteen thousand,<sup>24</sup> for it is written, it shall be eighteen thousand round about?<sup>24</sup> — That is no difficulty: the former number [thirty-six] refers to those who see Him through a bright speculum, the latter to those who contemplate him through a dim one.<sup>25</sup> But are there as many? Did not Hezekiah say in the name of R. Jeremiah on the authority of R. Simeon b. Yohai: I have seen the sons of heaven,<sup>26</sup> and they are but few; if there are a thousand, I and my son are included; if a hundred, I and my son are included; and if only two, they are myself and my son? — There is no difficulty: the former number [thirty-six] refers to those who enter [within the barrier to contemplate the Shechinah] with permission; the latter [uncertain number] to those who may enter without permission.

Rab said: All the predestined dates [for redemption] have passed, and the matter [now] depends only on repentance and good deeds. But Samuel maintained: it is sufficient for a mourner to keep his [period of] mourning.<sup>27</sup> This matter is disputed by Tannaim: R. Eliezer said: if Israel repent, they will be redeemed; if not, they will not be redeemed. R. Joshua said to him, if they do not repent, will they not be redeemed! But the Holy One, blessed be He, will set up a king over them, whose decrees shall be as cruel as Haman's, whereby Israel shall engage in repentance, and he will thus bring them back to the right path.<sup>28</sup> Another [Baraita] taught: R. Eliezer said: if Israel repent, they will be redeemed, as it is written, Return, ye backsliding children, and I will heal your backslidings.<sup>29</sup> R. Joshua said to him, But is it not written, ye have sold yourselves for naught; and ye shall be redeemed without money?<sup>30</sup> Ye have sold yourselves for naught, for idolatry; and ye shall be redeemed without money — without repentance and good deeds. R. Eliezer retorted to R. Joshua, But is it not written, Return unto me, and I will return unto you?<sup>31</sup> R. Joshua rejoined — But is it not written, For I am master over you: and I will take you one of a city, and two of a family, and I will bring you to Zion?<sup>32</sup> R. Eliezer replied, But it is written, in returning and rest shall ye be saved.<sup>33</sup> R. Joshua replied, But is it not written, Thus saith the Lord, The Redeemer of Israel, and his Holy One, to him whom man despiseth, to him whom the nations abhorreth, to a servant of rulers,

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- (1) He should have come at the beginning of the last two thousand years; the delay is due to our sins.  
(2) Of fifty years.  
(3) [Messiah. The belief in his Davidic descent is already mentioned in the Psalms of Solomon XVII, 21.]  
(4) Of the last fifty years.  
(5) I.e., if at the end of the jubilee, shall it be at the beginning of the fiftieth year or at the end thereof?  
(6) He will certainly not come before then, but may delay a long time afterwards.  
(7) The square character of Hebrew letters is so called on account of the great resemblance it bears to Aramaic writing, the name Assyria being here used in the widest sense to include the countries on the Mediterranean inhabited by the Arameans; v. supra, 22b and 22a and notes.  
(8) So the Wilna Gaon; v. A.Z. 9b; our editions have ninety.  
(9) In great distress, as an orphan who has none to take care of him.  
(10) Maharsha explains this as a figurative reference to the great nations.  
(11) Just as the bottom of an abyss cannot be reached, so is it impossible to grasp the full purport of this verse (Rashi).  
(12) Hab. II, 3.  
(13) Dan. VII, 25.  
(14) Ps. LXXX, 6.  
(15) Hag. II, 6.  
(16) V. p. 627, n. 4.  
(17) The verses cited from Daniel, the Psalms, and Haggai were interpreted so as to give a definite date for the advent of the Messiah. R. Nathan however, on the authority of Hab. II, 3, asserts that all such calculations are false. The three verses refer to the Hasmonean, Herodian, and Bar Koziba's reign, but the advent of Messiah is unknowable, Rashi.  
(18) **יִפּוֹחַ** The verse is rendered, 'he will blast him who calculated the end.'  
(19) I.e., Messiah's advent.  
(20) Isa. XXX, 18.  
(21) I.e., because we are not yet worthy of it.  
(22) Ibid.  
(23) **לֵךְ**  
(24) Maharsha deletes **פָּרָסָא**, parasang. (12) Ezek. XLVIII, 35.  
(25) Only thirty-six see Him with absolute clarity. The others receive a clouded vision of Him.  
(26) I.e., those who enjoy the sight of the Shechinah in the hereafter.  
(27) Israel's sufferings in the Galuth in themselves sufficiently warrant their redemption, regardless of repentance.  
(28) [in the Jerushalmi, the last sentence, 'But the Holy . . . right path' is given as R. Eliezer's reply to R. Joshua.]  
(29) Jer. III, 22.  
(30) Isa. LII, 3.

(31) Mal. III, 7.

(32) Jer. III, 14: 'master over you' implies even against your wishes — i.e., without repentance of the whole nation (Rashi).

(33) Isa. XXX, 15.

### **Talmud - Mas. Sanhedrin 98a**

Kings shall see and arise, princes also shall worship?<sup>1</sup> R. Eliezer countered, But is it not written, if thou wilt return,<sup>2</sup> O Israel, saith the Lord, return unto me?<sup>3</sup> R. Joshua answered, But it is elsewhere written, And I heard the man clothed in linen, which was upon the waters of the river, when he held up his right hand and his left hand unto heaven, and swore by him that liveth for ever that it shall be for a time, times and a half<sup>7</sup> and when he shall have accomplished to scatter the power of the holy people, all these things shall be finished.<sup>4</sup> At this R. Eliezer remained silent.

R. Abba also said: There can be no more manifest [sign of] redemption than this: viz., what is said, But ye, O mountains of Israel, ye shall shoot forth your branches, and yield your fruit to my people of Israel, for they are at hand to come.<sup>5</sup> R. Eleazar said: Than this too, as it is written, For before these days there was no hire for man, nor any hire for beast; neither was there any peace to him that went out or came in because of the affliction.<sup>6</sup> What is meant by, 'neither was there any peace to him that went out or came in because of the affliction?' — Rab said: Even for scholars, who are promised peace,<sup>7</sup> as it is written, Great peace have they which love thy law,<sup>8</sup> 'There [shall] be no peace on account of the affliction.' Samuel said, 'Until all prices are equal.'<sup>9</sup>

R. Hanina said: The Son of David will not come until a fish is sought for an invalid and cannot be procured, as it is written, Then will I make their waters deep, and cause their rivers to run like oil;<sup>10</sup> whilst it is written,<sup>11</sup> in that day will I cause the horn of the house of Israel to bud forth.<sup>12</sup>

R. Hama b. Hanina said: The son of David will not come until even the pettiest kingdom ceases [to have power] over Israel,<sup>13</sup> as it is written, He shall both cut off the sprigs<sup>14</sup> with pruning hooks, and take away and cut down the branches;<sup>15</sup> and this is followed by, in that time shall the present be brought unto the Lord of hosts of a people that is scattered and peeled.<sup>16</sup>

Ze'iri said in R. Hanina's name: The son of David will not come until there are no conceited men in Israel, as it is written, For then I will take away out of the midst of thee them that rejoice in thy pride:<sup>17</sup> which is followed by, I will also leave in the midst of thee an afflicted and poor people, and they shall take refuge in the name of the Lord.<sup>18</sup>

R. Simlai said in the name of R. Eleazar, son of R. Simeon: The son of David will not come until all judges and officers are gone from Israel, as it is written, And I will turn my hand upon thee, and purely purge away thy dross and take away all thy tin: And I will restore thy judges as at first.<sup>19</sup>

'Ulla said: Jerusalem shall be redeemed only by righteousness,<sup>20</sup> as it is written, Zion shall be redeemed with judgment, and her converts with righteousness.<sup>21</sup>

R. Papa said: When the haughty cease to exist [in Israel] the magi<sup>22</sup> shall cease [among the Persians]; when the judges cease to exist [in Israel], the chiliarchi<sup>23</sup> shall cease likewise. Now, 'when the haughty cease to exist, the magi shall also cease,' as it is written, And I will purely purge away thy haughty ones<sup>24</sup> and take away all thy tin.<sup>25</sup> 'When the judges cease to exist, the chiliarchi shall cease likewise, as it is written, The Lord hath taken away thy judgments, he hath cast out thine enemy.'<sup>26</sup>

R. Johanan said: When you see a generation ever dwindling, hope for him [the Messiah], as it is

written, And the afflicted people thou wilt save.<sup>27</sup> R. Johanan said: When thou seest a generation overwhelmed by many troubles as by a river, await him, as it is written, when the enemy shall come in like a flood, the Spirit of the Lord shall lift up a standard against him;<sup>28</sup> which is followed by, And the Redeemer shall come to Zion.<sup>29</sup>

R. Johanan also said: The son of David will come only in a generation that is either altogether righteous or altogether wicked. 'in a generation that is altogether righteous,' — as it is written, Thy people also shall be all righteous: they shall inherit the land for ever.<sup>30</sup> 'Or altogether wicked,' — as it is written, And he saw that there was no man, and wondered that there was no intercessor;<sup>31</sup> and it is [elsewhere] written, For mine own sake, even for mine own sake, will I do it.<sup>32</sup>

R. Alexandri said: R. Joshua b. Levi pointed out a contradiction. it is written, in its time [will the Messiah come], whilst it is also written, I [the Lord] will hasten it!<sup>33</sup> — if they are worthy, I will hasten it: if not, [he will come] at the due time. R. Alexandri said: R. Joshua opposed two verses: it is written, And behold, one like the son of man came with the clouds of heaven<sup>34</sup> whilst [elsewhere] it is written, [behold, thy king cometh unto thee . . . ] lowly, and riding upon an ass!<sup>35</sup> — if they are meritorious, [he will come] with the clouds of heaven;<sup>36</sup> if not, lowly and riding upon an ass. King Shapur [I] said to Samuel, 'Ye maintain that the Messiah will come upon an ass: I will rather send him a white horse of mine.'<sup>37</sup> He replied, 'Have you a hundred-hued steed?'<sup>38</sup>

R. Joshua b. Levi met Elijah standing by the entrance of R. Simeon b. Yohai's tomb. He asked him: 'Have I a portion in the world to come?' He replied, 'if this Master desires it.'<sup>39</sup> R. Joshua b. Levi said, 'I saw two, but heard the voice of a third.'<sup>40</sup> He then asked him, 'When will the Messiah come?' — 'Go and ask him himself,' was his reply. 'Where is he sitting?' — 'At the entrance.'<sup>41</sup> And by what sign may I recognise him?' — 'He is sitting among the poor lepers: all of them untie [them]<sup>42</sup> all at once, and rebandage them together,<sup>43</sup> whereas he unties and rebandages each separately, [before treating the next], thinking, should I be wanted, [it being time for my appearance as the Messiah] I must not be delayed [through having to bandage a number of sores].' So he went to him and greeted him, saying, 'peace upon thee, Master and Teacher.' 'peace upon thee, O son of Levi,' he replied. 'When wilt thou come Master?' asked he, 'To-day', was his answer. On his returning to Elijah, the latter enquired, 'What did he say to thee?' — 'peace Upon thee, O son of Levi,' he answered. Thereupon he [Elijah] observed, 'He thereby assured thee and thy father of [a portion in] the world to come.' 'He spoke falsely to me,' he rejoined, 'stating that he would come to-day, but has not.' He [Elijah] answered him, 'This is what he said to thee, To-day, if ye will hear his voice.'<sup>44</sup>

The disciples of R. Jose b. Kisma asked him, 'When will the Messiah come?' — He answered, 'I fear lest ye demand a sign of me [that my answer is correct].' They assured him, 'We will demand no sign of you.' So he answered them, 'When this gate<sup>45</sup> falls down, is rebuilt, falls again, and is again rebuilt, and then falls a third time, before it can be rebuilt the son of David will come.' They said to him, 'Master, give us a sign.' He protested, 'Did ye not assure me that ye would not demand a sign?' They replied, 'Even so, [we desire one].' He said to them. 'if so, let the waters of the grotto of Paneas turn into blood;' and they turned into blood. When he lay dying he said to them, 'place my coffin deep [in the earth],

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(1) *ibid.* XLIX, 7: 'to him whom man despiseth etc.' implies that he is still an unrepentant sinner (Rashi), or that their prostration in itself will bring about the redemption (Yad Ramah).

(2) I.e., to thy land.

(3) Jer. IV, 1.

(4) Dan. XII, 7, thus proving that Messiah's coming is dependant only upon the utter prostration of Israel, not his repentance.

(5) Ezek. XXXVI, 8. When Palestine becomes so very fertile, Messiah's advent is near, and there can be no clearer sign

than this (Rashi).

(6) Zech. VIII, 10; I.e., when there is no money left, and troubles abound everywhere. Cf. supra 'until the perutah ceases from the purse.'

(7) Lit., 'concerning whom peace is written.'

(8) Ps. CXIX, 165.

(9) This is a difficult passage. Rashi explains it as meaning either that the prices of all commodities, e.g., wheat, wine, oil etc. shall be alike, or that all commodities shall be equally dear. But it is difficult to see how this explains 'neither was there any peace etc. Maharsha therefore connects this verse 'to him that went out or came in' with Ezek. XLVI, 9: But when the people of the land shall come before the Lord in the solemn feasts, he that entereth in by the way of the north gate to worship shall go out by the way of the south gate; and he that entereth by the way of the south gate shall go forth by the way of the north gate . . . Accordingly he interprets: until all gates are alike, i.e., all people, whether entering or leaving the Temple—an idiom denoting 'without exception' — will suffer.

(10) Ezek. XXXII, 14. When an oily film covers the water, fish cannot be caught—an anticipation of the havoc to sea life wrought in modern times by oil-burning vessels?

(11) [in the same connection, dealing with the destruction of Egypt (Maharsha).]

(12) Ibid. XXIX, 21.

(13) [So Maharsha. Rashi renders: 'until even the pettiest rule ceases among Israel' — i.e., Israel will be deprived of all semblance of power.]

(14) Metaphorical for 'petty kingdoms.'

(15) Isa. XVIII, 5.

(16) Ibid. 7.

(17) Zeph. III, 11.

(18) Ibid. 12: i.e., for them shall the redeemer come.

(19) Isa. I, 25f: this proves that they must first have been removed.

(20) I.e., through the exercise of charity.

(21) Ibid. 27.

(22) [The Guebres who were responsible for much of the suffering of the Jews under the Sassanians, v. supra p. 504, n. 6.]

(23) גזירפטי [Pers. Wezirpat, a ruler, Funk, Schwarz Festschrift, p. 432;] the name of a class of oppressive Persian officers.

(24) סיגיד from סגיד, 'great', 'haughty'.

(25) Metaphorically applied to the magi, as being 'a cheap metal.'

(26) Zeph. III, 15.

(27) II Sam. XXII, 28.

(28) Isa. LIX, 19.

(29) Ibid. 20.

(30) Ibid. LX, 21.

(31) Ibid. LIX, 16.

(32) Ibid. XLVIII, 11.

(33) Ibid. LX, 22: The verse reads, I the Lord will hasten it in its time. The two phrases are contradictory, since 'hasten it' implies before its proper time.

(34) Dan. VII, 13.

(35) Zech. IX, 7.

(36) 'Swiftly' (Rashi).

(37) This is more fitting.

(38) [This jest is explained by Krochmal, (Hechalutz, I, p. 83) as an overt invitation to the Jews to help Shapur in his struggle with the Romans.]

(39) He referred to the Shechinah, which was with them (Rashi). Maharsha renders: when thou art worthy thereof.

(40) I.e., he saw only himself and Elijah there, but heard a third voice — that of the Shechinah.

(41) Cur. edd. read ' . . . of the town:' The Wilna Gaon deletes this and substitutes 'of Rome.'

(42) The bandages of their sores for dressing.

(43) I.e., if they have many leprous sores, they first take off all the bandages, and treat each sore, then replace them

together.

(44) Ps. XCV, 7, thus he made his coming conditional—the condition was unfulfilled.

(45) [The gate of Caesarea Philippi, the home of R. Jose. Its fall would be a symbol of the destruction of the Roman power by the Parthians. Bacher, AT, I, p. 402.]

### **Talmud - Mas. Sanhedrin 98b**

for there is not one palm-tree in Babylon to which a Persian horse will not be tethered, nor one coffin in Palestine out of which a Median horse will not eat straw.’<sup>1</sup>

Rab said: The son of David will not come until the [Roman] power enfolds Israel<sup>2</sup> for nine months, as it is written, Therefore will he give them up, until the time that she which travaileth hath brought forth: then the remnant of his brethren shall return unto the children of Israel.<sup>3</sup>

‘Ulla said; Let him [The Messiah] come, but let me not see him.<sup>4</sup> Rabbah said likewise: Let him come, but let me not see him. R. Joseph said: Let him come, and may I be worthy of sitting in the shadow of his ass's saddle.<sup>5</sup> Abaye enquired of Rabbah: ‘What is your reason [for not wishing to see him]? Shall we say, because of the birth pangs [preceding the advent] of the Messiah?<sup>6</sup> But it has been taught, R. Eleazar's disciples asked him: ‘What must a man do to be spared the pangs of the Messiah?’ [He answered,] ‘Let him engage in study and benevolence; and you Master do both.’ He replied: ‘[I fear] lest sin cause it,<sup>7</sup> in accordance with [the teaching of] R. Jacob b. Idi, who opposed [two verses] [viz.,] it is written, And, Behold, I am with thee, and ‘will guard thee in all places whither thou goest.<sup>8</sup> but it is written, Then Jacob was greatly afraid and distressed’<sup>9</sup> — He was afraid that sin might cause [the nullification of God's promise]. Even as it was taught, Till thy people pass over, O Lord.’<sup>10</sup> this refers to the first entry [into Palestine]; till thy people pass over, which thou hast purchased:<sup>11</sup> this refers to their second entry. Hence you may reason: The Israelites were as worthy of a miracle being wrought for them at the second entry as at the first, but that sin caused it [not to happen].

R. Johanan said likewise: Let him come, and let me not see him. Resh Lakish said to him: Why so? Shall we say, because it is written, As if a man did flee from a lion, and a bear met him, or went into the house, and leaned his hand on the wall, and a serpent bit him?<sup>12</sup> But come, and I will shew you its like even in this world. When one goes out into the field and meets a bailiff,<sup>13</sup> it is as though he had met a lion. When he enters the town, and is accosted by a tax-collector, it is as though he had met a bear. On entering his house and finding his sons and daughters in the throes of hunger, it is as though he were bitten by a serpent!<sup>14</sup> — But [his unwillingness to see the Messiah] is because it is written, Ask ye now, and see whether a man doth travail with child? Wherefore do I see every man [geber]<sup>15</sup> with his hands on his loins, as a woman in travail, and all faces are turned into paleness?<sup>16</sup> What is meant by ‘wherefore do I see every geber?’ — Raba b. Isaac said in Rab's name: it refers to Him to whom all geburah<sup>17</sup> [strength] belongs.<sup>18</sup> And what is the meaning of ‘and all faces are turned into paleness?’ — R. Johanan said: [This refers to God's] heavenly family [I.e., the angels] and his earthly family [I.e., Israel,] when God says, These [the Gentiles] are my handiwork, and so are these [the Jews]; how shall I destroy the former on account of the latter?<sup>19</sup> R. Papa said: Thus men say, ‘When the ox runs and falls, the horse is put into his stall.’<sup>20</sup>

R. Giddal said in Rab's name: The Jews are destined to eat [their fill] in the days of the Messiah.<sup>21</sup> R. Joseph demurred: is this not obvious; who else then should eat — Hilek and Bilek?<sup>22</sup> — This was said in opposition to R. Hillel, who maintained that there will be no Messiah for Israel, since they have already enjoyed him during the reign of Hezekiah.<sup>23</sup>

Rab said: The world was created only on David's account.<sup>24</sup> Samuel said: On Moses account;<sup>25</sup> R. Johanan said: For the sake of the Messiah. What is his [the Messiah's] name? — The School of R.



Shila said: His name is Shiloh, for it is written, until Shiloh come.<sup>26</sup> The School of R. Yannai said: His name is Yinnon, for it is written, His name shall endure for ever:<sup>27</sup> e'er the sun was, his name is Yinnon.<sup>28</sup> The School of R. Haninah maintained: His name is Haninah, as it is written, Where I will not give you Haninah.<sup>29</sup> Others say: His name is Menahem the son of Hezekiah, for it is written, Because Menahem [‘the comforter’], that would relieve my soul, is far.<sup>30</sup> The Rabbis said: His name is ‘the leper scholar,’ as it is written, Surely he hath borne our griefs, and carried our sorrows: yet we did esteem him a leper, smitten of God, and afflicted.<sup>31</sup>

R. Nahman said: if he [the Messiah] is of those living [to day], it might be one like myself, as it is written, And their nobles shall be of themselves, and their governors shall proceed from the midst of them.<sup>32</sup> Rab said: if he is of the living, it would be our holy Master;<sup>33</sup> if of the dead, it would have been Daniel the most desirable man.<sup>34</sup> Rab Judah said in Rab's name: The Holy One, blessed be He, will raise up another David for us,<sup>35</sup> as it is written, But they shall serve the Lord their God, and David their king, whom I will raise up unto them:<sup>36</sup> not ‘I raised up’, but ‘I will raise up’ is said. R. Papa said to Abaye: But it is written, And my servant David shall be their prince [nasi] for ever?<sup>37</sup> — E.g., an emperor and a viceroy.<sup>38</sup>

R. Simlai expounded: What is meant by, Woe unto you, that desire the day of the Lord! to what end is it for you? the day of the Lord is darkness, and not light?<sup>39</sup> This may be compared to a cock and a bat who were hopefully waiting for the light [i.e., dawn]. The cock said to the bat, ‘I look forward to the light, because I have sight; but of what use is the light to thee?’<sup>40</sup>

(1) This was a forecast of the future. Babylon and Palestine would be overrun with Persians, Medes and Parthians and their horses would dig up the dead, whose coffins would serve as cribs.

(2) I.e., the whole world in which Israel is scattered.

(3) Micah V, 2: ‘therefore will he give them up’ is interpreted as meaning to a foreign — viz., the Roman — power, and the duration of their servitude is fixed by ‘until the time etc.’ i.e., nine months, the period of pregnancy.

(4) V. n. 7.

(5) [Following the reading in Yalkut (v. Levy,) בשולא. Our texts read: דכופיתא, ‘dung’.]

(6) These troubles are generally referred to as birth pangs, being the travail which precedes the birth of a new era.

(7) That sin may neutralise the other two, and so I will suffer after all.

(8) Gen. XXVIII, 15; spoken by God to Jacob.

(9) Ibid. XXXII, 8: in view of God's promise, why did he fear?

(10) Ex. XV, 16.

(11) Ibid.

(12) Amos V, 19.

(13) Who contests his title to the field-(Jast.). Rashi translates: an official surveyor, who fixes the boundary lines of the different owners, and thus may increase or: limit one's property.

(14) I.e., we experience the same successive troubles even now, without the Messiah coming: why then should you be afraid of it?

(15) גבר.

(16) Jer. XXX, 6.

(17) גבורה.

(18) I.e., the Almighty himself bewails Israel in the power of the Gentile.

(19) To avenge the wrongs suffered by the Jews. Because the suffering would be so great that even the Almighty would lament it, R. Johanan desired to be spared the Messiah's coming.

(20) The horse is made to replace it, but when the ox recovers, it is difficult to remove the horse. So the Israelites, having fallen, were replaced in power by the Gentiles: but on their recovery, it will be difficult to remove the Gentiles from their position without inflicting much suffering.

(21) I.e., the years of plenty which the Messiah will usher in will be enjoyed by the Israelites.’

(22) Two fictitious names — ‘any Tom, Dick and Harry’ — shall these years be enjoyed indiscriminately by anyone?

(23) Therefore R. Giddal puts it in the future.

- (24) That he might sing hymns and psalms to God.
- (25) That he might receive the Torah.
- (26) Gen. XLIX, 10.
- (27) E.V. 'shall be continued'.
- (28) Ps. LXXII, 17.
- (29) Jer. XVI, 13. Thus each School evinced intense admiration of its teacher in naming the Messiah after him by a play on words.
- (30) Lam. I, 16.
- (31) Isa. LIII, 4.
- (32) Jer. XXX, 21: this description fitted R. Nahman, who, as the son-in-law of the Resh Galutha, enjoyed great power and prestige.
- (33) I.e., R. Judah the Nasi, generally called Rabbi par excellence.
- (34) [Preferably, if of the living, our holy Master (would be the type) of the Messiah; if of the dead, Daniel.]
- (35) Lit., 'for them'.
- (36) Ibid. XXX, 9.
- (37) Ezek. XXXVII, 25: prince (nasi) is a lower title than king.
- (38) The second David shall be the king, and the former David shall be his viceroy.
- (39) Amos V, 18.
- (40) Thus Israel should hope for the redemption, because it will be a day of light to them: but why should the Gentiles, seeing that for them it will be a day of darkness?

## Talmud - Mas. Sanhedrin 99a

And thus a Min<sup>1</sup> said to R. Abbahu: 'When will the Messiah come?' He replied, 'When darkness covers those people.'<sup>2</sup> 'You curse me, he exclaimed. He retorted, 'it is but a verse: For, behold, the darkness shall cover the earth, and gross darkness the people: but the Lord shall shine upon thee, and his glory shall be seen upon thee.'<sup>3</sup>

It has been taught: R. Eliezer said: The days of the Messiah will last forty years, as it is written, Forty years long shall I take hold of the generation.<sup>4</sup> R. Eleazar b. Azariah said: Seventy years, as it is written, And it shall come to pass in that day, that Tyre shall be forgotten seventy years, according to the days of one king.<sup>5</sup> Now, who is the one [uniquely distinguished] king? The Messiah, of course. Rabbi said: Three generations; for it is written, They shall fear thee with the sun, and before the moon [they shall fear thee], a generation and generations.<sup>6</sup>

R. Hillel<sup>7</sup> said: There shall be no Messiah for Israel,<sup>8</sup> because they have already enjoyed him in the days of Hezekiah. R. Joseph said: May God forgive him [for saying so]. Now, when did Hezekiah flourish? During the first Temple. Yet Zechariah, prophesying in the days of the second, proclaimed, Rejoice greatly, O daughter of Zion, shout, O daughter of Jerusalem, behold, thy king cometh unto thee! he is just, and having salvation, lowly, and riding upon an ass, and upon a colt the foal of an ass.<sup>9</sup>

Another [Baraita] taught: R. Eliezer said: The days of the Messiah will be forty years. Here it is written, And he afflicted thee, and suffered thee to hunger, and fed thee with manna;<sup>10</sup> whilst elsewhere it is written, Make us glad, according to the days wherein thou hast afflicted us.<sup>11</sup> R. Dosa said: Four hundred years. It is here written, And they shall serve them,' and they shall afflict them four hundred years;<sup>12</sup> whilst elsewhere it is written, Make us glad, according to the days wherein thou hast afflicted us. Rabbi said: Three hundred and sixtyfive years, even as the days of the solar year, as it is written, For the day of vengeance is in mine heart, and the year of my redemption is come.<sup>13</sup> What is meant by 'the day of vengeance is in mine heart'? — R. Johanan said: I have [so to speak] revealed it to my heart, but not to my [outer] limbs.<sup>14</sup> Abimi the son of R. Abbahu learned: The days of Israel's Messiah shall be seven thousand years, as it is written, And as the bridegroom

rejoiceth over the bride, so shall thy God rejoice over thee.<sup>15</sup> Rab Judah said in Samuel's name: The days of the Messiah shall endure as long as from the Creation until now, as it is written, [That your days may be multiplied, and the days of your children, in the land which the Lord swore unto your fathers to give to them,] as the days of heaven upon the earth.<sup>16</sup> R. Nahman b. Isaac said: As long as from Noah's days until our own, as it is written, For this is as the waters of Noah, which are mine, so I have sworn etc.<sup>17</sup>

R. Hiyya b. Abba said in R. Johanan's name: All the prophets prophesied [all the good things] only in respect of the Messianic era; but as for the world to come 'the eye hath not seen, O Lord, beside thee, what he hath prepared for him that waiteth for him.'<sup>18</sup> Now, he disagrees with Samuel, who said: This world differs from [that of] the days of the Messiah only in respect of servitude to [foreign] powers.

R. Hiyya b. Abba also said in R. Johanan's name: All the prophets prophesied only for repentant sinners; but as for the perfectly righteous [who had never sinned at all], 'the eye hath not seen, O God, beside thee, what he hath prepared for him that waiteth for him.' Now he differs from R. Abbahu, who said: The place occupied by repentant sinners cannot be attained even by the completely righteous, for it is written, Peace, peace, to him that is far off and to him that is near:<sup>19</sup> thus, first he that is 'far off', then he that is 'near'. Now what is meant by 'far off'? — originally far off;<sup>20</sup> and what is meant by 'near'? — originally near [and still so].<sup>21</sup> But R. Johanan interprets: 'him that is far off' — that is [and has been] far from sin; 'him that is near' — that was near to sin, but is now far off.

R. Hiyya b. Abba also said in R. Johanan's name: All the prophets prophesied only in respect of him who marries his daughter to a scholar, or engages in business on behalf of a scholar,<sup>22</sup> or benefits a scholar with his possessions; but as for scholars themselves, — 'the eye hath not seen, O God, beside thee etc.' What does 'the eye hath not seen' refer to? — R. Joshua b. Levi said: To the wine that has been kept [maturing] with its grapes since the six days of Creation. Resh Lakish said: To Eden, which no eye has ever seen; and should you demur, Where then did Adam live? in the Garden. And should you object, The Garden and Eden are one: therefore Scripture teaches, And a river issued from Eden to water the garden.<sup>23</sup>

AND HE WHO MAINTAINS THAT THE TORAH WAS NOT DIVINELY REVEALED. Our Rabbis taught: Because he hath despised the word of the Lord, and hath broken his commandment, that soul shall utterly be cut off:<sup>24</sup> this refers to him who maintains that the Torah is not from Heaven. Another rendering: Because he hath despised the word of the Lord, refers to an epikoros. Another rendering: Because he hath despised the word of the Lord, refers to one who gives an interpretation of the Torah<sup>25</sup> [not according to the halachah]. And hath broken his commandment: this means one who abolishes the covenant of flesh.<sup>26</sup> That soul shall utterly be cut off [hikkareth tikkareth]: 'hikkareth' [to be cut off] implies in this world; 'tikkareth' [it shall be cut off], in the next.<sup>27</sup> Hence R. Eliezer of Modi'im taught: He who defiles the sacred food, despises the festivals,<sup>28</sup> abolishes the covenant of our father Abraham,<sup>29</sup> gives an interpretation of the Torah not according to the halachah, and publicly shames his neighbour, even if he hath learning and good deeds to his credit, hath no portion in the future world.<sup>30</sup>

Another [Baraita] taught: Because he hath despised the word of the Lord — this refers to him who maintains that the Torah is not from Heaven. And even if he asserts that the whole Torah is from Heaven, excepting a particular verse, which [he maintains] was not uttered by God but by Moses himself, he is included in 'because he hath despised the word of the Lord.' And even if he admits that the whole Torah is from Heaven, excepting a single point, a particular ad majus deduction or a certain gezerah shawah, — he is still included in 'because he hath despised the word of the Lord'.

It has been taught: R. Meir used to say: He who studies the Torah but does not teach it is alluded to in 'he hath despised the word of the Lord'. R. Nathan said: [it refers to] whoever pays no heed to the Mishnah.<sup>31</sup> R. Nehorai said: Whosoever can engage in the study of the Torah but fails to do so. R. Ishmael said: This refers to heathens. How is this implied? — Even as the school of Ishmael taught: Because he hath despised the word of the Lord — this applies to one who despises the words spoken to Moses at Sinai, viz., I am the Lord thy God . . . Thou shalt have no other gods before me.<sup>32</sup>

R. Joshua b. Karha said: Whosoever studies the Torah and does not revise it is likened unto one who sows without reaping. R. Joshua said: He who studies the Torah and then forgets it is like a woman who bears [a child] and buries [it.] R. Akiba said:

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(1) V. p. 604, n. 12.

(2) Alluding to the questioner and his companions.

(3) Isa. LX, 2.

(4) Ps. XCV, 10: I.e., rule over them through the Messiah (rendered, 'I wearied') is connected with root 'to hold'.

(5) Isa. XXIII, 15.

(6) Ps. LXXII, 5. The verse is thus interpreted: They shall fear thee when Messiah comes, who is referred to as a sun (cf. 17), and they shall fear thee on account of the reign of the house of David, which is likened to the moon (cf. LXXXIX, 39: He shall be established for ever as the moon) for a generation (one) and generations (two).

(7) [A brother of Judah II.]

(8) But the Almighty will himself redeem Israel and reign over them (Rashi). ['He may have been prompted to this declaration by Origen's professed discovery in the Old Testament of Messianic passages referring to the founder of Christianity' (J.E. VI, 401).]

(9) Zech. IX, 9.

(10) Deut. VIII, 3.

(11) Ps. XC, 15: hence, just as they were afflicted forty years in the wilderness, so shall they rejoice forty years under the kingship of the Messiah.

(12) Gen. XV, 13.

(13) Isa. LXIII, 4. This is interpreted: For it is in mine heart (I.e., intention) that the year (365 days) of redemption shall come, of which each day shall be as long as the day of my vengeance. God's day of vengeance is a year, as in the case of the Spies, on account of whom the Israelites were condemned to wander forty years in the wilderness, — a year for each day of their mission. Cf. Num. XIV, 34 (Rashi). Maharsha explains it in a simpler fashion: For each day of the year that they afflicted Israel, I will take vengeance a full year; as there was a year of days, so will my vengeance last 365 years.

(14) I.e., I have kept my intentions sealed in my heart, not giving expression to them with my tongue, that all my limbs should know thereof.

(15) Isa. LXII, 5. The bridegroom's rejoicing is seven days, and God's day is a thousand years. Cf. Ps. XC, 4: For a thousand years in thy sight are but as yesterday when it is past.

(16) Deut. XI, 21: I.e., as long as the world has already existed. Since they were not settled so long in their land, it will be completed in the Messianic era.

(17) Isa. LIV, 9. The time that had elapsed since the days of Noah until the moment when this promise was made is regarded as God's, and he swears that for an equal period he will not be wroth with Israel, I.e., when Messiah reigns over them.

(18) Ibid. LXIV, 3.

(19) Ibid. LVII, 19.

(20) I.e., a sinner who is far from God.

(21) One who has never sinned. Thus he assigns a higher rank to the repentant sinner than to the completely righteous.

(22) [I.e., assigns him a share in his business as sleeping partner.]

(23) Gen. II, 10.

(24) Num. XV, 31.

(25) [Or, 'who acts insolently against the Torah', the phrase **מגלה פנים** being similar to the English 'bare-faced'. This, and epikoros, are discussed further on.]

(26) I.e., who neglects the precept of circumcision. Weiss, Dor. II. p. 8 states that the Rabbinic teachings in praise of circumcision and their emphasis on the penalty of its neglect were directed against the Christians, who substituted baptism for it; v. also n. 5 for another interpretation.

(27) V. supra 90b.

(28) The reference is to the intermediate days of Passover and Tabernacles, called חולו של מועד, the week-days of the festival.

(29) Graetz. Gesch., IV, p. 73, n. 1. suggests that this refers to epiplasm, I.e., drawing a skin over the circumcision so as to hide it. This was resorted to by the Judeo-Christians in order to evade the Fiscus Judaicus, I.e., the Temple Tax which Vespasian converted into a per capita tax for the upkeep of Jupiter's Temple. The galling nature of such conversion, added to the fact that it singled out the Jews as definitely not being full citizens of the Roman Empire with all the privileges and exemptions appertaining thereto, and the severity with which Domitian, a later emperor, applied it, combined to induce a number of these semi-Jews to deny their Judaism altogether and to hide the marks of their circumcision.

(30) V. Aboth III, 15.

(31) Rabbi's compilation was held in such high esteem that to disregard it was considered a sin.

(32) Ex. XX, 2f.

### **Talmud - Mas. Sanhedrin 99b**

‘Chant it every day, chant it every day.’<sup>1</sup> Said R. Isaac b. Abudimi: What verse [supports this]? — He that laboureth laboureth for himself for his mouth craveth it of him:<sup>2</sup> he toils in one place, the Torah toils for him in another.<sup>3</sup>

R. Eleazar said: Every man is born for toil, as it is written, Yet man is born for toil.<sup>4</sup> Now, I do not know whether for toil by mouth or by hand, but when it is said, for his mouth craveth it of him, I may deduce that toil by mouth is meant.<sup>5</sup> Yet I still do not know whether for toil in the Torah or in [secular] conversation, but when it is said, This book of the Torah shall not depart out of thy mouth,<sup>6</sup> I conclude that one was created to labour in the Torah. And this coincides with Raba's dictum, viz., All human bodies are carriers; happy are they who are worthy of being receptacles of the Torah.

Whoso committeth adultery with a woman lacketh understanding.<sup>7</sup> Resh Lakish said: This alludes to one who studies the Torah at [irregular] intervals,<sup>8</sup> as it is written, For it is a pleasant thing if thou keep them within thee; they shall withal be fitted in thy lips.<sup>9</sup>

Our Rabbis taught: But the soul that doeth aught presumptuously:<sup>10</sup> this refers to Manasseh the Son of Hezekiah, who examined [Biblical] narratives to prove them worthless. Thus, he jeered, had Moses nothing to write but, And Lotan's sister was Timna,<sup>11</sup> And Timna was concubine to Eliphaz,<sup>12</sup> And Reuben went in the days of the wheat harvest, and found mandrakes in the field.<sup>13</sup> Thereupon a Heavenly Voice cried out: Thou sittest and speakest against thy brother; thou slanderest thine own mother's son. These things hast thou done, and I kept silence, thou thoughtest that I was altogether such an one as thyself' but I will reprove thee, and set them in order before thine eyes.<sup>14</sup> And of him it is explicitly stated in the post-Mosaic Scriptures,<sup>15</sup> Woe unto them that draw iniquity with cords of vanity, and sin as it were with a cart rope.<sup>16</sup> What is meant by ‘and sin as it were with a cart rope’? — R. Assi said: Temptation at first is like a spider's thread, but eventually like a cart rope.

A propos, what is the purpose of [writing], And Lotan's sister was Timna? — Timna was a royal princess, as it is written, alluf [duke] Lotan,<sup>17</sup> alluf [duke] Timna;<sup>18</sup> and by ‘alluf’ an uncrowned ruler is meant. Desiring to become a proselyte, she went to Abraham, Isaac and Jacob, but they did not accept her. So she went and became a concubine to Eliphaz the son of Esau, saying, ‘I had rather be a servant to this people than a mistress of another nation.’ From her Amalek was descended who afflicted Israel. Why so? — Because they should not have repulsed her.

And Reuben went in the days of the wheat harvest [and found mandrakes in the field]. Raba b. Isaac said in Rab's name: This shews that righteous men do not take what is not theirs.<sup>19</sup> And found dudaim<sup>20</sup> [mandrakes] in the field. What are dudaim? — Rab said: mandrakes;<sup>21</sup> Levi said: violets; R. Jonathan said: mandrake flowers.

R. Alexandri said: He who studies the Torah for its own sake<sup>22</sup> makes peace in the Upper Family<sup>23</sup> and the Lower Family [men], as it is written, Or let him take hold of my strength [i.e., the Torah], that he may make peace with me; and he shall make peace with me.<sup>24</sup> Rab said: it is as though he built the heavenly and the earthly Temples, as it is written, And I have put my words in thy mouth, and I have covered thee in the shadow of mine hand, that I may plant the heavens, and lay the foundations of the earth, and say unto Zion, Thou art my people.<sup>25</sup> R. Johanan said: He also shields the whole world [from the consequences of its sins], for it is written, and I have covered [i.e.,protected] thee in the shadow of mine hand. Levi said: He also hastens<sup>26</sup> the redemption, as it is written, and say unto Zion, Thou art my people.

Resh Lakish said: He who teaches Torah to his neighbour's son is regarded by Scripture as though he had fashioned him, as it is written, and the souls which they had made in Haran.<sup>27</sup> R. Eleazar said: As though he himself had created the words of the Torah, as it is written, Keep therefore the words of this covenant, and make them.<sup>28</sup> Raba said: As though he had made himself, for it is written, 'and make them': render not them but yourselves.<sup>29</sup>

R. Abbahu said: He who causes his neighbour to fulfil a precept is regarded by Scripture as though he had done it himself, for it is written, [The Lord said unto Moses . . . take . . . ] thy rod, wherewith thou smotest the river:<sup>30</sup> did Moses then smite it? Aaron smote it! But, he who causes his neighbour to fulfil a precept, is regarded by Scripture as though he had done it himself.

AN EPIKOROS. Rab and R. Hanina both taught that this means one who insults a scholar. R. Johanan and R. Joshua b. Levi maintained that it is one who insults his neighbour in the presence of a scholar. Now on the view that he who insults his neighbour in the presence of a scholar is an epikoros, it is well; for then he who insults a scholar himself will be included in the expression, 'he who acts impudently against the Torah.'<sup>31</sup> But on the view that he who insults a scholar himself is an epikoros, who is meant by 'she who acts impudently against the Torah'? — E.g., Manasseh b. Hezekiah.<sup>32</sup> Others taught this [dispute] with reference to the second clause: 'he who acts impudently against the Torah.' Rab and R. Hanina both maintained that this means one who insults a scholar himself, whilst R. Johanan and R. Joshua b. Levi held that it is one who insults his neighbour in the presence of a scholar. Now, on the view that he who insults a scholar himself is denoted by the expression 'he who acts impudently against the Torah,' it is well, for then he who insults his neighbour in a scholar's presence is dubbed an epikoros; but on the view that he who insults his neighbour in the presence of a scholar 'is considered to have acted impudently against the Torah, who then is meant by epikoros? — R. Joseph said: E.g., Those who give, 'Of what use are the Rabbis to us? For their own benefit they read [the Scripture], and for their own benefit they study [post-Scriptural learning, particularly the Mishnah]'. Abaye said to him: But this too denotes acting impudently against the Torah, as it is written, Thus saith the Lord, But for my covenant [studied] day and night, I had not appointed the ordinances of heaven and earth.<sup>33</sup> R. Nahman b. Isaac said: it is also deduced from the verse, Then I will spare all the place for their sakes.<sup>34</sup> But it means one, e.g., who was sitting before his teacher, when the discussion turned to some other subject, and the disciple remarked, 'We said so and so on that matter,' instead of 'Thou Master hast said.'<sup>35</sup> Raba said: E.g., The family of Benjamin the doctor who say, 'Of what use are the Rabbis to us? They have never

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(1) Revise thy learning with a chant. To aid the memory, a system of chanting was in use for study and revision.

(2) Prov. XVI, 26.

- (3) I.e., as a reward for repeated revision, the Torah ensures him a complete remembrance and understanding thereof.
- (4) Job. V, 7.
- (5) I.e., study.
- (6) Josh. I, 8.
- (7) Prov. VI, 32.
- (8) As adultery is naturally committed.
- (9) Ibid. XXII, 18—one can keep the Torah only if its words are fitted — always — on his lips, not at rare intervals only.
- (10) Num. XV, 30.
- (11) Gen. XXXVI, 22.
- (12) Ibid. 12.
- (13) Ibid. XXX, 14.
- (14) Ps. L, 20 f.
- (15) **קבלה** kabbalah is used in contradistinction to Torah, the Pentateuch.
- (16) Isa. V, 18.
- (17) **אֵלֶּיךָ** Gen. XXXVI, 28.
- (18) Ibid. 40.
- (19) Lit., stretch forth their hands to theft.’ Since Reuben went when the fields had already been reaped, after which it is permissible for all to enter (Rashi). Maharsha explains: The wheat had not yet been harvested, but Reuben was careful to take only mandrakes, to which the owner of the field would not object.
- (20) **דודאים**.
- (21) **יְבִרוּחֵי** ‘the chaser’, perhaps on account of its use to expel demons ; v. Ginzberg, Legends, V, 298, n. 189.]
- (22) For the love of learning, without ulterior motives.
- (23) I.e., the angels.
- (24) Isa. XXVII, 5; the repetition shews that peace amongst two groups is meant.
- (25) Ibid. LI, 16. The eschatology of the apocalyptic writers and many Rabbis looked forward to the creation of a Heavenly Temple in the Messianic era—Enoch XC, 29 et seq.; cf. Hag. 12b.
- (26) Lit., ‘brings nearer’.
- (27) Gen. XII, 5. Since no human being can make (create) life, this is interpreted as meaning whom Abraham taught; v. supra 19b.
- (28) Deut. XXIX, 9.
- (29) Not **אותם** but **אתם** [instruction, like the quality of mercy, ‘blesseth him that gives and him that takes’; cf. Mak. 10a; ‘Much have I learned from my Masters, more from my fellow-students, but from my disciples most of all.’]
- (30) Ex. XVII, 5.
- (31) So Rashi; v. supra p. 672, n. 1.
- (32) V. supra.
- (33) Jer. XXXIII, 25, i.e., the world endures only because the Torah (‘my covenant’) is studied. To deny the utility of scholars therefore is ‘to act bare-faced’, I.e., express disbelief of what is asserted in the Torah.
- (34) Gen. XVIII, 26. To the Rabbis of the Talmud, scholarship and righteousness are synonymous.
- (35) I.e., taking partial credit for the dictum, when in reality it belonged entirely to the teacher.

## Talmud - Mas. Sanhedrin 100a

permitted us the raven, nor forbidden us the dove.’<sup>1</sup> Whenever a [suspected] trefa<sup>2</sup> of the family Benjamin was brought before Raba, if he saw a reason for permitting it, he would remark to them, ‘See, I permit you the raven:’ if there were grounds for forbidding it, he would observe, ‘See, I forbid you the dove.’<sup>3</sup> R. Papa forgot himself and exclaimed, ‘O these Rabbis.’<sup>4</sup> Thereupon he kept a fast.

Levi b. Samuel and R. Huna b. Hiyya were repairing the mantles of the Scrolls of R. Judah’s college. On coming to the Scroll of Esther, they remarked, ‘O, this Scroll of Esther does not require a mantle.’<sup>5</sup> Thereupon he reproved them, ‘This too savours of irreverence.’<sup>6</sup> R. Nahman said: [An epikoros is] one who calls his teacher by name,<sup>7</sup> for R. Johanan said: Why was Gehazi punished?

Because he called his master by name, as it is written, And Gehazi said, My lord, O King, this is the woman, and this is her son, whom Elisha restored to life.<sup>8</sup>

R. Jeremiah sat before R. Zera and declared: The Holy One, blessed be He, will bring forth a stream from the Holy of Holies, at the side of which shall be all kinds of delicious fruits, as it is written, And by the river upon that bank thereof on this side and on that side, shall grow all trees for meat, whose leaf shall not fade, neither shall the fruit thereof be consumed: it shall bring forth new fruit, according to his months, because their waters they issued out of the sanctuary: and the fruit thereof shall be for meat, and the leaf thereof for medicine.<sup>9</sup> Whereupon a certain<sup>10</sup> old man said to him, 'Well spoken! and R. Johanan taught likewise.' R. Jeremiah said to R. Zera: Such an attitude savours of irreverence.<sup>11</sup> He replied: But he merely supported you! But if you have heard of something [which may be dubbed irreverent] it is this: R. Johanan was sitting and teaching: The Holy One, blessed be He, will bring jewels and precious stones, each thirty cubits long, and thirty cubits high, and make an engraving in them, ten by twenty cubits, and set them up as the gates of Jerusalem, for it is written, And I will make thy windows of agates, and thy gates of carbuncles.<sup>12</sup> A certain disciple derided him saying, 'We do not find a jewel even as large as a dove's egg, yet such huge ones are to exist!' Some time later he took a sea journey and saw the ministering angels cutting precious stones and pearls. He said unto them: 'For what are these?' They replied: 'The Holy One, blessed be He, will set them up as the gates of Jerusalem.' On his return, he found R. Johanan sitting and teaching. He said to him: 'Expound, O Master, and it is indeed fitting for you to expound, for even as you did say, so did I myself see.' 'Wretch!' he exclaimed, 'had you not seen, you would not have believed! You deride the words of the Sages!' He set his eyes upon him, and he turned in to a heap of bones.<sup>13</sup>

An objection was raised: And I will make you go Komamiyuth [upright].<sup>14</sup> R. Meir said: it means [with a height of] two hundred cubits, twice the height of Adam.<sup>15</sup> R. Judah said: A hundred cubits, corresponding to the [length of the Temple] and its walls, as it is written, That our sons may be as plants grown up in their youth; that our daughters may be as corner stones, fashioned after the similitude of the Temple!<sup>16</sup> — R. Johanan referred only to the ventilation windows.<sup>17</sup>

What is meant by and the leaf thereof li-terufah<sup>18</sup> [for medicine]?<sup>19</sup> R. Isaac b. Abudimi and R. Hisda differ therein: One maintained, to unlock the upper mouth;<sup>20</sup> the other, to unseal the lower mouth.<sup>21</sup> it has been said likewise.<sup>22</sup> Hezekiah said: To free the mouth of the dumb; Bar Kappara said: To open the mouth<sup>23</sup> of barren women. R. Johanan said: Literally for a medicine. What does this mean? — R. Samuel b. Nahmani said: To give a comely countenance to scholars.<sup>24</sup>

R. Judah, son of R. Simeon, expounded: He who emaciates<sup>25</sup> his face for the sake of the study of the Torah in this world,<sup>26</sup> the Holy One, blessed be He, will make his lustre shine in the next, as it is written, His countenance shall be as the Lebanon, excellent as the cedars.<sup>27</sup> R. Tanhum b. R. Hanilai said: He who starves himself for the sake of the study of the Torah in this world, the Holy One, blessed be He, will fully satisfy him in the next, as it is written, They shall be abundantly satisfied with the fatness of thy house; and thou shalt make them drink of the river of thy pleasures.<sup>28</sup> When R. Dimi came,<sup>29</sup> he said: The Holy One, blessed be He, will give every righteous man His full Hand<sup>30</sup> [of reward], for it is written, Blessed be the Lord, who daily loadeth us with benefits, even the God of our salvation. Selah.<sup>31</sup> Abaye demurred: But is it possible to say thus: is it not written, Who hath measured the waters in the hollow of his hand, and meted out heaven with the span?<sup>32</sup> — He replied, Why are you not found familiar with the aggadah?<sup>33</sup> For it was said in the West, [i.e., Palestine] in the name of Raba b. Mari: The Holy One, blessed be He, will give to every righteous man three hundred ten worlds, as it is written, That I may cause those that love me to inherit substance [yesh]<sup>34</sup> and I will fill their treasures:<sup>35</sup> now the numerical value of yesh is three hundred ten.<sup>36</sup>



It has been taught, R. Meir said: in the measure which one measures, so will there be [measured out] to him, as it is written, in measure, when it shooteth forth, thou wilt contend with it.<sup>37</sup> R. Judah said: But can we say thus: if one gives a handful [of charity] to a poor man in this world, shall the Holy One, blessed be He, give him His hand full in the next? Surely it is written, and meted out heaven with the span? — [He replied:] Do you not admit this? [Now consider:] Which measure is greater? That of goodness [i.e., reward] or of punishment?

(1) in spite of all their discussions, they cannot go beyond what is written in the Torah.

(2) V. Glos.

(3) To shew them that in practice the Rabbis did decide whether a thing was permitted or not.

(4) Contemptuously.

(5) Being of the opinion that its sanctity was of a lower grade, so that it would not defile one's hands through contact with it. The defilement of the hands by Holy Scriptures was one of the Eighteen Decrees adopted in the year 65. V. Shab. 14a.

(6) Rashi explains, because they took it upon themselves, without consulting him. Maharsha says because they spoke slightly of its sanctity.

(7) Which was regarded as irreverent.

(8) II Kings VIII, 5.

(9) Ezek. XLVII, 12.

(10) [Wherever the Talmud speaks of 'a certain old man', Elijah is thought by some to be meant. V. Tosaf. Hul. 6a.]

(11) Perhaps he thought it an insinuation of plagiarism. Rashi renders it as a question: 'Would such an attitude savour of irreverence?'

(12) Isa. LIV, 12.

(13) V. B. B. 75a.

(14) Lev. XXVI, 13.

(15) Deriving קוממיות from קומה, one's stature. That is, the people will gain in stature to twice the height of Adam. According to tradition, Adam's height was one hundred cubits (Hag. 12a).

(16) Psalms CXLIV, 12. The complete length of the Temple, including the porch, the chamber behind the main Hall, and the thickness of the intervening walls, was 100 cubits (Rashi); cf. B.B. (Sonc. ed.) p. 301. How then could such tall people pass through an aperture only 20 cubits high?

(17) These would be ten by twenty: but the gates themselves would be much taller.

(18) לתרופה.

(19) V. supra.

(20) I.e., to make the dumb speak, a play on the word להתיר פה לתרופה

(21) I.e., to make the barren womb bear child; cf. n. 3.

(22) 'Likewise' is absent from the version in Men. 98a, where this is repeated. The context justifies its retention.

(23) A euphemism for 'womb'.

(24) Lit., 'to the possessors of mouths', those who toil with their mouths; v. supra 99b.

(25) Lit., 'blackens'.

(26) I.e., who undergoes privation and want.

(27) Cant. V, 15.

(28) Ps. XXXVI, 9.

(29) V. p. 390, n. 1.

(30) Lit., 'pack, 'load'

(31) Ps. LXVIII, 20.

(32) Isa. XL, 12. How then can man receive such a great reward?

(33) V. Glos.

(34) יי.

(35) Prov. VIII, 21.

(36) Thus man's receptive capacity will be enormously increased — that too is the probable meaning of this statement.

(37) Isa. XXVII, 8, I.e., in the same measure that sin spreads, so it is punished, and conversely, the same holds good of righteousness — the conception of 'measure for measure'.

## Talmud - Mas. Sanhedrin 100b

Surely the measure of reward is greater than that of punishment, for with respect to the measure of goodness it is written, And he commanded the clouds from above, and opened the doors of heaven, And rained down manna upon them to eat;<sup>1</sup> whilst of the measure of punishment it is written, And the windows of heaven were opened.<sup>2</sup> Yet, in respect of the measure even of punishment it is written, And they shall go forth, and look upon the carcasses of the men that have transgressed against me, for their worm shall not die, neither shall their fire be quenched: and they shall be an abhorring unto all flesh.<sup>3</sup> But if one puts his fingers into the fire in this world, it is immediately burnt!<sup>4</sup> — But just as the Holy One, blessed be He, gives the wicked the strength to receive punishment, so does he give the righteous the capacity to receive reward.<sup>5</sup>

R. AKIBA SAID: ALSO HE WHO READS UNCANONICAL BOOKS etc. A Tanna taught: [This means], the books of the Sadducees.<sup>6</sup> R. Joseph said: it is also forbidden to read the book of Ben Sira. Abaye said to him: Why so? Shall we say because there is written therein, 'Do not strip the skin [of a fish] even from its ear, lest thou spoil it, but roast it [all, the fish with the skin] in the fire, and eat therewith two [twisted] loaves'?'<sup>7</sup> Now, if [you object to it in] its literal sense, the Torah too states, Thou shalt not destroy the trees thereof.<sup>8</sup> Whilst in a metaphorical sense, this teaches good taste,<sup>9</sup> that one should not cohabit unnaturally. But if you take exception to the passage:<sup>10</sup> A daughter is a vain treasure to her father: through anxiety on her account, he cannot sleep at night. As a minor, lest she be seduced; in her majority, lest she play the harlot; as an adult, lest she be not married;<sup>11</sup> if she marries, lest she bear no children; if she grows old, lest she engage in witchcraft! But the Rabbis have said the same: The world cannot exist without males and females; happy is he whose children are males, and woe to him whose children are females. Again if because of the following: 'Let not anxiety enter thy heart, for it has slain many a person!' But Solomon said likewise, Anxiety in the heart of man yashhenna [maketh it stoop].<sup>12</sup> R. Ammi and R. Assi [differ in its interpretation]: one rendered it, 'let him banish it from his mind,' the other, 'let him relate it to others.'<sup>13</sup> And if because it contains, 'Withhold the multitude from thy house, and bring not every one into thy house!' But Rabbi said the same, for it has been taught, Rabbi said: One should never have a multitude of friends in his house, for it is written, A man that hath many friends bringeth evil upon himself.<sup>14</sup> But because there is written therein, 'A thin-bearded man is very wise: a thick-bearded one is a fool: he who blows away [the froth] from off his glass [of liquor] is not thirsty; he who says, with what shall I eat my bread? — take the bread away from him;<sup>15</sup> he whose beard is parted will be defeated by none.'<sup>16</sup>

R. Joseph said: [Yet] we may expound to them<sup>17</sup> the good things it contains.<sup>18</sup> E.g., 'a good woman is a precious gift, who shall be given to the God-fearing man. An evil woman is a plague to her husband: how shall he mend matters? Let him banish [i.e., divorce] her from his house: so shall he be healed of his plague. Happy the man whose wife is beautiful; the number of his days is doubled. Avert thine eyes from a charming woman, lest thou be caught in her snare. Turn not in to her husband to drink<sup>19</sup> wine with him, for many have been slain by the countenance of a beautiful woman, and numerous are those slain by her, and many are the blows sustained by itinerant peddlers.<sup>20</sup> Those who seduce to adultery are as the spark that kindles the ember. As a cage is full of birds, so are their houses full of deceit.<sup>21</sup> Restrain the multitude from entering into thine house, and bring not everyone thereinto. Let there be many to inquire after thy well-being, yet reveal thy secret to but one in a thousand. Guard the openings of thy mouth from her who lieth in thy bosom. Fret not over to-morrow's trouble, for thou knowest not what a day may bring forth,<sup>22</sup> and peradventure to-morrow he is no more: thus he shall be found grieving over a world that is not his.'<sup>23</sup>

All the days of the poor<sup>24</sup> are evil.<sup>25</sup> Ben Sira said: His nights too. The lowest roof is his roof, and on the highest mountain is his vineyard. The rain of [other] roofs [drip] on to his, whilst the earth of

his vineyard is [borne] on [to other] vineyards.<sup>26</sup>

(Mnemonic: Zera, Raba, Mesharsheya, Hanina, Tobiah, Jannai, Easily suited, Johanan, Merahem, Joshua Mekazer.)<sup>27</sup>

R. Zera said in Rab's name: What is meant by, All the days of the afflicted are evil? This refers to the students<sup>28</sup> of the Talmud; But he that is of a merry heart hath a continuous feast: this refers to students of the Mishnah.<sup>29</sup> Raba reversed the interpretation.<sup>30</sup> And this is what R. Mesharsheya said in Raba's name: What is meant by, whoso removeth stones shall be hurt therewith?<sup>31</sup> This refers to the students of the Mishnah; But he that cleaveth wood shall be warmed thereby,<sup>32</sup> — this refers to students of the Talmud. R. Hanina said: All the days of the afflicted are evil alludes to one who has a bad wife; whilst but he that is of a merry heart hath a continuous feast, — to him who possesses a good wife. R. Jannai said: All the days of the afflicted are evil refers to one who is over-fastidious;<sup>33</sup> but he that is of a merry heart hath a continuous feast, — to a person who is easily suited. R. Johanan said: All the days of the afflicted are evil refers to the compassionate; but he that is of a merry heart hath a continuous feast, to the cruel. R. Joshua b. Levi said: All the days of the afflicted are evil refers to him

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(1) Ps. LXXVIII, 23f.

(2) Gen. VII, 11; 'doors' implies a greater opening than 'windows': I.e., God metes out reward more fully than punishment.

(3) Isa. LXVI, 24.

(4) How then can the bodies of the dead go on burning for ever in the next?

(5) I.e., in both cases they are endowed with abnormal receptiveness.

(6) This probably refers to the works of the Judeo-Christians, i.e., the New Testament. There were no Sadducees after the destruction of the Temple, and so 'Sadducees' is probably a censor's emendation for sectarians or Gentiles (Herford, Christianity in the Talmud, p. 333.) [MS. M. reads, Minim.]

(7) I.e., fish is fit for consumption even if baked or roasted with its skin, and therefore it is wasteful to remove it.

(8) Deut. XX, 19, i.e., one must not wantonly destroy what is fit for use.

(9) Lit., 'way of the earth.'

(10) Ben Sira XLIII, 9-10.

(11) V. p. 517 top. The reference is to the three stages: קטנה תנערה תבוגרת, minority, majority, and ripeness.

(12) ישחנה; Prov. XII, 25.

(13) One connects it with היסח (הדעת), to discard from one's mind, the other with שיה, to converse: but on either interpretation, the sentiment is the same as Ben Sira's.

(14) Prov. XVIII, 24.

(15) Because he is certainly not hungry — otherwise he would not waste time in considering with what to eat it.

(16) I.e., he is extremely cunning, the parting of his beard being due to incessant stroking whilst brooding over his schemes. — All this is nonsense, and hence R. Joseph's objection to reading it.

(17) I.e., to the masses, in the public lectures.

(18) [Yad Ramah records a reading confirmed by many MSS.

אי לאו דגנוזה רבנן להאי ספרא הוי דרשינן להו וכו' 'Had not the Rabbis hidden this book, we should have expounded them etc.', implying that Ben Sira was hitherto included in the canon; v. J.Q.R., 1891, 686 and 700.]

(19) Lit., 'to dilute'.

(20) These, trading on a petty scale, generally transacted their business with the women-folk, which led to jealousy on the part of their husbands and assaults on the peddlers.

(21) A quotation from Jer. V, 27

(22) Prov. XXVII, 1.

(23) [Ben Sira XXX, 21; XXVI, 1-4; IX, 8-9; XI, 29-34; VI, 6.]

(24) E.V. 'afflicted'.

(25) Prov. XV, 15.

(26) Being poor, he cannot afford a tall building. At the same time, when purchasing a vineyard, he must take one at the top of a mountain, where land is cheaper than in the valley; so that in a storm the earth of his field is carried away to enrich the low-lying lands — thus, whatever happens, he is the loser.

(27) V. p. 387, n. 8.

(28) Lit., 'masters'.

(29) The Talmud, owing to its complexity and difficulty, due to its intricate discussions, is a source of distress to its students; whereas the Mishnah, which is plain and straightforward, brings pleasure to those who study it.

(30) A student of the Talmud may give a definite decision, but not a student of the Mishnah, which is regarded as incomplete without the Talmud. Hence the former sees the fruit of his labours, whereas the latter derives no practical benefit from his studies.

(31) Eccl. X, 9.

(32) Ibid. E.V. translates 'shall be endangered'; for the present rendering of סכנ' cf. סוכנת in 1 Kings I, 4.

(33) So that he is worried by the smallest thing which is not exactly to his liking.

### Talmud - Mas. Sanhedrin 101a

who is of a petty nature; but he that is of a merry heart hath a continuous feast, to a contented mind.

R. Joshua b. Levi also said: All the days of the poor are evil: but are there not the Sabbaths and festivals? — it is as Samuel said, viz., Change of diet is the first step to indigestion.<sup>1</sup>

Our Rabbis taught: He who recites a verse of the Song of Songs and treats it as a [secular] air,<sup>2</sup> and one who recites a verse at the banqueting table<sup>3</sup> unseasonably,<sup>4</sup> brings evil upon the world. Because the Torah girds itself in sackcloth, and stands before the Holy One, blessed be He, and laments before Him, 'Sovereign of the Universe! Thy children have made me as a harp upon which they frivolously play.' He replies, 'My daughter, when they are eating and drinking, wherewith shall they occupy themselves?' To which she rejoins, 'Sovereign of the Universe! if they possess Scriptural knowledge, let them occupy themselves with the Torah, the Prophets, and the Writings; if they are students of the Mishnah, with Mishnah, halachoth, and haggadoth;<sup>5</sup> if students of the Talmud, let them engage in the laws of Passover, Pentecost and Tabernacles on the respective Festivals. R. Simeon b. Eleazar testified on the authority of R. Simeon b. Hanina: He who reads a verse in season [as just defined] brings good to the world, as it is written, and a word spoken in season, how good is it.<sup>6</sup>

ALSO ONE WHO WHISPERS OVER A WOUND etc. R. Johanan said: But only if he expectorates in doing so because the Divine Name may not be expressed in conjunction with expectoration.<sup>7</sup>

It has been said, Rab declared: Even [the verse], When the plague of leprosy [etc.];<sup>8</sup> R. Hanina said: Even, And he called unto Moses.<sup>9</sup>

Our Rabbis taught: One may oil and massage the bowels [of an invalid] on the Sabbath,<sup>10</sup> and snakes and serpents may be charmed [to render them tame and harmless] on the Sabbath, and an article may be placed over the eye on the Sabbath [to protect it]. R. Simeon b. Gamaliel said: This applies only to articles which may be handled;<sup>11</sup> but those which may not be handled<sup>12</sup> are forbidden; nor may demons be consulted on the Sabbath. R. Jose said: This is forbidden even on week-days. R. Huna said: The halachah is not<sup>13</sup> as R. Jose, and even he said it only on account of its danger, as in the case of R. Isaac b. Joseph, who was swallowed up in a cedar tree, but a miracle was wrought for him, the cedar splitting and casting him forth.<sup>14</sup>

Our Rabbis taught: The bowels may be oiled and massaged on the Sabbath, providing this is not

done as on week-days.<sup>15</sup> How then shall it be done? — R. Hama son of R. Hanina said: They must first be oiled, and then massaged.<sup>16</sup> R. Johanan said: The oiling and massaging must be done simultaneously.

Our Rabbis taught: it is permitted to consult by a charm the spirits of oil or eggs,<sup>17</sup> but that they give false answers. Incantations are made over oil contained in a vessel, but not in the hand;<sup>18</sup> therefore one may anoint with the latter, but not with the former.<sup>19</sup>

R. Isaac b. Samuel b. Martha chanced upon a certain inn. Some oil was brought to him in a vessel, with which he rubbed himself, whereupon blisters broke out on his face. He then went out to the market place, and was seen by a woman who observed: 'I see here the blast of Hamath.'<sup>20</sup>

R. Abba said to Rabbah b. Mari: it is written, I will put none of these diseases upon thee, which I have brought upon the Egyptians, for I am the Lord that healeth thee.<sup>21</sup> But since He hath brought no [disease], what need is there of a cure?—He replied: Thus hath R. Johanan said: This verse is self-explanatory, because the whole reads, And he said, if thou wilt diligently hearken to the voice of the Lord thy God: thus, if thou wilt hearken, I will not bring [disease upon thee], but if thou wilt not, I will; yet even so, I am the Lord that healeth thee.

Rabbah b. Bar Hana said: When R. Eliezer fell sick, his disciples entered [his house] to visit him. He said to them, 'There is a fierce wrath in the world.'<sup>22</sup> They broke into tears, but R. Akiba laughed. 'Why dost thou laugh?' they enquired of him 'Why do ye weep?' he retorted. They answered, 'Shall the Scroll of the Torah<sup>23</sup> lie in pain, and we not weep?' — He replied, 'For that very reason I rejoice. As long as I saw that my master's wine did not turn sour, nor was his flax smitten, nor his oil putrefied, nor his honey become rancid,<sup>24</sup> I thought, God forbid, that he may have received all his reward in this world [leaving nothing for the next]; but now that I see him lying in pain, I rejoice [knowing that his reward has been treasured up for him in the next].' He [R. Eliezer] said to him, 'Akiba, have I neglected anything of the whole Torah?'<sup>25</sup> — He replied, 'Thou, O Master, hast taught us, For there is not a just man upon earth, that doeth good and sinneth not.'<sup>26</sup>

Our Rabbis taught: When R. Eliezer fell sick, four elders went to visit him, viz., R. Tarfon, R. Joshua, R. Eleazar b. Azariah, and R. Akiba. R. Tarfon observed, 'Thou art more valuable to Israel than rain; for rain is [precious] in this world, whereas thou art [so] for this world and the next.'<sup>27</sup> R. Joshua observed, 'Thou art more valuable to Israel than the sun's disc: the sun's disc is but for this world, whilst my master is for this world and the next.' R. Eleazar b. Azariah observed, 'Thou art better to Israel than a father and a mother: these are for this world, whereas my master is for this world and the next. But R. Akiba observed, 'Suffering is precious.' Thereupon he [the sick man] said to them, 'Support me, that I may hear the words of Akiba, my disciple, who said, "Suffering is precious.'<sup>28</sup> Akiba,' queried he, 'whence dost thou know this?' — He replied, 'I interpret a verse: Mannasseh was twelve years old when he began to reign, and he reigned fifty and five years in Jerusalem etc. and he did that which was evil in the sight of the Lord.'<sup>29</sup> Now it is [elsewhere] written,

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(1) Lit., 'disease of the bowels'. So that the poor man does not enjoy even the lordly fare of these days.

(2) I.e., not with its traditional cantillation (Rashi).

(3) Lit., 'in the house of banquet.'

(4) Making it the subject of a jest or secular amusement.

(5) V. Glos.

(6) Prov. XV, 23.

(7) In uttering a charm one generally expectorated, the charm itself being usually a Biblical verse containing the Name of God. Thus the actual enchantment was done by means of the Biblical verse; a similar kind of enchantment was practised by the Essenes. In the opinion of some scholars, expectoration was the essential part of the charm, and L. Blau maintains

that ורוקק (expectorates) belongs to the original text of the Mishnah (Krauss, Sanh.-Mak. p. 220).

(8) Lev: XIII, 9: though not containing the Divine Name its use as a magical formula is forbidden.

(9) Lev. I, 1. Though this contains no mention of illness or disease, and is whispered only that one may be saved from illness through the merit of reading the Torah, it is still forbidden.

(10) Though a medicine is forbidden on that day.

(11) E.g., a key, food-knife, and a ring.

(12) E.g., every tool used in work which is forbidden on the Sabbath.

(13) The Wilna Gaon deletes 'not'.

(14) He consulted a demon, which turned itself into a tree and swallowed him; it was only through a miracle that he escaped.

(15) To maintain a distinction between the Sabbath and the rest of the week.

(16) On week-days massage preceded oiling (Rashi).

(17) Every plant in the vegetable kingdom was believed to have its own presiding genius, which could be provoked by incantations; v. Gen. Rab. X, 6. Both eggs and oil were used for purposes of magic and in folk-medicine; cf. A. Marmorstein in MGWJLXXII, p. 395. It is noteworthy from the present passage that the Talmud had no faith in these charms.

(18) This states the practice, not a ruling.

(19) Since it may have been used as a charm.

(20) The name of a demon.

(21) Ex. XV, 26.

(22) He referred to himself-God must be very angry with him so to have afflicted him. So Rashi. Graetz Geschichte IV. p. 47 conjectures that his death took place shortly before Trajan's attack upon the Jews of many countries (c. 116-117 C.E.), to which he was alluding in this remark, as the storm was already brewing.

(23) I.e., R. Eliezer.

(24) He was prosperous in everything.

(25) That thou sayest that I now suffer for my sins, so that I may have nothing but reward in the world to come.

(26) Ecc. VII, 20.

(27) For as a result of his teaching Israel would enjoy a reward in the next world too.

(28) Because they make atonement for the sufferer.

(29) II Kings XXI, 1f.

## Talmud - Mas. Sanhedrin 101b

These are also the proverbs of Solomon, which the men of Hezekiah king of Judah copied out.<sup>1</sup> Now, would Hezekiah king of Judah have taught the Torah to the whole world, yet not to his own son Manasseh? But all the pains he spent upon him, and all the labours he lavished upon him did not bring him back to the right path, save suffering alone, as it is written, And the Lord spoke to Manasseh and to his people: but they would not hearken unto him. Wherefore the Lord brought upon them the captains of the host of the king of Assyria, which took Manasseh among the thorns, and bound him with fetters, and carried him to Babylon.<sup>2</sup> And it is further written, And when he was in affliction, he besought the Lord his God, and humbled himself greatly before the God of his fathers. And prayed unto him, and he was entreated of him, and heard his supplication, and brought him again to Jerusalem unto his kingdom, and Manasseh knew that the Lord he was God.<sup>3</sup> Thus thou learnest how precious is suffering.'

Our Rabbis taught: Three came with a circuitous plea.<sup>4</sup> viz., Cain, Esau and Manasseh. Cain — for it is written, [And Cain said unto the Lord.] is my sin too great to be forgiven?<sup>5</sup> He pleaded thus before Him: 'Sovereign of the Universe! Is my sin greater than that of the six hundred thousand [Israelites] who are destined to sin before Thee, yet wilt Thou pardon them!' Esau — for it is written, [And Esau said unto his father,] Hast thou but one blessing, my father?<sup>6</sup> Manasseh — he first called upon many deities, and [only] eventually called upon the God of his fathers.<sup>7</sup>

ABBA SAUL SAID: ALSO HE WHO PRONOUNCES THE DIVINE NAME AS IT IS SPELT etc. It has been taught: [This holds good] only in the country,<sup>8</sup> and in the sense of [the Samaritan] aga [blaspheming].<sup>9</sup>

THREE KINGS AND FOUR COMMONERS etc. Our Rabbis taught: [The name] Jeroboam [denotes] that 'he debased the nation.'<sup>10</sup> Another meaning is that 'he fomented strife amongst the nation.'<sup>11</sup> Another explanation, that 'he caused strife between Israel and their Father in Heaven.'<sup>12</sup> The son of Nebat denotes that 'he beheld, but did not see.'<sup>13</sup>

A Tanna taught: Nebat, Micah, and Sheba the son of Bichri are one and the same.<sup>14</sup> [He was called] Nebat, because 'he beheld but did not see'; Micah, because 'he was crushed'<sup>15</sup> in the building';<sup>16</sup> and what was his real name? — Sheba the son of Bichri.

Our Rabbis taught: Three beheld but did not see, viz., Nebat, Ahitophel, and Pharaoh's astrologers. Nebat — he saw fire issuing from him. He interpreted it [as signifying] that he would reign,<sup>17</sup> yet that was not so, but that Jeroboam would issue from him. Ahitophel, — he beheld leprosy breaking out in him. He thought that it meant that he would reign,<sup>18</sup> but it was not so, but referred to Bath Sheba, his daughter,<sup>19</sup> from whom issued Solomon. Pharaoh's astrologers, — even as R. Hama son of R. Hanina said: What is meant by This is the water of Meribah?<sup>20</sup> 'This is' what Pharaoh's astrologers saw, but erred [in its interpretation]. They saw that Israel's Saviour would be smitten through water: therefore he [Pharaoh] ordered, Every son that is born ye shall cast into the river;<sup>21</sup> but they did not know that he was to be smitten [i.e., punished] on account of the water of Meribah.

Now whence do we know that he [Jeroboam] will not enter the future world? — Because it is written, And this thing became sin unto the house of Jeroboam even to cut it off and to destroy it from off the face of the earth:<sup>22</sup> 'to cut it off' [implies] in this world; 'and to destroy it,' in the next.

R. Johanan said: Why did Jeroboam merit sovereignty? Because he reprov'd Solomon. And why was he punished? Because he reprov'd him publicly. As it is written, And this was the cause that he lifted up his hand against the king: Solomon built Millo, and repaired the breaches of the city of David his father.<sup>23</sup> He said thus to him: Thy father David made breaches in the wall, that Israel might come up [to Jerusalem] on the Festivals; whilst thou hast closed them, in order to exact toll for the benefit of Pharaoh's daughter.<sup>24</sup> What is meant by And this was the cause that he lifted up his hand against the king?<sup>25</sup> — R. Nahman said: He took off his phylacteries in front of him.<sup>26</sup>

R. Nahman said: The conceit which possessed Jeroboam drove him out of the world,<sup>27</sup> as it is written, Now Jeroboam said in his heart, Now shall the kingdom return to the house of David: if this people go up to do sacrifice in the house of the Lord at Jerusalem, then shall the heart of this people turn unto their Lord, even unto Rehoboam king of Judah, and they shall kill me, and go again to Rehoboam king of Judah.<sup>28</sup> He reasoned thus: it is a tradition that none but the kings of the house of Judah may sit in the Temple Court.<sup>29</sup> Now, when they [the people] see Rehoboam sitting and me standing, they will say, The former is the king and the latter his subject; whilst if I sit too, I am guilty of treason,<sup>30</sup> and they will slay me, and follow him. Straightway, Wherefore the king took counsel, and made two calves of gold, and said unto them, it is too much for you to go up to Jerusalem: behold thy gods, O Israel, which brought thee up out of the land of Egypt.<sup>31</sup> How did he 'take counsel'? — R. Judah said: He set a wicked man by the side of the righteous [in the council chamber] and said to him, 'Will ye sign [your approval] of all that I may do?' They replied, 'Yes.' 'I wish to be king,' he went on; and they again said, 'Yes.' 'Will ye execute all my commands?' he asked. Again they replied 'Yes.' 'Even for the worship of idols?' Whereupon the righteous man rejoined, 'God forbid!' 'But,' urged the wicked upon the righteous, 'dost thou really think that a man like Jeroboam would serve idols? He only wishes to test us, to see whether we will give full acceptance to his orders?'<sup>32</sup>

- (1) Prov. XXV, 1. This implies that they copied it out for general instruction. Cf. also supra 94a, that Hezekiah had the whole nation taught.
- (2) II Chron. XXXIII, 10f.
- (3) Ibid. 12f.
- (4) Preferring their request as a right, not a favour.
- (5) Gen. IV, 13.
- (6) Ibid. XXVII, 38: thus he justified his demand for a blessing.
- (7) This is deduced from, And when he was in affliction, he besought the Lord his God—implying that he had prayed to other deities before. ‘If thou wilt not hearken to my prayer, he pleaded, ‘of what profit was my turning to thee?’
- (8) As opposed to the Temple.
- (9) [So Levy, who quotes J. Sanh. X, 28b כגון אילין כותאי דמשתבעין in a way as those Samaritans swear: ויקב ‘he blasphemed’, Lev. XXIV, 11, is rendered by the Samaritan Targum וואגא. S. Krauss, Sanh-Mak. p. 271, translates: ‘in a corrupt, barbarous language,’ debasing thereby the Holy Name; cf. Rashi.]
- (10) ריבע מעם
- (11) By his introduction of calf worship.
- (12) The latter two connect Jeroboam with ריב rib, strife.
- (13) He beheld a vision, but did not understand (see) its true significance. The vision is stated below. — Nebat is here connected with root נבט, nabat, to see.
- (14) Micah was a resident of Mount Ephraim who established a private idolatrous shrine and engaged a Levite to minister therein. — Judges XVII, 1-5. This image was subsequently stolen and set up in Dan; Ibid. XVIII. Sheba the son of Bichri was an Ephraimite who revolted against David immediately after the collapse of Absalom's insurrection; II Sam. XX, 1 et seqq.
- (15) נתמכמך with which מיכה is connected.
- (16) According to legend, when the Israelites in Egypt did not complete their tale of bricks, their children were built into the walls instead. On Moses' complaining thereof to God, He answered him that he was thus weeding out the destined wicked. As proof, he was empowered to save Micah, who had already been built in, but only to become an idolater on his reaching manhood. Rashi also gives an alternative rendering: he became impoverished (Cf. Lev. XXV, 25; XXVII, 8) through building — presumably his idolatrous shrine.
- (17) And hence he raised the standard of revolt.
- (18) According to legend (infra 107a), David was smitten with leprosy for six months on account of his sin with Bath Sheba. Ahitophel therefore interpreted the outbreak on his own person as shewing that David's leprosy would bring him to the throne.
- (19) I.e., his granddaughter. Her father Eliam (II Sam. XI, 3) being identified with the son of Ahitophel (II Sam. XXIII, 34).
- (20) Num. XX, 13.
- (21) Ex. I, 22.
- (22) I Kings. XIII, 34.
- (23) Ibid. XI, 27.
- (24) Very few openings were left, so that visitors to Jerusalem could be checked and taxed for the privilege.
- (25) I.e., what did he actually do?
- (26) This was regarded as a mark of disrespect. Another version: he removed his phylacteries, so as to be unconstrained in his abuse of Solomon, which he would not wish to do with these religious symbols upon him.
- (27) I.e., led him into destruction.
- (28) I Kings XII, 26f.
- (29) This was a special prerogative of Davidic kings. V. Kid. 78a, and cf. Josephus Ant. VIII, 4, 2.
- (30) Lit., ‘a rebel against royal authority.’
- (31) Ibid. 28.
- (32) Thus he received the signature of the righteous under false pretences, and it could not be subsequently withdrawn.



And even Ahijah the Shilonite erred and signed. For Jehu was a very righteous man, as it is written, And the Lord said unto Jehu, Because thou hast done well in executing that which is right in mine eyes, and hast done unto the house of Ahab according to all that was in mine heart, thy children of the fourth generation shall sit upon the throne of Israel.<sup>1</sup> Yet it is written, But Jehu took no heed to walk in the law of the Lord God of Israel with all his heart; for he departed not from the sins of Jeroboam which made Israel to sin.<sup>2</sup> Now what caused this? — Abaye said: A covenant is made for the lips,<sup>3</sup> as it is written, [And Jehu gathered all the people together, and said unto them,] Ahab served Baal a little; but Jehu shall serve him much.<sup>4</sup> Raba said: He saw the signature of Ahijah the Shilonite, and was thus led into error.

It is written, And the revoltors are profound to make slaughter, though I have been a rebuke of them all.<sup>5</sup> R. Johanan explained this: The Holy One, blessed be He, said, ‘They have gone deeper [i.e., are more stringent] than I. I said, “Whoever does not go up [to Jerusalem] for the Festival violates a positive injunction” whereas they proclaimed, “Whoever does go up for the Festival will be pierced with the sword.”’<sup>6</sup>

And it came to pass at that time when Jeroboam went out of Jerusalem, that the prophet Ahijah the Shilonite found him in the way, and he had clad himself with a new garment:<sup>7</sup> a Tanna taught in the name of R. Jose: [That time was] a time predestined for punishment.<sup>8</sup> In the time of their visitation they shall perish:<sup>9</sup> a Tanna taught in the name of R. Jose: [In] a time predestined for punishment. In an acceptable time have I heard thee:<sup>10</sup> a Tanna taught in R. Jose's name: [In] a time predestined for good. Nevertheless in the day when I visit, I will visit their sin upon them:<sup>11</sup> a Tanna taught in R. Jose's name: [In] a time Predestined for punishment.<sup>12</sup> And it came to pass at that time, that Judah went down from his brethren:<sup>13</sup> a Tanna taught in R. Jose's name: [In] a time predestined for punishment.<sup>14</sup> And Rehoboam went to Shechem: for all Israel were come to Shechem to make him king:<sup>15</sup> a Tanna taught in R. Jose's name: [It was] a place predestined for evil; in Shechem Dinah was ravished;<sup>16</sup> in Shechem his brethren sold Joseph;<sup>17</sup> and in Shechem the kingdom of the House of David was divided.

[Now it came to pass at that time] that Jeroboam went out of Jerusalem:<sup>18</sup> R. Hanina b. Papa said: He went out of the destiny of Jerusalem.<sup>19</sup> And the prophet Ahijah the Shilonite found him in the way, and he clad himself with a new garment, and they two were alone in the field.<sup>20</sup> What is meant by ‘with a new garment’? — R. Nahman said: As a new garment: just as a new garment has no defect, so was Jeroboam's scholarship without defect. Another explanation: A new garment intimates that they expounded new teachings, such as no ear had ever heard before. What is taught by, ‘and they two were alone in the field’? — Rab Judah said in Rab's name: All other scholars were as the herbs of the field before them.<sup>21</sup> Others say that all the reasons of the Torah were as manifest to them as a field.<sup>22</sup>

Therefore shalt thou give parting gifts to Moresheth-gath: the houses of Achzib shall be a lie to the kings of Israel.<sup>23</sup> R. Hanina b. Papa said: A heavenly voice cried out and said, ‘He who slew the Philistine and thereby gave you possession of Gath,<sup>24</sup> shall ye give parting gifts to his sons!’<sup>25</sup> [Therefore] the houses of Achzib shall be a lie to the kings of Israel.<sup>26</sup>

R. Hanina b. Papa said: He who enjoys aught of this world without uttering a blessing is as though he robbed the Holy One, blessed be He, and the Kenesseth Yisrael,<sup>27</sup> for it is written, Whoso robbeth his father or his mother, and saith, It is no transgression the same is the companion of a destroyer.<sup>28</sup> Now ‘his father’ can refer only to the Holy One, blessed be He, as it is written. Is not he [sc. God] thy father that hath bought thee?<sup>29</sup> whilst ‘his mother’ can mean nothing but Kenesseth Yisrael, as it is written, My son, hear the instruction of thy father, and forsake not the law of thy mother.<sup>30</sup> What is meant by ‘the same is the companion of a destroyer’? — He is the companion of Jeroboam the son of Nebat, who destroyed [the allegiance of] Israel to their Father in Heaven.

And Jeroboam drove Israel from following the Lord, and made them sin a great sin.<sup>31</sup> R. Johanan said: As two sticks which cause each other to rebound.<sup>32</sup>

[These be the words which Moses spake unto all Israel. . . in the wilderness, . . .] and Di Zahab.<sup>33</sup> The School of R. Jannai expounded: Moses said before the Holy One, blessed be He: Sovereign of the Universe! It was because of the silver and gold [zahab] which Thou didst lavish upon them, until they said, Enough! [dai] that they were led to make a god of gold. A parable: The lion does not tear and roar out of a basket of straw, but out of a basket of meat.<sup>34</sup>

R. Oshaia said: Until Jeroboam, Israel imbibed [a sinful disposition] from one calf; but from him onwards, from two or three calves.<sup>35</sup> R. Isaac said: No retribution whatsoever comes upon the world which does not contain a slight fraction<sup>36</sup> of the first calf [i.e.. the molten calf in the wilderness], as it is written, nevertheless in the day when I visit, I will visit their sin upon them.<sup>37</sup> R. Hanina said: After twenty-four generations [the doom foretold in] this verse was exacted,<sup>38</sup> as it is written, He cried also in mine ears with a loud voice, saying, cause the visitations of the city to draw near, even every man with his destroying weapon in his hand.<sup>39</sup>

After this thing Jeroboam turned not from his evil way.<sup>40</sup> What is meant by, after this thing? — R. Abba said: After the Holy One, blessed be He, had seized Jeroboam by his garment and urged him, 'Repent, then I, thou, and the son of Jesse [i.e.. David] will walk in the Garden of Eden.' 'And who shall be at the head?' inquired he. 'The son of Jesse shall be at the head.' 'If so,' [he replied] 'I do not desire [it].'

R. Abbahu used to make a practice of lecturing on the Three Kings.<sup>41</sup> Falling sick, he undertook not to lecture [thereon any more];<sup>42</sup> yet no sooner

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(1) II Kings X, 30.

(2) Ibid. 31.

(3) I.e., the spoken word, even if unintentional, becomes fulfilled.

(4) Ibid. 18. These words, though spoken guilefully, had to be fulfilled.

(5) Hosea V, 2.

(6) Thus they forbade more severely than I had commanded it.

(7) I Kings XI, 29.

(8) On that occasion Ahijah prophesied the division of the kingdom as a punishment for Solomon's backsliding.

(9) Jer. LI, 18.

(10) Isa. XLIX, 8.

(11) Ex. XXXII, 34.

(12) The "day" referred to is the ninth of Ab. The spies returned from their ill-fated mission on that day; God's fiat that the whole of that generation should perish in the wilderness was promulgated on that day; and the destruction of the Temple took place likewise on the ninth of Ab.

(13) Gen. XXXVIII, 1.

(14) For as a result of that expedition it was fated that Judah should beget two sons, who should die, and his daughter-in-law Tamar be condemned to death.

(15) I Kings XII, 1.

(16) V. Gen. XXXIV.

(17) Dothan, where Joseph was sold (Gen. XXXVII, 17), being in the vicinity of Shechem.

(18) I Kings XI, 29.

(19) I.e., he would have no share in the welfare of Jerusalem.

(20) Ibid.

(21) I.e., were of no account at all in comparison with them.

(22) Even of laws of which the reason is generally unknown.

(23) Micah I, 14.

(24) Sc. David, who slew Goliath and thereby gained Possession of Gath for Israel, Moresheth gath means the possession of Gath.

(25) I.e., shall ye revolt against and forsake them!

(26) This is thus interpreted: since ye deal treacherously (i.e., lyingly. the root-idea of achzib) with the house of David, preferring the rule of the kings of Israel, therefore ye shall be delivered into the hands of the heathens. whose religion is 'a lie' — I.e., It is false.

(27) Lit., 'Community of Israel.'

(28) Prov. XXVIII, 24.

(29) Deut. XXXII, 6.

(30) Prov. I, 8.

(31) II Kings XVII, 21.

(32) When two pieces of wood are struck together, each rebounds from the other. So Jeroboam forced the Israelites to forsake God.

(33) Deut. I, 1.

(34) I.e., when a lion is fully satisfied he shews his high spirits by killing and roaring; when hungry, he is too dejected to do so. Thus in the case of Israel too, it was not poverty but the self-indulgence of wealth which ensnared them into idolatry.

(35) Until Jeroboam, only the one calf which Israel had made in the wilderness was responsible for their sinning. But he added the calves of Beth-El and Dan, thus furnishing more incentives to sin.

(36) Lit., 'a twenty-fourth part of the overweight of a litra.' By the overweight of a litra (v. Glos.) is meant the slight addition which is made to tip the scales in the direction of the weights. The general idea is that some small portion of all punishment is due to the sin of the golden calf.

(37) Ex. XXXII, 34.

(38) [Yad Ramah reads פתיק זה 'this decree'.]

(39) Ezek. IX, 1, The use of 'visitations' suggests that this was the fulfilment of the doom threatened in Ex. XXXII, 34. There were twenty-four generations from that of the wilderness, when the Calf was made, to that of Zedekiah, in whose reign the State was overthrown and Judah deported to Babylon.

(40) I Kings XIII, 33.

(41) Mentioned in our Mishnah as having no 'portion in the future world.

(42) He viewed his illness as a punishment for dwelling upon the sins of others.

## Talmud - Mas. Sanhedrin 102b

had he recovered, than he lectured [upon this] again. They [his disciples] remonstrated with him, 'Did you not undertake not to lecture on them?' — He replied, 'Did they abandon [their evil course], that I should abandon [my habit of lecturing upon them]?'

In the college of R. Ashi the lecture [one day] terminated at 'Three Kings.'<sup>1</sup> 'To-morrow, said he, 'we will commence with our colleagues.'<sup>2</sup> [That night] Manasseh came and appeared to him in a dream. 'Thou hast called us thy colleagues and the colleagues of thy father; now, from what part [of the bread] is [the piece for reciting] the ha-mozi<sup>3</sup> to be taken?' 'I do not know,' he answered. 'Thou hast not learned this,' he jibed, 'yet thou callest us thy colleagues!'<sup>4</sup> 'Teach it me,' he begged, 'and to-morrow I will teach it in thy name at the session.' He answered, 'From the part that is baked into a crust.'<sup>5</sup> He then questioned him, 'Since thou art so wise, why didst thou worship idols?' He replied, 'Wert thou there, thou wouldst have caught up the skirt of thy garment and sped after me.' The next day he observed to the students: We will commence with our teachers [so referring to the Three Kings]. Ahab denotes that he was an ah [a brother]<sup>6</sup> to Heaven, and an ab [a father] to idolatry. An ah to Heaven, as it is written, a brother [ah] is born for trouble,<sup>7</sup> and ab [father] to idolatry, as it is written, As a father loveth his children.<sup>8</sup>

And it came to pass, that it were a light thing for him to walk in the sins of Jeroboam the son of

Nebat.<sup>9</sup> R. Johanan said: The light [minor] transgressions which Ahab committed were equal to the gravest committed by Jeroboam. Why then does Scripture make Jeroboam the exemplar<sup>10</sup> of sin? Because he was the first to corrupt.

Yea, their altars are as heaps in the furrows of the fields.<sup>11</sup> R. Johanan said: [This teaches that] there is no furrow in Palestine upon which Ahab did not plant an idol and worship it.

Whence do we know that he will not enter the future world? — From the verse, And I will cut off from Ahab him that pisseth against the wall, him that is shut up and forsaken in Israel,<sup>12</sup> shut up [implies] in this world; forsaken, in the next.

R. Johanan said: Why did Omri merit sovereignty? Because he added a region to Palestine, as it is written, And he bought the hill Samaria of Shemer for two talents of silver, and built on the hill, and called the name of the city which he built, after the name of Shemer, owner of the hill Samaria,<sup>13</sup> R. Johanan said: Why did Ahab merit royalty for twenty-two years? — Because he honoured the Torah, which was given in twenty-two letters,<sup>14</sup> as it is written, And he sent messengers to Ahab king of Israel into the city, and said unto him, Thus saith Ben-hadad, Thy silver and thy gold is mine; thy wives also and thy children, even the goodliest, are mine . . . Yet will I send my servants unto thee tomorrow at this time, and they shall search thine house, and the houses of thy servants; and it shall be, that whatsoever is pleasant in thine eyes, they shall put in their hand, and take it away . . . Wherefore he said unto the messengers of Ben-hadad, Tell my lord the king, all that thou didst send for to thy servant at the first I will do; but this thing I may not do.<sup>15</sup> Now what is meant by ‘whatsoever is pleasant in thine eyes’? Surely the Scroll of the Torah!<sup>16</sup> But perhaps [this refers to] an idol? — You cannot think so, because it is written, And all the leaders and all the people said unto him, Hearken not unto him, nor consent.<sup>17</sup> But perhaps they were evil elders?<sup>18</sup> Is it not written. And the saying pleased Absalom well, and all the elders of Israel?<sup>19</sup> Whereon R. Joseph commented: They were evil elders? — There ‘and all the people’ is not stated, whilst here it is written, ‘and all the people’, and it is impossible that there were no righteous among them, for it is written, Yet I have left one seven thousand in Israel, all the knees which have not bowed unto Baal, and every mouth which hath not kissed him.<sup>20</sup>

R. Nahman said: Ahab was equally balanced,<sup>21</sup> since it is written, And the Lord said, Who shall persuade Ahab, that he may go up and fall at the Ramoth-gilead? And one said in this manner, and one said in that manner.<sup>22</sup> R. Joseph objected: He of whom it is written, But there was none like unto Ahab, which did sell himself to work wickedness in the sight of the Lord, whom Jezebel his wife stirred up:<sup>23</sup> whereon it was taught: Every day she used to weigh out gold shekels for idols — yet thou sayest that he was equally balanced! But Ahab was generous with his money, and because he used to benefit scholars with his wealth, half [his sins] were forgiven.

And there came forth the spirit, and stood before the Lord, and said, I will persuade him. And the Lord said unto him, Wherewith? And he said, I will go forth, and I will be a lying spirit in the mouth of his prophets. And he said, Thou shalt persuade him, and prevail also: go forth, and do so.<sup>24</sup> Which spirit [is meant]? — R. Johanan said: The spirit of Naboth the Jezreelite. What is meant by ‘go forth’? — Rabina said: Go forth from within my barrier, as it is written, He that telleth lies shall not tarry in my sight.<sup>25</sup> R. Papa observed, Thus men say, ‘He who takes his vengeance destroys his own house.’<sup>26</sup>

And Ahab made a grove; and Ahab did more to provoke the Lord God of Israel to anger than all the kings of Israel that were before him.<sup>27</sup> R. Johanan said: [This means] that he wrote upon the gates of Samaria, ‘Ahab denies the God of Israel.’ Therefore he has no portion in the God of Israel.

And he sought Ahaziah: and they caught him, for he was hid in Samaria.<sup>28</sup> R. Levi said: He was

engaged in erasing the Divine Names [from the Torah] and substituting [the names of] idols in their stead.<sup>29</sup>

Manasseh [denotes] that he forgot God.<sup>30</sup> Another explanation: Manasseh [denotes] that he caused Israel to forget their Father in Heaven. And how do we know that he will not enter the future world? — Because it is written, Manasseh was twelve years old when he began to reign, and he reigned fifty and five years in Jerusalem . . . and he made a grove, as did Ahab king of Israel.<sup>31</sup> Just as Ahab has no portion in the world to come, so has Manasseh neither.

R. JUDAH SAID: MANASSEH HATH A PORTION THEREIN, FOR IT IS WRITTEN, AND HE PRAYED UNTO HIM AND WAS INTREATED OF HIM etc. R. Johanan said: Both of them [in support of their views] expounded the same verse. For it is written, And I will cause to be removed unto all kingdoms of the earth, because of Manasseh the son of Hezekiah, king of Judah.<sup>32</sup> One Master<sup>33</sup> maintains, 'Because of Manasseh' who repented, whilst they did not;<sup>34</sup> whilst the other Master<sup>35</sup> maintains,

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- (1) I.e., the lecture on a particular day ended when 'Three Kings' of supra XI,1, was reached.
  - (2) This was a playful reference to the three kings, who were scholars.
  - (3) The blessing for bread, on account of its ending 'who bringest forth (ha-mozi) bread from the earth.'
  - (4) He was jeering at R. Ashi as not worthy of being called his colleague.
  - (5) I.e., a piece of the outer surface must be taken for the purpose, not the inner dough.
  - (6) In an evil sense, as the Talmud proceeds to quote.
  - (7) Prov. XVII, 17.
  - (8) Ps. CIII, 13; so translated here (Rashi). Cf. ibid. XVIII, 2: **הַזִּקְיָהוּ אֶרְחֹמְךָ ה'** I will love thee, O Lord, my strength.
  - (9) I Kings XVI, 31. The reference is to Ahab,
  - (10) Lit., 'fasten on to Jeroboam.'
  - (11) Hosea XII, 12.
  - (12) I Kings XXI, 21.
  - (13) Ibid. XVI, 24.
  - (14) I.e., the number of letters in the Hebrew alphabet.
  - (15) Ibid. XX, 3, 6, 9.
  - (16) Thus shewing that he honoured it and it was in respect of this that he defied him (Rashi).
  - (17) Ibid, 8. 'Elders', by which is meant scholars, would not have counselled him to hold fast to his idols.
  - (18) Lit., 'elders of shame'.
  - (19) II Sam. XVII, 4.
  - (20) I Kings XIX, 18.
  - (21) Between sin and merit, having performed as many good deeds as evil ones.
  - (22) Ibid. XXII, 20: this shews that it was a difficult matter to lure him to his fate, and that must have been because his righteousness equalled his guilt.
  - (23) Ibid. XXI, 25.
  - (24) Ibid. XXII, 21f.
  - (25) Ps. CI. 7: v. supra, p. 592, nn. 3 and 4 for commentary.
  - (26) [Some MSS. read 'nest', a play on **קְנָאִיָּה** (his vengeance) and **קִינִיָּה** (his nest).] Naboth, through avenging himself on Ahab, was expelled from God's presence.
  - (27) I Kings XVI, 33.
  - (28) II Chron. XXII, 9.
  - (29) [This was the sacrilege which he carried on in his hiding place.]
  - (30) [Manasseh is connected with the root nashah **נָשָׁה** 'to forget'.]
  - (31) II Kings XXI, 2,3.
  - (32) Jer. XV, 4.
  - (33) The author of the anonymous opinion.

(34) This aggravated their sin.

(35) R. Judah.

## Talmud - Mas. Sanhedrin 103a

‘because of Manasseh’ — who did not repent.

R. Johanan said: He who asserts that Manasseh has no portion in the world to come weakens the hands of penitent sinners. For a tanna recited before R. Johanan: Manasseh was penitent for thirty-three years, as it is written, Manasseh was twelve years old when he began to reign, and reigned fifty and five years in Jerusalem, and he made a grove, as did Ahab king of Israel. How long did Ahab reign? Twenty-two years. How long did Manasseh reign? Fifty-five years. Subtract therefrom twenty-two, which leaves thirty-three.<sup>1</sup> R. Johanan said on the authority of R. Simeon b. Yohai: What is meant by, And he prayed unto him, and an opening was made for him.<sup>2</sup> Should not ‘and was entreated of him’ rather have been written?<sup>3</sup> — This teaches that the Holy One, blessed be He, made him a kind of opening in the Heavens, in order to accept him with his repentance, on account of the Attribute of Justice.<sup>4</sup>

R. Johanan also said on the authority of R. Simeon b. Yohai: Why is it written, In the beginning of the reign of Jehoiakim the son of Josiah;<sup>5</sup> and in the beginning of the reign of Zedekiah king of Judah;<sup>6</sup> were there then no kings until then? But [it teaches that] the Holy One, blessed be He, wished to hurl the world back into chaos<sup>7</sup> on account of Jehoiakim, but that He gazed at [the rest of] his generation, and His mind was appeased.<sup>8</sup> The Holy One, blessed be He, [also] desired to hurl the world back into chaos because of Zedekiah's generation, but that He gazed at Zedekiah [himself] and his mind was appeased. But in the case of Zedekiah too it is written, And he did that which was evil in the sight of God?<sup>9</sup> — [That denotes] that he could have stemmed [the evil of others], and did not.

R. Johanan also said on the authority of R. Simeon b. Yohai: What is meant by, If a wise man contend with a foolish man, whether he rage or laugh, there is no rest?<sup>10</sup> — The Holy One, blessed be He, said, ‘I was wrath with Ahaz, and delivered him into the hands of the kings of Damascus, whereupon he sacrificed burnt incense to their gods, as it is written, For he sacrificed unto the gods of Damascus, which smote him: and he said, Because the gods of the kings of Syria help them, therefore will I sacrifice to them that they may help me. But they were the ruin of him, and of all Israel.<sup>11</sup> I smiled upon Amaziah and delivered the kings of Edom into his hand, so he brought their gods, and prostrated himself before them, as it is written, Now it came to pass, that after Amaziah was come from the slaughter of the Edomites, that he brought the gods of the children of Seir, and set them up to be his gods, and bowed down himself before them, and burned incense unto them.<sup>12</sup> R. Papa commented: Thus men say, ‘Weep for him who knows not his fortune, laugh for him who knows not his fortune. Woe to him who knows not the difference between good and bad.’

And all the princes of the king of Babylon came in, and sat in the middle gate.<sup>13</sup> R. Johanan said on the authority of R. Simeon b. Yohai: It was the place where halachot are decided upon.<sup>14</sup> R. Papa observed: Thus men say, ‘Where the master hangs up his weapons, there the mean shepherd hangs up his pitcher.’<sup>15</sup>

[Mnemonic: By the field, houses, nought shall befall.]

R. Hisda said in the name of R. Jeremiah's b. Abba: What is meant by the verse, I went by the field of the slothful, and by the vineyard of the man void of understanding,’ And lo, it was all grown over with thorns, and nettles had covered the face thereof, and the stone wall thereof was broken down?<sup>16</sup> — I went by the field of the slothful — this refers to Ahaz;<sup>17</sup> and by the vineyard of the man void of understanding — this denotes Manasseh;<sup>18</sup> And lo, it was all grown over with thorns, —

to Amon;<sup>19</sup> and nettles had covered the face thereof — to Jehoiakim;<sup>20</sup> and the stone wall thereof was broken down, — this alludes to Zedekiah, in whose days the Temple was destroyed.

R. Hisda also said in the name of R. Jeremiah b. Abba: Four classes will not appear<sup>21</sup> before the presence of the Shechinah, — the class of scoffers, the class of liars, the class of hypocrites, and the class of slanderers. ‘The class of scoffers’ — as it is written, He withdrew His hand from the scoffers.<sup>22</sup> ‘The class of liars’ — as it is written, He that telleth lies, shall not tarry in my sight.<sup>23</sup> ‘The class of hypocrites’ — as it is written, For an hypocrite shall not come before him.<sup>24</sup> ‘The class of slanderers’ — as it is written, For thou art not a God that hath pleasure in wickedness: neither shall evil dwell with thee,<sup>25</sup> [which means] Thou art righteous, and hence there will not be evil<sup>26</sup> in thy abode.

R. Hisda also said in the name of R. Jeremiah b. Abba: What is meant by the verse, There shall no evil befall thee, neither shall any plague come nigh thy dwelling?<sup>27</sup> ‘There shall no evil befall thee,’ the Evil Impulse<sup>28</sup> shall have no power over thee; ‘neither shall any plague come nigh thy dwelling’ — thou wilt not find thy wife a doubtful niddah<sup>29</sup> when thou returnest from a journey. Another interpretation: ‘There shall no evil befall thee’ — thou wilt not be affrighted by nightmares and dread thoughts; ‘neither shall any plague come nigh thy dwelling’ — thou wilt not have a son or a disciple who publicly burns his food.<sup>30</sup> Thus far his father blessed him: beyond this, his mother blessed him:<sup>31</sup> For he shall give his angels charge over thee, to keep thee in all thy ways. They shall bear thee in their hands etc. . . Thou shalt tread upon the lion and the adder.<sup>32</sup> Thus far his mother blessed him, beyond this, Heaven blessed him:

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(1) It is assumed that the verse implies that their sinning and their punishment was equal.

(2) II Chron. XXXIII, 13, reading **ויהתר לו**.

(3) **ויעתר לו** wa-ye'tar. In our text this is indeed the reading, and was so cited supra, 90a and 101b; perhaps R. Simeon b. Yohai's text differed; v. Tosaf. Shab. 55b. s.v. **מעבירם** who draws attention to the fact that the Talmudic text of the Bible does not always correspond to ours. [Yad Ramah preserves a variant: What is the meaning of **ויעתר** seeing that it is written, and he heard his supplication? This teaches that the Holy One, blessed be He, made him a kind of opening: thus taking **ויעתר** as equivalent to **ויהתר** the **ע** and **ח** being interchanging letters.]

(4) The Attribute of Justice urged that his repentance should not be accepted.

(5) Jer. XXVI, 1.

(6) Ibid. XXVIII, 1: his difficulty is, why is the word **בראשית** bereshith used here to denote the beginning instead of simply ‘In the first year’.

(7) Lit., ‘formlessness and emptiness’.

(8) Hence the use of **בראשית** which, being the same word with which the Creation story is introduced — ‘in the beginning (**בראשית**) God created’ — intimates that He wished to plunge the world into chaos, as it was at the beginning. — Though Jehoiakim was wicked, the rest of his generation was righteous.

(9) II Kings XXIV, 19.

(10) Prov. XXIX, 9.

(11) II Chron. XXVIII, 23.

(12) Ibid. XXV, 14.

(13) **שער התוך** Sha'ar hatok. Jer. XXXIX, 3.

(14) **מהתכין** (‘cut’, ‘decide’) with which, by a play upon words, **התוך** is connected.

(15) I.e., where the Jews decided upon their laws, there Nebuchadnezzar issued his decrees.

(16) Prov. XXIV, 30f.

(17) [Who forbade the study of the Law, v. infra.]

(18) [Who destroyed the altar, v. infra.]

(19) [Who allowed the altar to be covered with spiderwebs. v. infra.]

(20) [Who declared that he could dispense with the light of God, v. infra.]

(21) Lit., ‘receive the presence of.’

(22) Hosea VII, 5.

(23) Ps. CI, 7.

(24) Job XIII, 15.

(25) Ps. V, 5.

(26) I.e., slander, as defined by the context, cf. verses 7, 10.

(27) Ps. XCI, 10.

(28) Heb. Yezer Hara'. יצר הרע

(29) V. Glos. If a woman observed a reddish stain upon her garments and does not know whether it is blood or not, she is a doubtful niddah, and is forbidden cohabitation.

(30) [By the addition of too much salt; A metaphor for the open acceptance of heretical teachings. v. Hereford, op. cit., pp. 60f.]

(31) These blessings, 'there shall no evil befall thee etc.' were David's blessings to Solomon. Those that follow 'For he shall give his angels etc.' are a mother's blessings.

(32) Ibid. 10f.

### Talmud - Mas. Sanhedrin 103b

Because he hath set his love upon me, therefore will I deliver him: will set him on high, because he hath known my name. He shall call upon me, and I will answer him: I will be with him in trouble; I will deliver him, and honour him. With long life will I satisfy him, and shew him my salvation.<sup>1</sup>

R. Simeon b. Lakish said: What is meant by the verse And from the wicked their light is withholden, and the high arm shall be broken:<sup>2</sup> now why is the 'ayin of resha'im [wicked] suspended?<sup>3</sup> Once a man becomes poor [in friends] below [on earth], he becomes poor above [in heaven]" Then let the 'ayin not be written at all? — R. Johanan and R. Eleazar [differ in their answer]: One said, because of David's honour; the other said, because of the honour of Nehemiah, the son of Hachaliah.<sup>4</sup>

Our Rabbis taught: Manasseh interpreted Leviticus<sup>5</sup> in fifty-five different ways, corresponding to the years of his reign. Ahab [in] eighty-five, and Jeroboam [in] one hundred and three [ways].

It has been taught: R. Meir said: Absalom has no portion in the world to come, for it is written, And they smote Absalom, and slew him:<sup>6</sup> 'they smote him' — in this world, 'and slew him' — in the next. It has been taught: R. Simeon b. Eleazar said on the authority of R. Meir: Ahaz, Ahaziah, and all the kings of Israel of whom it is written, And he did that which was evil in the sight of the Lord will neither live [in the future world] nor be judged [there].<sup>7</sup>

Moreover, Manasseh shed innocent blood very much, till he had filled Jerusalem from one end to another; beside his sin wherewith he made Judah to sin, in doing that which was evil in the sight of the Lord.<sup>8</sup> Here, [in Babylon] it is interpreted as meaning that he slew Isaiah; in the West [Palestine] they said: [It means] that he made an image as heavy as a thousand men, and every day it slew all of them.<sup>9</sup> With whom does this dictum of Rabbah b. Bar Hana agree? Viz., The soul of one righteous man is equal to the whole world: with whom does it agree? With the author of the view that he killed Isaiah.<sup>10</sup> [Scripture writes, And he set] the graven image,<sup>11</sup> but it is also stated, [And the groves and the] graven images, [which he had set up].<sup>12</sup> R. Johanan said: At first he made it with one face, but subsequently he made it with four faces,<sup>13</sup> that the Shechinah might see it, and be wroth. Ahaz set it<sup>14</sup> in an upper chamber, as it is written, And the altars that were on the top of the upper chamber of Ahaz etc.<sup>15</sup> Manasseh placed it in the Temple, as it is written, And he set up a graven image of the grove that he had made in the house, of which the Lord said to David, and to Solomon his son, In this house, and in Jerusalem which I have chosen out of all tribes of Israel will I put my name for ever.<sup>16</sup> Amon introduced it into the Holy of Holies, as it is said, For the bed is shorter than that a man can stretch himself on it: and the covering narrower than that he can wrap himself in it.<sup>17</sup> Now, what is meant by 'For the bed is shorter than that one can stretch himself on it'? — R. Samuel b.



Nahmani said in the name of R. Jonathan: For this bed is too short that two neighbours may rule therein together.<sup>18</sup> What is the meaning of 'and the covering narrower etc.'? — R. Samuel b. Nahmani said: When R. Jonathan reached this verse, he wept. He of whom it is written, He gathereth the waters of the sea together as an heap<sup>19</sup> — should a molten image be made a rival to it!<sup>20</sup>

Ahaz caused the [sacrificial] service to cease, and sealed the Torah, as it is written, Bind up the testimony, seal the law among my disciples.<sup>21</sup> Manasseh cut out the Divine Name [from the Torah], and broke down the altar. Amon burnt the Torah, and allowed spider webs to cover the altar [through complete disuse]. Ahaz permitted consanguineous relations; Manasseh violated his sister; Amon, his mother, as it is written, For he Amon sinned very much.<sup>22</sup> R. Johanan and R. Eleazar [dispute therein]: One maintained, He burnt the Torah; the other, he dishonoured his mother. His mother remonstrated with him: 'Hast thou then any pleasure in the place whence thou didst issue?' He replied: 'Do I do this for any other purpose than to provoke my Creator!' When Jehoiakim came, he said, 'My predecessors knew not how to anger him: do we need [Him] for aught but his light?'<sup>23</sup> But we have Parvaim<sup>24</sup> gold, which we use [for light]; let him take His light!' Said they [his courtiers] to him, 'But silver and gold are His too, as it is written, The silver is mine, and the gold is mine, saith the Lord of Hosts.'<sup>25</sup> 'He has long since given them to us,' he replied, 'as it is written, The heaven, even the heavens, are the Lord's: but the earth hath he given to the children of men.'<sup>26</sup>

Raba said to Rabbah b. Mari: Why did they not count Jehoiakim<sup>27</sup> [amongst those who have no portion in the world to come], seeing that it is written of him, And the remaining words of Jehoiakim, and the abomination which he wrought, and that which was found upon him etc.?<sup>28</sup> (What is meant by that which was found upon him? — R. Johanan and R. Eliezer differ: one maintained that he engraved the name of an idol upon his person, and the other held that he engraved the name of Heaven thereon [as a gesture of contempt])? — He answered: I have heard no explanation concerning the kings [why Jehoiakim was not included]: but I have heard one concerning the commoners. [Thus:] Why did they not include Micah?<sup>29</sup> — Because his bread was available to travellers, as it is written, Every traveller [turned] to the Levites.<sup>30</sup>

And he shall pass through the sea with affliction, and shall smite the waves in the sea.<sup>31</sup> R. Johanan observed: This refers to Micah's graven image.

It has been taught: R. Nathan said: From Gareb<sup>32</sup> to Shiloah is a distance of three mils, and the smoke of the altar<sup>33</sup> and that of Micah's image intermingled. The ministering angels wished to thrust Micah away, but the Holy One, blessed be He, said to them, 'Let him alone, because his bread is available for wayfarers.' And it was on this account<sup>34</sup> that the people involved in the matter of the concubine at Gibeah<sup>35</sup> were punished.<sup>36</sup> For the Holy One, blessed be He, said to them, 'Ye did not protest for My honour, yet ye protest for the honour of a woman.'<sup>37</sup>

R. Johanan said on the authority of R. Jose b. Kisma: Of great [importance] is the mouthful [of food given to wayfarers], since it alienated two families from Israel, as it is written, [An Ammonite or Moabite shall not enter into the congregation of the Lord] . . . Because they met you not with bread and water in the way, when ye come forth out of Egypt.<sup>38</sup> R. Johanan, stating his own views, said: It alienates those who are near, and draws near those who are distant; it causes [God's] eyes to be averted from the wicked, and made the Shechinah to rest even on the prophets of Baal; and an unwitting offence in connection therewith is accounted as deliberate. 'It alienates those who are near,

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(1) Ibid. 14ff.

(2) Job XXXVIII, 15.

(3) In the text it is written רשעים, the ע being written above the level of the line, making it read רשים plur. of רש 'poor'. (11) I.e., where one earns the disapproval of man, it is proof that he has earned the disapproval of God too. Cf. Aboth. III 13.

- (4) Both had many enemies, yet were truly righteous men.
- (5) Lit., 'the Priestly Law'.
- (6) II Sam. XVIII, 15.
- (7) I.e., they lead in the Hereafter an indifferent existence.
- (8) II Kings XXI, 16.
- (9) I.e., its enormous weight crushed such a number every day (Rashi); [or, he (Manasseh) slew them every day (at the end of the day's work); V. Ginzberg, Legends, IV, 278.]
- (10) Since, in his opinion, that is meant by the statement that Manasseh filled Jerusalem with innocent blood from end to end.
- (11) II Chron. XXXIII, 7.
- (12) Ibid. 19. The Talmud discusses the discrepancy in number.
- (13) [Copying the pattern of the four figures on the throne of God; v. Ezek. 1.]
- (14) An idol — not the one just mentioned.
- (15) II Kings XXIII, 13.
- (16) Ibid. XXI, 7.
- (17) Isa. XXVIII, 20.
- (18) A play on the word **מהשתרע** I.e., the Holy of Holies is too small that God and the idol should rule together.
- (19) Ps. XXXIII, 7.
- (20) The verse is accordingly translated: 'And the molten image is a rival to him who gathered (the waters) as an heap.'
- (21) Isa. VIII, 16.
- (22) II Chron. XXXIII, 23.
- (23) I.e., the sun.
- (24) A place famed for its gold, [cf. II Chron. III, 6.]
- (25) Hag. II, 8.
- (26) Ps. CXV, 16.
- (27) V. infra p. 706.,
- (28) II Chron. XXXVI, 8. [V. Yad Ramah, whose interpretation is here adopted.]
- (29) Amongst the commoners who are excluded in the Mishnah from the future world: Micah was an Ephraimite, who had a private idolatrous shrine; Judges XVII.
- (30) For refreshment. This verse is not found in our Bible, v. p. 698, n. 8. 'The Levite' stands for Micah, since he had a Levite ministering at his shrine. [This gloss is however suspect, as it does not occur in many MSS. v. D.S.]
- (31) Zech. X, 11. It is not clear how this applies to Micah. Rashi gives two explanations: (i) When Moses cast the Divine Name into the sea in order to bring up Joseph's coffin, Micah stole and hid it; subsequently, he crossed the Red Sea together with the Israelites, bearing this Divine Name with him, by means of which he was able magically to make the Golden Calf (v. p. 446, nn. 9, 10); the verse is accordingly translated: And he passed over the sea with that which was to be a source of distress; (ii) Micah made his graven image (which he subsequently set up in his private sanctuary) whilst yet in Egypt, and took it with him when Israel crossed the Red Sea. The translation will be similar to the first.
- (32) A town supposed to be the seat of Micah's image in Shiloh. [Gareb has been identified with Kirbat Gharaba, Horowitz, op. cit. p. 144.]
- (33) Lit., 'wood pile (on the altar).'
- (34) Sc. Micah's image, which his neighbours permitted.
- (35) V. Judges XIX.
- (36) Forty thousand of those who went to war against Benjamin being slain.
- (37) Lit. 'flesh and blood'.
- (38) Deut. XXIII, 4f.

## Talmud - Mas. Sanhedrin 104a

— [this is deduced] from Ammon and Moab. 'And brings near those who are distant,' from Jethro. For R. Johanan said: As a reward for [Jethro's saying] Call him, that he may eat bread,<sup>1</sup> his descendants were privileged to sit in the Hall of Hewn Stones<sup>2</sup> [as scribes], as it is written, And the family of the scribes which dwell at Jabez; the Tirahites, the Shimeathites, and Suchathites. These

are the Kenites that came of Hemath, the father of the house of Rechab;<sup>3</sup> whilst elsewhere it is written, And the children of the Kenite, Moses' father-in-law, went up out of the city of palm trees with the children of Judah into the wilderness of Judah, which lieth in the south of Arad; and they went and dwelt among the people.<sup>4</sup> 'It causes [God's] eyes to be averted from the wicked' — [this is learnt] from Micah.<sup>5</sup> 'And made the Shechinah to rest upon the prophets of Baal', — from the companion of Iddo the prophet. For it is written, And it came to pass, as they sat at the table, that the word of the Lord came unto the prophet that brought him back.<sup>6</sup> 'And an unwitting offence in connection therewith is accounted as deliberate' — for Rab Judah said in Rab's name: Had but Jonathan given David two loaves of bread for his travels, Nob, the city of priests would not have been massacred, Doeg the Edomite would not have been destroyed,<sup>7</sup> and Saul and his three sons would not have been slain.<sup>8</sup>

Now, why did they not include Ahaz?<sup>9</sup> — R. Jeremiah b. Abba said: Because he was placed between two righteous men, Jotham and Hezekiah. R. Joseph said: Because he was abashed before Isaiah, as it is written, Then said the Lord unto Isaiah, Go forth now to meet Ahaz, thou and Shear-jashub thy son, at the end of the conduit of the upper pool in the highway of the field of the kobes.<sup>10</sup> What is the meaning of kobes? — Some say, he hid his face [in shame] and fled.<sup>11</sup> Others say, he dragged a fuller's trough<sup>12</sup> upon his head [reversed, to hide his face in shame] and fled.

And why was Amon not included? — Because of Josiah's honour.<sup>13</sup> Then Manasseh [Hezekiah's son] too should not be included, because of Hezekiah's honour? — A son confers privileges on his father, but a father confers no privilege on a son. For it is written, Neither is there any one that can deliver out of my hand:<sup>14</sup> Abraham cannot deliver Ishmael, [and] Isaac cannot deliver Esau. Now, having arrived at this answer, Ahaz too was omitted because of Hezekiah's honour. And why was Jehoiakim omitted? — On account of what R. Hiyya, son of R. Abuiyah said. For R. Hiyya, son of R. Abuiyah, said: Upon Jehoiakim's skull was written, 'This and yet another.' Now, R. Perida's grandfather found a skull lying about at the gates of Jerusalem, and upon it was written, 'This and yet another.' So he buried it, but it refused to be buried [i.e., it re-emerged]; again he buried it, and again it would not remain buried. Thereupon he said, 'This must be Jehoiakim's skull, of whom it is written, He shall be buried with the burial of an ass, drawn and cast forth beyond the gates of Jerusalem.'<sup>15</sup> 'Yet,' reflected he, 'he was a king, and it is not meet to disgrace him'. So he wrapped it up in silk and placed it in a chest. On his wife's seeing it, she thought that it must be the skull of his first wife, whom he could not forget. So she fired the oven and burnt it. This is the meaning of the inscription: 'This and yet another.'<sup>16</sup>

It has been taught: R. Simeon b. Eleazar said: On account of [Hezekiah's boasting] And I have done that which was good in thy sight,<sup>17</sup> [he was led to inquire] What shall be the sign [that the Lord will heal me]?<sup>18</sup> On account of 'What shall be the sign', heathens ate at his table;<sup>19</sup> and on account of heathens eating at his table, he caused his children to go into exile.<sup>20</sup> This supports Hezekiah's dictum: He who invites a heathen into his house and attends to him, causes his children to go into exile, as it is written, And of thy sons that shall issue from thee, which thou shalt beget, shall they take away; and they shall be eunuchs in the palace of the king of Babylon.<sup>21</sup>

And Hezekiah was glad of them, and shewed them the house of his precious things, the silver, and the gold, and the spices, and the precious ointment etc.<sup>22</sup> Rab said: What is meant by 'the house of his precious things'? — His wife, who mixed the drinks for them.<sup>23</sup> Samuel said: He shewed them his treasury. R. Johanan said: He shewed them weapons which could destroy other weapons. How [ekah] doth the city sit solitary!<sup>24</sup> Rabbah said in R. Johanan's name: Why was Israel smitten with 'ekah'?<sup>25</sup> Because they transgressed the thirty-six injunctions<sup>26</sup> of the Torah which are punished by extinction.<sup>27</sup> R. Johanan said: Why were they smitten with an alphabetical dirge?<sup>28</sup> Because they violated the Torah, which was given by means of the alphabet.<sup>29</sup>

'Sit [badad]<sup>30</sup> Solitary': Rabbah said in R. Johanan's name: The Holy One, blessed be He, exclaimed, 'I said, "Israel then shall dwell in safety alone [badad].' the fountain of Jacob shall be upon a land of corn and wine; also his heavens shall drop down dew,"<sup>31</sup> but now they shall sit solitary.'<sup>32</sup>

The city that was full of people. Rabbah said in R. Johanan's name: They used to marry off a young girl to an adult, and a minor to a full-grown woman, that they might bear many children.<sup>33</sup>

She is become as a widow. Rab Judah said in Rab's name: As a widow, yet not a widow in fact: as a woman whose husband had gone overseas, but intends returning to her.

She that was great among the nations, and princess among the provinces: Rabbah said in R. Johanan's name: Wherever they went, they became princes of their masters.<sup>34</sup>

Our Rabbis taught: It once happened that two men [Jews] were taken captive on Mount Carmel, and their captor was walking behind them.

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(1) Ex. II, 20.

(2) V. supra, p. 573, n. 1.

(3) I Chron. II, 55.

(4) Judges I, 16. This shews that the Kenites were descended from Jethro, and they sat in the Hall of Hewn Stones as scribes and Sanhedrin.

(5) V. supra 103b.

(6) I Kings XIII, 20: he was a prophet of Baal, yet God's word came to him, as a reward for his hospitality.

(7) V. p. 640, n. 5.

(8) For had he provided him with food, he would not have taken any from Ahimelech. Thus, all this happened, though Jonathan's initial offence was due to an oversight.

(9) V. supra, 103b.

(10) **כֹּוֹבִים** Isa. VII, 3.

(11) Connecting it with **כִּבֵּשׁ** 'to suppress', 'to bend down'.

(12) Giving kobes its usual meaning.

(13) Josiah was his son, and a righteous man. To safeguard his honour and spare him from disgrace, Amon is permitted to enjoy the world to come.

(14) Deut. XXXII, 39.

(15) Jer. XXII, 19.

(16) This story is also related on 82a, with some slight variations. — These indignities made sufficient atonement for him that he should share in the future world.

(17) II Kings XX, 3.

(18) Ibid. 9: 'Sin draws sin in its train'. The sin of boastfulness led him to that of disbelief, requiring a visible sign. The whole dictum is in this spirit

(19) Those whom Merodach-baladan had sent to congratulate him on his recovery. — Ibid. 22.

(20) Cf. Ibid. 17f.

(21) Ibid. 18.

(22) Isa. XXXIX, 2; cf. II Kings XX, 13.

(23) He permitted his wife ('his treasure') openly to wait upon them, disregarding the modesty which should have kept her within her own quarters (Maharsha).

(24) Lam. I, 1. Having mentioned exile, the Talmud proceeds to discuss Lamentations.

(25) I.e., brought to such a dirge.

(26) V. Ker. I, 1.

(27) The numerical value of **אֵיכָה** is 36.

(28) Lamentations is written in the form of an alphabetical acrostic.

(29) I.e., its words are formed from the alphabet. Possibly this alludes to the belief that the letters themselves are

endowed with certain powers; v. p. 446, n. 9.

(30) בַּדָּד.

(31) Deut. XXXIII, 28. Thus 'solitariness' was promised as a blessing, viz., freedom from outside entanglements which might threaten their safety.

(32) I.e., desolate.

(33) This is meant to exclude marriage where both are minors.

(34) Even in the Diaspora they forged to the front ranks.

## Talmud - Mas. Sanhedrin 104b

One of them said to the other, 'The camel walking in front of us is blind in one eye, and is laden with two barrels, one of wine, and the other of oil, and of the two men leading it, one is a Jew, and the other a heathen.' Their captor said to them, 'Ye stiff-necked people, whence do ye know this?' They replied, 'Because the camel is eating of the herbs before it only on the side where it can see, but not on the other, where it cannot see.<sup>1</sup> It is laden with two barrels, one of wine and the other of oil: because wine drips and is absorbed [into the earth], whilst oil drips and rests<sup>2</sup> [on the surface].<sup>3</sup> And of the two men leading it, one is a Jew, and the other a heathen: because a heathen obeys the call of Nature in the roadway, whilst a Jew turns aside.' He hastened after them, and found that it was as they had said.<sup>4</sup> So he went and kissed them on the head,<sup>5</sup> brought them into his house, and prepared a great feast for them. He danced [with joy] before them and exclaimed 'Blessed be He who made choice of Abraham's seed and imparted to them of His wisdom, and wherever they go they become princes to their masters!' Then he liberated them, and they went home in peace.

She weepeth, yea, She weepeth, in the night.<sup>6</sup> Why this double weeping? — Rabbah said in R. Johanan's name: Once for the first Temple, and once for the second. 'In the night' — on account of what happened at night. For it is written, And all the congregation lifted up their voice, and cried, and the people wept that night.<sup>7</sup> Rabbah observed in R. Johanan's name: It was the night of the ninth of Ab, and the Almighty said to Israel, 'Ye have wept without cause: therefore will I appoint a weeping to you for future generations. Another interpretation of 'in the night': whoever weeps at night, his voice is heard.<sup>8</sup> Another meaning: whoever weeps at night, the stars and constellations weep with him. Another meaning: whoever weeps at night, he who hears him, weeps [in sympathy]. It happened that the child of a neighbour of R. Gamaliel died, and she was weeping for him at night. R. Gamaliel, on hearing her, wept in sympathy with her, until his eyelashes fell out. On the morrow, his disciples discerned this, and removed her from his neighbourhood.

And her tears are on her cheeks.<sup>9</sup> Rabbah said in R. Johanan's name: As a woman who weeps for the husband of her youth, as it is written, Lament like a virgin girded with sackcloth for the husband of her youth.<sup>10</sup>

Her adversaries are the chief.<sup>11</sup> Rabbah said in R. Johanan's name: Whoever distresses Israel becomes a chief, as it is written,<sup>12</sup> Nevertheless, there shall be no weariness for her that oppressed her.<sup>13</sup> In the former time he brought into contempt the land of Zebulun and the land of Naphtali, but in the latter time hath he made it glorious, by way of the sea, beyond Jordan, the circuit of the nations.<sup>14</sup> Whereupon Rabbah said in R. Johanan's name: Whoever oppresses Israel does not weary.

Not to you, all ye that pass by.<sup>15</sup> Rabbah said in R. Johanan's name: This gives Biblical support to the custom of saying 'not to you'.<sup>16</sup> 'All ye that pass by.' R. Amram said in Rab's name: They have made me as those who transgress the law;<sup>17</sup> for in the case of Sodom it is written, And the Lord rained upon Sodom [and upon Gomorrah brimstone and fire],<sup>18</sup> whilst in the case of Jerusalem it is written, From above hath he sent fire into my bones, and it prevailed against them.<sup>19</sup>

For the iniquity of the daughter of my people is greater than the sin of Sodom.<sup>20</sup> is there then

favouritism in the matter?<sup>21</sup> — Rabbah answered in R. Johanan's name: There was an extra measure [of punishment] in Jerusalem, which Sodom was spared. For in the case of Sodom, it is written, Behold, this was the iniquity of thy sister Sodom, pride, fulness of bread, and abundance of idleness was in her and in her daughters, neither did she strengthen the hand of the poor and the needy.<sup>22</sup> Whereas in the case of Jerusalem it is written, The hands of the pitiful women have sodden their children.<sup>23</sup>

The Lord hath trodden under foot all my mighty men in the midst of me.<sup>24</sup> as one says to his neighbour, This coin has lost its currency.<sup>25</sup>

All thine enemies have opened their mouths against thee.<sup>26</sup> Rabbah said in R. Johanan's name: Why did he place the pe before the 'ayin?<sup>27</sup> Because of the Spies who spoke with their mouths what they had not seen with their eyes.<sup>28</sup>

They eat my people as they eat bread, and call not upon the Lord.<sup>29</sup> Rabbah said in R. Johanan's name: Whoever eats the bread of Israel enjoys the taste of bread; whoever does not eat the bread of Israel does not enjoy the taste of bread.<sup>30</sup>

They call not upon the Lord. Rab said: This refers to the judges;<sup>31</sup> Samuel said: To teachers of children.<sup>32</sup>

Now, who enumerated them?<sup>33</sup> — R. Ashi said: The men of the Great Assembly<sup>34</sup> enumerated them.

Rab Judah said in Rab's name: They wished to include another [sc. Solomon], but an apparition of his father's likeness came and prostrated itself [in supplication] before them, which, however, they disregarded. A heavenly fire descended and its flames licked their seats, yet they still disregarded it. Whereupon a Heavenly Voice cried out to them, 'Seest thou a man diligent in his business? he shall stand before kings; he shall not stand before mean men.'<sup>35</sup> He who gave precedence to My house over his, and, moreover, built My house in seven years, but his own in thirteen, he shall stand before kings;<sup>36</sup> he shall not stand before mean men.'<sup>37</sup> Yet they paid no attention even to this. Whereupon the Heavenly Voice cried out, 'Should it be according to thy mind? he will recompense it, whether thou refuse, 'or whether thou choose; and not I etc.'<sup>38</sup>

The Doreshe Reshumoth<sup>39</sup> maintained: All of them will enter the world to come, as it is written, Gilead is mine, Manasseh is mine;<sup>40</sup> Ephraim also is the strength of mine head; Judah is my lawgiver, Moab is my washpot; over Edom will I cast out my shoe: Philistia, triumph thou because of me.<sup>41</sup> [Thus:] 'Gilead is mine' this refers to Ahab, who fell at Ramoth-gilead; 'Manasseh' is literally meant;<sup>42</sup> 'Ephraim also is the strength of mine head' — this alludes to Jeroboam, a descendant of Ephraim; 'Judah is my lawgiver' — this refers to Ahitophel,

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(1) An animal eats from the herbs on both sides of it. This camel however, was eating of one side only, proving that it was blind in one eye.

(2) Lit., 'floats'.

(3) And they had observed two lines of such drops — one absorbed into the earth, and the other remaining on the surface.

(4) In our editions this story is considerably abbreviated. The Munich edition (referred to and partly quoted in the Aruch) proceeds from here: 'It appears to us,' said they, 'that our master is the son of the king's dancer' (So translated in the REJ. XI, 15, on the basis of the general context. Jast: the king's fool, which is probably the same. Aruch: the son of the king's executioner (quaestionarius), but that is quite unsuited to the context). Then he brought them into his house, prepared a great feast, and danced before them. Seeing this, the Jews exclaimed, 'Did we not say that our master is the son of the king's dancer?' On hearing these words, the man sped to his mother and threatened her, 'If thou dost not

confess the truth to me, I will kill thee.' Thereupon she disclosed to him that on her wedding day, her husband having quitted the nuptial chamber, the king's dancer entered and ravished her. He then returned to his captives and served them with some meat. Having smelt it, they cried out, 'This meat smells of dog!' Again he threatened his mother with death if she would not tell him the truth. She answered: 'This is the meat of a ewe suckled by a bitch, its own mother having died'. He then offered them wine. 'It smells of the dead', said they. A third time he challenged his mother to reveal the truth, on pain of death. She told him that the wine had been manufactured from a vine whose branches had trailed over his father's tomb. He returned, kissed them, and exclaimed, 'Blessed be the God who made choice of Abraham's posterity.' Then he dismissed them in peace to their homes. Cf. REJ. loc. cit. et seqq., where the parallel story is quoted from the Yalkut on Ekah (1000), and the probable date, place, and purpose of its composition discussed.

(5) Kissing, in ancient days as well as in our own, was often a mark of respect and admiration, not necessarily of affection.

(6) Literal rendering of Lam. I, 2.

(7) Num. XIV, 1 — this was after the discouraging report of the Spies.

(8) Israel's weeping did not arouse any pity.

(9) Lam. I, 2.

(10) Joel I, 8.

(11) Lam. I, 5.

(12) Wilna Gaon deletes this.

(13) V. supra p. 636.

(14) Isa. VIII, 23.

(15) Lam. I, 12.

(16) קובלנא (kublana) is a formula for warding off danger from one's neighbour when reciting woes to him by saying, 'May this not befall you'. Another meaning: 'crying out'; i.e., a man in trouble should cry out to his neighbours and obtain their sympathy (Jast). On this rendering the E.V. can be retained: 'Is it nothing to you?'

(17) Translating עוברי דרך 'Transgressors of the way of the Lord'.

(18) Gen. XIX, 24.

(19) Lam. I, 13: thus Jerusalem was treated as Sodom and Gomorrah.

(20) Ibid. IV, 6. In the editions this is preceded by 'And it is written', thus making it a continuation of the previous passage. But the Wilna Gaon deletes it.

(21) Since Sodom was completely destroyed, whilst Jerusalem in spite of its greater iniquity was left standing.

(22) Ezek. XVI, 49.

(23) Lam. IV, 10, thus Jerusalem suffered extreme hunger, which Sodom never did, and this fact counterbalanced her being spared total destruction (Rashi).

(24) Ibid. I, 15.

(25) Lit., 'disqualified', 'rejected'; and so may be trodden under foot. So did God treat Israel's heroes as being of no value (Rashi).

(26) Ibid. II, 16.

(27) As remarked before, Lamentations is written in the form of an alphabetical acrostic. But in this chapter, and also in Chs. III and IV, the verse beginning with פ precedes that of the ע; pe פ means mouth and 'ayin ע means eye.

(28) Thus putting the one before the other.

(29) Ps. XIV, 4.

(30) The Heathens enjoy their bread only if it is stolen from the Jews.

(31) Who do not mete out fair justice.

(32) Who do not carry out their task honestly.

(33) Who originally enumerated these kings and commoners as having no portion in the coming world, seeing that ordinary persons cannot know such things?

(34) The men of the Great Synagogue or Great Assembly are regarded as the connecting link in the chain of tradition from Moses down to the Rabbis, and many institutions are traced to them; v. Aboth I, 1.

(35) Prov. XXII, 29.

(36) In Paradise (Rashi).

(37) I.e., he must not be included among those who have no portion in the future world.

(38) Job XXXIV, 33. It would appear from this passage that the men of the Great Synagogue were regarded as the actual

arbiters of the matter, save in the case of Solomon.

(39) [דורש רשומות] lit., 'interpreters of signs,' i.e., those who interpret the law symbolically, for the sake of edification and instruction, a school of exegetes belonging to a period anterior to that of Hillel and Shammai and of Palestinian origin. For a full discussion of the term, v. Lauterbach, J.Q.R. (N.S.) I, pp. 291ff. and 503ff.]

(40) I.e., it is for me to bear their iniquities, that they may enter into the coming world.

(41) Ps. LX, 9f.

(42) Viz., the son of Hezekiah.

## Talmud - Mas. Sanhedrin 105a

who is descended from Judah; 'Moab is my washpot,' to Gehazi, who was smitten on account of matters connected with bathing; 'over Edom will I cast out my shoe'<sup>1</sup> — to Doeg the Edomite;<sup>2</sup> 'Philistia, triumph thou because of me,' The ministering Angels exclaimed before the Holy One, blessed be He, 'Sovereign of the Universe! If David comes, who slew the Philistine and gave possession of Gath to thy children. [and complains at Thy giving a share in the world to come to Doeg and Ahitophel], what wilt thou do with him?' He replied, 'It is My duty to make them friends with each other.'<sup>3</sup>

Why is this people of Jerusalem slidden back by a perpetual backsliding?<sup>4</sup> Rab said: The Kenesseth Yisrael<sup>5</sup> gave the prophet a victorious answer.<sup>6</sup> [For] the prophet said to Israel. 'Return and repent: your fathers who sinned — where are they?' They replied, 'And your prophets who did not sin — where are they? As it is written. Your fathers, where are they? — and the prophets, do they live for ever!'<sup>7</sup> He answered them, 'Yet [your fathers] repented and admitted [the justice of their punishment],<sup>8</sup> as it is written, But my words and my statutes, which I commanded my servants the prophets, did they not take hold of your fathers? and they returned and said, Like as the Lord of Hosts thought to do unto us, according to our ways, and according to our doings, so hath he dealt with us.'<sup>9</sup>

Samuel said: Ten men came and sat down before him [sc. the prophet]. Said he to them, 'Return and repent.' They answered, 'If a master sells his slave, or a husband divorces his wife, — has one a claim upon the other?'<sup>10</sup> Thereupon the Holy One, blessed be He, said to the prophet, 'Go and say to them, Thus saith the Lord, Where is the bill of your mother's divorcement, whom I have put away? or which of my creditors is it to whom I have sold you? Behold, for your iniquities have ye sold yourselves, and for your transgressions is your mother put away.'<sup>11</sup> This agrees with Resh Lakish, who said: Why does Scripture write, David my servant, Nebuchadnezzar my servant?<sup>12</sup> Because it was revealed and known to Him who spoke, and the world was created<sup>13</sup> that Israel would argue thus: therefore the Holy One, blessed be He, forestalled [them] by calling him His servant, and when a servant acquires property — to whom does the servant belong, and to whom the property?<sup>14</sup>

And that which cometh into your mind shall not be at all, that ye say, We will be as the heathen, as the families of the countries, to serve wood and stone. As I live, saith the Lord God, surely with a mighty hand, and with a stretched out arm, and with fury poured out, will I rule over you.<sup>15</sup> R. Nahman said: Even with such fury let the Merciful rage against us, but that He redeem us.

For he doth chastise him to discretion, and his God doth teach him.<sup>16</sup> Rabbah b. Bar Hana said: The prophet urged Israel, 'Return and repent.' They replied, 'We cannot: the Tempter<sup>17</sup> rules over us. He said to them, 'Curb your [evil] desires.' They replied, 'Let His God teach us.'<sup>18</sup>

FOUR COMMONERS, VIZ., BALAAM, DOEG, AHITOPHEL, AND GEHAZI. Belo'-am [denotes without the people].<sup>19</sup> Another explanation: Balaam denotes that he corrupted a people.<sup>20</sup> The son of Beor [denotes] that he committed bestiality.<sup>21</sup> A Tanna taught: Beor, Cushan-rishathaim and Laban the Syrian are identical; Beor denotes that he committed bestiality; Cushan-rishathaim,



that he perpetrated two evils upon Israel: one in the days of Jacob,<sup>22</sup> and the other in the days of the Judges.<sup>23</sup> But what was his real name? Laban the Syrian.

Scripture writes, the son of Beor;<sup>24</sup> [but also] his son [was] Beor.<sup>25</sup> R. Johanan said: His father [Beor] was as his son in the matter of prophecy.<sup>26</sup>

Now only Balaam will not enter [the future world], but other [heathens] will enter.<sup>27</sup> On whose authority is the Mishnah [taught]? — On R. Joshua's. For it has been taught: R. Eliezer said, The wicked shall be turned into hell, and all the nations that forget God:<sup>28</sup> The wicked shall be turned into hell — this refers to transgressors among Israel; and all the nations that forget God — to transgressors among the heathen.<sup>29</sup> This is R. Eliezer's view. But R. Joshua said to him: Is it stated, and [those] among all the nations?<sup>30</sup> Surely all the nations that forget God is written! But [interpret thus:] The wicked shall be turned into hell, and who are they? — all the nations that forget God.<sup>31</sup> Now, that wicked man [Balaam] too gave a sign for himself [that he would not enter the future world by saying, Let me die the death of the righteous<sup>32</sup> — meaning, If I die the death of the righteous [i.e., a natural death], my last end will be like his;<sup>33</sup> but if not [i.e., if I die a violent death], then behold I go unto my people.<sup>34</sup>

And the elders of Moab and the elders of Midian departed.<sup>35</sup> A Tanna taught: There was never peace between Midian and Moab. The matter may be compared to two dogs in one kernel which were always enraged at each other. Then a wolf attacked one, whereupon the other said, If I do not help him, he will kill him to-day, and attack me to-morrow; so they both went and killed the wolf. R. Papa observed: Thus people say, 'The weasel and cat [when at peace with each other] had a feast on the fat of the luckless.' And the princes of Moab abode with Balaam.<sup>36</sup> But whither had the princes of Midian gone? — As soon as he said to them, Lodge here this night, and I will bring you word again, [as the Lord shall speak unto me],<sup>37</sup> they reasoned, Does any father hate his son!<sup>38</sup> R. Nahman said: Impudence, even against Heaven, is of avail: at first it is written, Thou shalt not go with them,<sup>39</sup> yet subsequently it is said, Rise up and go with them.<sup>40</sup> R. Shesheth said: Impudence is sovereignty without a crown,<sup>41</sup> for it is written, And I am this day weak, though anointed king, and these men the sons of Zeruiah be too hard for me.<sup>42</sup>

R. Johanan said: Balaam limped on one foot, as it is written, And he walked haltingly.<sup>43</sup> Samson was lame in both feet, as it is written, [Dan shall be a serpent by the way,] an adder in the path that biteth the horse's heels.<sup>44</sup> Balaam was blind in one eye, as it is said, [and the man] whose eye is open . . .<sup>45</sup> He practised enchantment by means of his membrum. For here it is written, falling, but having his eyes open; whilst elsewhere is written, And Haman was fallen on the bed whereon Esther was.<sup>46</sup>

It was stated, Mar Zutra said: He practised enchantment by means of his membrum. Mar the son of Rabina said: He committed bestiality with his ass. The view that he practised enchantment by means of his membrum is as was stated. The view that he committed bestiality with his ass [is because] here it is written, He bowed,<sup>47</sup> he lay down as a lion and as a great lion;<sup>48</sup> whilst elsewhere it is written, At her feet

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(1) נעלי (E.V. 'my shoe') is connected with root meaning 'to lock' and the phrase is taken to denote, 'I will lock him up in Paradise.'

(2) V. p., 640. n. 5.

(3) התרועעי hithro'a'i (E.V. 'triumph thou') is thus derived from רע, and translated 'make thyself a friend'. It may be observed that it is not taught here that they actually have a portion in the world to come as a right, but that they will nevertheless enter therein, God bearing their iniquities to make this possible (v. n. 1). This is in accordance with the general attitude of Judaism that punishment is not everlasting. Cf. M. Joseph. Judaism as Creed and Life, pp. 146-147.

(4) Heb. meshubah nizzahath, משובה נצחת Jer. VIII, 5.

(5) The Community of Israel.

- (6) **תשובה נצחת** teshubah nizzahath, with which **משובה נצחת** is connected.
- (7) Zech. I, 5. The verse is treated as a dialogue between the prophets and the people.
- (8) [The passage is difficult. It is best to adopt the reading of several editions of MSS. deleting 'He answered them,' viz., 'Yet they (i.e., the people) repented and admitted.' The people, that is to say, despite their victorious rejoinder, did not press this advantage home but moved by the words of Jeremiah, why is this people etc., repented and confessed their guilt.]
- (9) Ibid. 6.
- (10) 'God having sold us to Nebuchadnezzar, He has no further claim upon us, and we have no cause to repent.' This, in Samuel's view, was the victorious answer.
- (11) Isa. L, 1. This vitiated the premises of their argument.
- (12) The latter in Jer. XLIII, 20: why was Nebuchadnezzar honoured with such an exalted title, whereby he was made equal to David?
- (13) This phrase has become liturgical; v. p. 519.
- (14) I.e., even if God had sold them to Nebuchadnezzar, they were still God's.
- (15) Ezek. XX, 32f.
- (16) Isa. XXVIII, 26. (E.V. For his God doth instruct him to discretion and doth teach him.)
- (17) The Evil inclination, the yezer hara'.
- (18) I.e., 'Let God, who is master even over the Tempter, teach us to curb our desires.' This was in Rabbah b. Bar Hana's view' the 'victorious answer' (Rashi).
- (19) **בלא עם** Belo'am, i.e., he has no portion in the future world together with other people.
- (20) **בלה עם** balah'am, [or **בלע עם** bala'-'am, 'he devoured the people,' Aruch]. Both meanings are a play of words on his name. The reference is to Israel, as explained further on.
- (21) Lit., 'had connection with an animal'. Heb. **בעיר**.
- (22) When he pursued him, wishing to destroy him (Gen. XXVI, 23 et seqq.).
- (23) Judges III, 8; Therefore the anger of the Lord was hot against Israel, and he sold them into the hand of Cushon-rishathaim, king of Mesopotamia. Rish'athaim is taken as dual of Rish'ah, **רשעה** 'evil'.
- (24) Num. XXII, 5.
- (25) Ibid. XXIV, 3: so **בנו בעור** may be translated.
- (26) I.e., he was a greater prophet than his father.
- (27) This follows as a corollary to the Mishnah.
- (28) Ps. IX, 17.
- (29) [Heathens, however, who do not forget God will share the bliss of eternal life.]
- (30) Which would denote only some of them.
- (31) [Yad Ramah preserves a more preferable reading: 'this refers to the heathen. This is R. Eliezer's view. But R. Joshua said to him: Is it stated, and all nations, surely all nations etc. i.e., without a waw copulative, and hence in apposition to the first clause.]
- (32) Num. XXIII, 20.
- (33) I.e., 'I will enter the world to come.'
- (34) Ibid. XXIV, 14; i.e., into the Gehenna.
- (35) Ibid. XXII, 7.
- (36) Ibid. 8.
- (37) Ibid.
- (38) They knew that it was useless to wait.
- (39) Ibid. 12.
- (40) Ibid. 20. [His insistence wrested from God His consent for him to go.]
- (41) I.e., it wields great power, and lacks nothing but a crown.
- (42) II Sam. III, 39. Thus their boldness and impudence outweighed sovereignty.
- (43) Num. XXIII, 3.
- (44) Gen. XLIX, 17. According to tradition, this was a prophecy of Samson; 'An adder in the path' is taken to mean that he would have to slither along like an adder, being lame in both feet.
- (45) Num. XXIV, 3. Since 'eye' is in the singular, it follows that only one eye was open, the other being sightless.
- (46) Est. VII, 8.

(47) E.V. 'he couched'.

(48) Num. XXIV, 9.

## Talmud - Mas. Sanhedrin 105b

he bowed, he fell.<sup>1</sup>

And knoweth the mind<sup>2</sup> of the most High.<sup>3</sup> Now, seeing that he did not even know the mind of his ass, could he know the mind of the most High! What [is this about] the mind of his ass? — For they [the elders] said to him, 'Why didst thou not ride upon thy horse?' He replied. 'I have put it [to graze] in the dewy pastures. But the ass said to him, 'Am I not thine ass?'<sup>4</sup> — 'Merely for carrying loads', [he replied]. 'Upon which thou hast ridden.' — 'That was only by chance.' 'Ever since I was thine until this day,' [she added]. 'Moreover, I serve thee as a companion by night.' Here is written, Was I ever wont to do so unto thee;<sup>5</sup> whilst elsewhere it is written, And let her be his companion.<sup>6</sup> What then is meant by knowing the mind of the most High? — He knew how to gauge the exact moment when the Holy One, blessed be He, is angry; and that was what the prophet said to Israel: O thy people, remember now what Balak king of Moab consulted, and what Balaam the son of Beor answered him from Shittim unto Gilgal, that ye may know the righteousness of the Lord.<sup>7</sup> What is meant by that ye may know the righteousness of the Lord? — The Holy One, blessed be He, said to Israel: Know now how many acts of charity I performed for you in that I did not become angry all that time, in the days of Balaam the Wicked; for had I waxed angry during that time none would have remained or been spared of Israel's enemies.<sup>8</sup> And thus Balaam said to Balak, How shall I curse, whom God hath not cursed? or how shall I rage, when the Lord hath not raged?<sup>9</sup> This teaches that for the whole of that time the Lord had not been wroth.<sup>10</sup> [But normally] God is angry every day.<sup>11</sup> And how long does His anger last? — A moment, as it is written, For his anger endureth but a moment; in his favour is life etc.<sup>12</sup> Or, if you like, deduce it from this verse, Come, my people, enter into thy chambers, and shut thy doors about thee: hide thyself as it were for a little moment, until the indignation be overpast.<sup>13</sup> Now, when is He angry? — In the first three hours [of the day], when the comb of the cock is white. But at all times it is white! — At all other times it has red streaks, but at that moment [of God's anger] there are no red streaks in it.

A sectarian<sup>14</sup> lived in the neighbourhood of R. Joshua b. Levi, who used to vex him. One day he took a fowl, tied it to the foot [of his bed]<sup>15</sup> and sat down, saying, When that moment comes,<sup>16</sup> I will curse him. But when that moment came, he dozed off. This proves, said he, that it is not fitting [to do this], for it is written, Also to punish, is not meet ['good'] for the righteous:<sup>17</sup> even of a sectarian, one should not speak thus.<sup>18</sup>

A Tanna taught in the name of R. Meir: When the sun shines and kings place their crowns upon their heads and adore the sun, immediately [the Almighty] becomes wroth.

And Balaam rose up in the morning, and saddled his ass.<sup>19</sup> A Tanna taught on the authority of R. Simeon b. Eleazar: Love disregards the rule of dignified conduct. [This is deduced] from Abraham, for it is written, And Abraham rose up early in the morning, and saddled his ass.<sup>20</sup> Hate likewise disregards the rule of dignified conduct: [this is deduced] from Balaam, for it is written, And Balaam rose up in the morning, and saddled his ass.

Rab Judah said in Rab's name: One should always occupy himself with Torah and good deeds, though it be not for their own sake,<sup>21</sup> for out of good work misapplied in purpose there comes [the desire to do it] for its own sake. For as a reward for the forty-two sacrifices offered up by Balak, he was privileged that Ruth should be his descendant,<sup>22</sup> [as]<sup>23</sup> R. Jose b. Huna said: Ruth was the daughter of Eglon, the grandson of Balak, king of Moab.

Raba said to Rabbah b. Mari: It is written, [And moreover the king's servants came to bless our lord king David, saying] God make the name of Solomon better than thy name, and make his throne greater than thy throne:<sup>24</sup> is it mannerly to speak thus to a king? — He replied: They meant, according to the nature of [thy throne etc.].<sup>25</sup> For should you not say thus, [consider:] Blessed above women shall Jael the wife of Heber the Kenite be, blessed shall she be above women in the tent.<sup>26</sup> Now who are the 'women in the tent'? — Sarah, Rebecca, Rachel and Leah. Is it then meet to say thus? — But it means according to the nature of [their blessedness].<sup>27</sup> So here too, it bears the same meaning. Now, this conflicts with R. Jose b. Honi. For R. Jose b. Honi said: Of everyone a man is jealous, except his son and disciple. 'His son' — this is deduced from Solomon.<sup>28</sup> 'His disciple' — [is deduced] if you like, say, from Let a double quantity of thy spirit be upon me;<sup>29</sup> or if you like, say, from And he laid his hands upon him, and gave him a charge.<sup>30</sup>

And the Lord put a thing in the mouth of Balaam.<sup>31</sup> R. Eleazar said, An angel;<sup>32</sup> R. Jonathan said: a hook.

R. Johanan said: From the blessings of that wicked man you may learn his intentions:<sup>33</sup> Thus he wished to curse them that they [the Israelites] should possess no synagogues or school — houses — [this is deduced from] How goodly are thy tents, O Jacob;<sup>34</sup> that the Shechinah should not rest upon them — and thy tabernacles, O Israel;<sup>35</sup> that their kingdom should not endure — As the valleys are they spread forth;<sup>36</sup> that they might have no olive trees and vineyards — as gardens by the river's side; that their odour might not be fragrant — as the trees of lign aloes which the Lord hath planted; that their kings might not be tall — and as cedar trees beside the waters; that they might not have a king the son of a king —<sup>37</sup> He shall pour the water out of his buckets;<sup>38</sup> that their kingdom might not rule over other nations — and his seed shall be in many waters; that their kingdom might not be strong — and his king shall be higher than Agag; that their kingdom might not be awe-inspiring — and his kingdom shall be exalted. R. Abba b. Kahana said: All of them reverted to a curse,<sup>39</sup> excepting the synagogues and schoolhouses, for it is written, But the Lord thy God turned the curse into a blessing for thee, because the Lord thy God loved thee;<sup>40</sup> the curse, but not the curses.<sup>41</sup>

R. Samuel b. Nahmani said in R. Jonathan's name: What is meant by the verse, Faithful are the wounds of a friend; but the kisses of an enemy are deceitful?<sup>42</sup> Better is the curse wherewith Ahijah the Shilonite cursed Israel than the blessing wherewith the wicked Balaam blessed them. Ahijah the Shilonite cursed Israel by a reed, as it is said, For the Lord shall smite Israel, as a reed is shaken in the water:<sup>43</sup> just as a reed grows in well watered soil and its stem

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(1) Judges V, 27. This is taken to refer to sexual intercourse, and hence the first verse quoted is interpreted as referring to this likewise. That is the explanation according to our reading. But the verse he couched, he lay down as a lion, etc. refers not to Balaam but to Israel; this, of course, destroys the whole argument. In consequence the Wilna Gaon deletes this verse. The passage then reads: The view that he had sexual intercourse is deduced from, At her feet he bowed, he fell: just as 'falling' in this verse denotes cohabitation, so also in 'falling, but having his eyes open'. V.D.S. a.l.

(2) E.V. 'knowledge'.

(3) Num. XXIV, 16.

(4) Ibid. XXII, 30; thus affirming that it was his usual wont to ride upon her, not upon a horse.

(5) Ibid. XXII, 30.

(6) I Kings I, 2. In both cases a word from root **יכב** is used. Thus we see that he did not even know his beast's mind, not being able to anticipate her answers. How then could he claim to know the mind of God?

(7) Micah VI, 5.

(8) A euphemism for Israel; v. p. 622, n. 1, For Balaam's curse pronounced at the very moment of My anger, would have been effective.

(9) Num. XXIII, 8.

(10) I.e., He was never angry during that period.

(11) Ps. VII, 12.

- (12) Ibid. XXX, 5.
- (13) Isa. XXVI, 20.
- (14) Heb. Min, v. Glos.
- (15) 'Of his bed' is supplied from Ber. 7a. where this story is repeated. Magical properties were ascribed to the feet of a bed. V. A. Marmorstein in MGWJ. 1927, p. 44 and 1928. p. 391. et seqq., where a number of instances are given both from Talmudic and non-Talmudic literature of the feet of a bed being used in magic. For variants in the whole passage. cf. A.Z. 4a.
- (16) When its comb is entirely white.
- (17) Prov. XVII, 26.
- (18) I.e., one must not curse even a sectarian.
- (19) Num. XXII, 21.
- (20) Gen. XXII, 3. Though the saddling of an ass is not work becoming for a great man, yet in his love to God and eagerness to carry out his commands, Abraham did it.
- (21) V. next note.
- (22) Though Balak offered up these sacrifices for a most unworthy purpose — viz. that Balaam might thereby be enabled to curse Israel — he was nevertheless rewarded for it, shewing that it has some merit.
- (23) V. Hor. 10b.
- (24) I Kings I, 47.
- (25) I.e.. God make the name of Solomon illustrious (lit., 'good') even as the nature of thine own, and make his throne great, according to the character of thy throne. [The מ in מְשֻׁמָּד is taken as partitive.]
- (26) Judges V, 24.
- (27) I.e., 'Blessed shall she be, with the blessedness of women in the tent.' [The מ in מְנַשִּׂים is likewise treated as partitive.]
- (28) I.e., from the passage under discussion; David's servants were not afraid to wish Solomon a greater name than his own, knowing that he would not be jealous of his own son. He thus translates the verse literally.
- (29) II Kings II, 9. Elisha asked this of his master Elijah.
- (30) Num. XXVII, 23. This alludes to Moses' giving of his spirit to Joshua.
- (31) Ibid. XXIII, 5.
- (32) I.e., put an angel at his mouth, to curb his speech.
- (33) Every blessing is the reverse of the curse he wished to utter.
- (34) Ibid. XXIV, 5. 'Tents' is interpreted 'synagogues'. etc.
- (35) Ibid. The tabernacle symbolising the Divine Presence.
- (36) Ibid. 6; the spreading forth of the valleys symbolising length of time.
- (37) I.e., that no king should found a dynasty — a sign of unrest and civil war.
- (38) I.e., one king shall be descended from another.
- (39) His intention in every case was eventually fulfilled.
- (40) Deut. XXIII, 6.
- (41) I.e., only one intentioned curse was permanently turned into a blessing, viz.. that concerning synagogues etc.; as these were destined never to disappear from Israel.
- (42) Prov. XXVII, 6.
- (43) I Kings XIV, 15.

## Talmud - Mas. Sanhedrin 106a

is renewed<sup>1</sup> and its roots are numerous, and even if all the winds of the world come and blow upon it they cannot dislodge it from its place, but it sways in unison with them, and as soon as the winds subside, the reed still stands in its place, [so may Israel be]. But the wicked Balaam blessed them by the cedar:<sup>2</sup> just as the cedar does not stand in a watery place, and its roots are few and its stock is not renewed, and even if all the winds of the world come and blow upon it they cannot stir it from its place, but immediately the South wind blows upon it it uproots and overturns it on its face, [so may Israel be]. Nay, more, it was the reed's privilege that a quill thereof should be taken for the writing of the Scroll of the Torah, Prophets and Hagiographa. And he looked on the Kenite, and took up his

parable.<sup>3</sup> Balaam said to Jethro, 'Thou Kenite, wast thou not with us in that scheme?'<sup>4</sup> Who then placed thee among the strong ones of the world!'<sup>5</sup> And that is what R. Hiyya b. Abba said in R. Simai's name: Three were involved in that scheme,<sup>6</sup> viz., Balaam, Job, and Jethro. Balaam, who advised it, was slain; Job, who was silent,<sup>7</sup> was punished through suffering; and Jethro, who fled — his descendants were privileged to sit in the Hall of Hewn Stones, as it is written, And the families of the scribes which dwell at Jabez, the Tirathites, the Shemeathites, and Suchathites. These are the Kenites that came of Hemath, the father of the house of Rechab;<sup>8</sup> whilst elsewhere it is written, And the children of the Kenite, Moses' father in law, went up out of the city of palm trees.<sup>9</sup>

And he took up his parable, and said, Alas, who shall live when God doeth this!<sup>10</sup> R. Simeon b. Lakish said: Woe unto him who maketh himself alive by the name of God,<sup>11</sup> R. Johanan said: Woe to the nation that may be found [attempting to hinder], when the Holy One, blessed be He, accomplishes the redemption of his children: who would throw his garment between a lion and a lioness when these are copulating!<sup>12</sup>

And ships shall come from the coast of Chittim.<sup>13</sup> Rab said: This refers to the White Legion.<sup>14</sup> And shall afflict Asshur, and shall afflict Eber:<sup>15</sup> Until Asshur, they shall slay; after that, they shall throw into subjection.<sup>16</sup>

And now, behold I go unto my people; come, therefore, and I will advertise thee what this people shall do to thy people in the latter days.<sup>17</sup> But he should have said, What thy people shall do to this people?<sup>18</sup> — R. Abba b. Kahana said: It is as one who, cursing himself, refers his malediction to others.<sup>19</sup> He [Balaam] said thus to him [Balak]. 'The God of these hates lewdness, and they are very partial to linen.<sup>20</sup> Come, and I will advise thee. Erect for them tents enclosed by hangings, in which place harlots, old women without, young women within, to sell them linen garments.' So he erected curtained tents from the snowy mountain [Hermon] as far as Beth ha-Yeshimoth [i.e., right from north to south], and placed harlots in them — old women without, young women within. And when an Israelite ate, drank, and was merry, and issued forth for a stroll in the market place, the old woman would say to him, 'Dost thou not desire linen garments?' The old woman offered it at its current value, but the young one for less. This happened two or three times. After that she would say to him, 'Thou art now like one of the family; sit down and choose for thyself.' Gourds of Ammonite wine lay near her, and at that time Ammonite<sup>21</sup> and heathen wine had not yet been forbidden. Said she to him, 'Wouldst thou like to drink a glass of wine?' Having drunk, [his passion] was inflamed, and he exclaimed to her, 'Yield to me!' Thereupon she brought forth an idol from her bosom and said to him, 'Worship this!' 'But I am a Jew', he protested. 'What does that concern thee?' she rejoined, 'nothing is required but that thou should uncover thyself' — whilst he did not know that such was its worship. 'Nay', [said she,] 'I will not leave thee ere thou hast denied the Torah of Moses thy teacher,' as it is written, They went into Baal-peor, and separated themselves unto that shame, and their abominations were according as they loved.<sup>22</sup>

And Israel abode in Shittim.<sup>23</sup> R. Eliezer said: Its name was Shittim. R. Joshua said: They engaged in ways of folly [shetuth],<sup>24</sup> And they called the people unto the sacrifices of their gods:<sup>25</sup> R. Eliezer said: They met them naked;<sup>26</sup> R. Joshua said: They were all excited to pollution.<sup>27</sup>

What is the meaning of Rephidim?<sup>28</sup> — R. Eliezer said: Rephidim was its name. R. Joshua said: [It was so called] because there they slackened in [their loyalty to] the Torah, as it is written, The fathers shall not look back to their children for feebleness of hands.<sup>29</sup>

R. Johanan said: Wherever [Scripture] writes 'And he abode [or dwelt]', it denotes trouble. Thus: And Israel abode in Shittim — and the people began to commit whoredom with the daughters of Moab;<sup>30</sup> And Jacob dwelt in the laid where his father was a stranger, in the land of Canaan —<sup>31</sup> and Joseph brought unto his father their evil report;<sup>32</sup> And Israel dwelt in the land of Egypt, in the

country of Goshen —<sup>33</sup> And the time drew near that Israel must die;<sup>34</sup> And Judah and Israel dwelt safely, every man under his vine and under his fig tree —<sup>35</sup> And the Lord stirred up an adversary unto Solomon, Hadad the Edomite; he was the king's seed in Edom.<sup>36</sup>

And they slew the kings of Midian, beside the rest of them that were slain . . . Balaam also the son of Beor they slew with the sword.<sup>37</sup> What business had Balaam there? — R. Jonathan said: He went to receive his reward for the twenty-four thousand Israelites whose destruction he had encompassed.<sup>38</sup> Mar Zutra b. Tobiah remarked in Rab's name: This is what men say, 'When the camel went to demand horns, they cut off the ears he had.'<sup>39</sup>

Balaam also the son of Beor, the soothsayer, [did the children of Israel slay with the sword].<sup>40</sup> A soothsayer? But he was a prophet! — R. Johanan said: At first he was a prophet, but subsequently a soothsayer.<sup>41</sup> R. Papa observed: This is what men say, 'She who was the descendant of princes and governors, played the harlot with carpenters.'<sup>42</sup>

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(1) It grows again after it is cut down,

(2) Deut. XXIV, 6, quoted above.

(3) Num. XXIV, 21.

(4) To destroy Israel through Pharaoh's decree: Every son that is born ye shall cast into the river — Ex. I, 22 — Of course thou wast!

(5) A metaphor for the Sanhedrin situated in the Hall of Hewn Stones, which counted amongst its members Jethro's descendants. That is the meaning of Strong is thy dwelling place.

(6) V. n. 2.

(7) Not voicing his disapproval.

(8) I Chron. II, 55.

(9) Judges I, 16.

(10) Num, XXIV, 23.

(11) **משמו אל** is read **משמו אל** [Herford, op. cit. 74ff. sees in this a covert allusion to Jesus.]

(12) So also, woe to the nation that would come between God and Israel when He is redeeming them to bring them to Himself

(13) Ibid. 24.

(14) [**ליכון אספיר**]. So Levy, adopting the reading **ליכון** (\*\*). **אספר** (\*\*). Funk, Schwarz Festschrift, p. 248, takes **אספר** as the Persian aswar, 'knight', and renders 'a legion of knights', (cf. Lat. ferreus equitatus). The verse is accordingly interpreted: 'Legions will come from the Coast of Chittim, etc.' the Chittim being taken to denote Rome, (cf. Targ. Yerushalmi a.l.). Jastrow regards the whole passage as an interpolation of the eighth or ninth century, and as referring to Leo the Isaurian, the Byzantine Emperor, leader of the iconoclastic movement which caused a long war between the East and the West of the Empire.

(15) Ibid.

(16) The nations which shall conquer each other — referred to in the words 'and ships' shall, up to Asshur, completely destroy the defeated. But after that a victorious nation shall merely enthral its victim, but not destroy it.

(17) Ibid. 14.

(18) According to Rabbinic tradition, he advised the Moabites to ensnare Israel through unchastity. Thus, he was referring to an action by the former to the latter, whilst Scripture suggests the reverse.

(19) I.e., makes others the object thereof, though meaning himself, so Scripture, alluding to Israel's disgrace, makes it appear that the allusion is really to Moab.

(20) Linen garments were worn by the wealthy and noble; cf. Gen. XLI, 42; Ex. XXVIII, 39.

(21) This is omitted in the Yalkut and Tanhuma.

(22) Hosea IX, 10; i.e., they separated themselves from Moses' teaching.

(23) Num. XXV, 1.

(24) **שטות**.

(25) Ibid. 2.

(26) They called — i.e., they attracted them by their naked bodies.

- (27) Deriving **ותקראו** from **קרי** the usual euphemism for semen.
- (28) Having discussed the meaning of one place name, the Talmud proceeds to discuss another: Then came Amalek and fought with Israel in Rephidim — Ex. XVII, 8.
- (29) Jer. XLVII, 3. This is quoted to shew that **רפה** which he assumes to be the root of Rephidim, connotes weakness.
- (30) Ibid.
- (31) Gen. XXXVII, 1.
- (32) Ibid. 3.
- (33) Ibid. XLVII, 27.
- (34) Ibid. 29.
- (35) I Kings V, 5.
- (36) Ibid. XI, 14.
- (37) Num, XXXI, 8.
- (38) V. ibid, XXV, 1-9: since Israel was thus seduced and punished through his advice, as stated above, he demanded payment.
- (39) So Balaam, demanding a reward, lost his life.
- (40) Joshua XIII, 22.
- (41) As a punishment for wishing to curse Israel he was degraded from a prophet to a soothsayer.
- (42) ‘Shipdragers,’ (v. Rashi). Herford, Christianity in the Talmud, p. 48, suggests that Balaam is frequently used in the Talmud as a type for Jesus (v. also pp. 64-70). Though no name is mentioned to shew which woman is meant, the mother of Jesus may be alluded to, which theory is strengthened by the statement that she mated with a carpenter. (The Munich MS. has **גבר** in the margin instead of **גברי**, i.e., singular instead of plural.)

## Talmud - Mas. Sanhedrin 106b

Did the children of Israel slay with the sword among them that were slain by them.<sup>1</sup> Rab said: They subjected him to four deaths, stoning, burning, decapitation and strangulation.<sup>2</sup>

A certain min<sup>3</sup> said to R. Hanina: Hast thou heard how old Balaam was? — He replied: It is not actually stated, but since it is written, Bloody and deceitful men shall not live out half their days,<sup>4</sup> [it follows that] he was thirty-three or thirty-four years old.<sup>5</sup> He rejoined: Thou hast said correctly; I personally have seen Balaam's Chronicle, in which it is stated, ‘Balaam the lame was thirty years old when Phinehas the Robber killed him.’<sup>6</sup> Mar, the son of Rabina, said to his sons: In the case of all [those mentioned as having no portion in the future world] you should not take [the Biblical passages dealing with them] to expound them [to their discredit], excepting in the case of the wicked Balaam: whatever you find [written] about him, lecture upon it [to his disadvantage].

Scripture writes Doeg<sup>7</sup> and Doeeg:<sup>8</sup> R. Johanan said: At first the Holy One, blessed be He, sits and is anxious lest one go out on an evil course. But when he has done so, He exclaims, ‘Woe, that he has entered [on an evil path]!’

(Mnemonic: The Mighty, Wicked, Righteous, Riches, Scribe.)

R. Isaac said: What is meant by the verse, Why boastest thou thyself in mischief, O mighty man? The goodness of God endureth continually?<sup>9</sup> — The Holy One, blessed be He, said to Doeg,<sup>10</sup> ‘Art thou not a mighty man in Torah? Why then boastest thou thyself in mischief?’<sup>11</sup> Is not the love of God continually spread over thee?’ R. Isaac also said: What is meant by the verse; But unto the wicked God sayeth, What hast thou to do to declare my statutes?<sup>12</sup> The Holy One, blessed be He, said to the wicked Doeg, ‘What hast thou to do to declare [i.e., study] my statutes: when thou comest to the sections dealing with murderers and slanderers, how dost thou expound them?’<sup>13</sup> Or that thou shouldst take my covenant in thy mouth?<sup>14</sup> R. Ammi said: Doeg's learning was only from the lips without.<sup>15</sup> R. Isaac also said: What is meant by the verse, The righteous also shall see, and fear, and shall laugh at him?<sup>16</sup> — At first they shall fear [the wicked person], but subsequently laugh at him.



R. Isaac also said: What is meant by the verse, He hath swallowed down riches, and he shall vomit them up again: God shall cast them out of his belly?<sup>17</sup> David pleaded before the Holy One, blessed be He, 'Sovereign of the Universe! Let Doeg die!' He replied, 'He hath swallowed down riches, and he shall vomit them up again.'<sup>18</sup> He rejoined, 'Let God cast them out of his belly!'<sup>19</sup>

R. Isaac also said: What is meant by God shall likewise destroy thee for ever?<sup>20</sup> — The Holy One, blessed be He, said to David, 'Let us bring Doeg to the future world.' He replied to Him, 'God shall likewise destroy thee for ever.' What is meant by the verse, He shall take thee away, and pluck thee out of the tent, and root thee out of the land of the living. Selah!<sup>21</sup> The Holy One, blessed be He, urged, 'Let a law be stated in his name in the schoolhouse,' but he [David] replied to Him, 'He shall take thee away and pluck thee out of the tent. 'Then let his children be Rabbis!' — 'And thy root [shall be torn out] of the land of the living. Selah!' R. Isaac also said: What is meant by the verse, Where is the enumerator, where is the weigher! Where is he that counted the towers!<sup>22</sup> — Where is he who enumerated all the letters of the Torah?<sup>23</sup> Where is he who weighed all the light [comparatively unimportant] and heavy [important] [precepts] of the Torah?<sup>24</sup> Where is he that counted the towers — who counted three hundred fixed laws on a 'tower flying in the air.'<sup>25</sup>

R. Ammi said: Doeg and Ahitophel propounded four hundred problems with respect to a tower flying in the air, and not one was solved. Raba observed: Is there any greatness in propounding problems? In the years of Rab Judah the whole study was confined to Nezikin,<sup>26</sup> whilst we study a great deal even of 'Ukzin,<sup>27</sup> and when Rab Judah came to the law, 'If a woman preserves vegetables in a pot' — or as others say, 'olives which were preserved with their leaves are clean,'<sup>28</sup> — he observed, 'I see here the discussion of Rab and Samuel';<sup>29</sup> whilst we, on the other hand, have studied Ukzin at thirteen sessions, yet Rab Judah merely took off his shoes, and the rain came down,<sup>30</sup> whilst we cry out [in supplication] but there is none to heed us. But it is because the Holy One, blessed be He, requires the heart, as it is written, But the Lord looketh on the heart.<sup>31</sup> R. Mesharsheya said: Doeg and Ahitophel did not comprehend legal discussions. Mar Zutra objected: Those of whom it is written, Where is the enumerator, where is the weigher? Where is he that counted the towers?<sup>32</sup> yet you say that they did not comprehend legal discussions! — But their views were not in accordance with the halachah [final ruling], as it is written, The secret of the Lord is with them that fear him.<sup>33</sup>

R. Ammi said: Doeg did not die until he forgot his learning,<sup>34</sup> as it is written, He shall die without instruction, and in the greatness of his folly he shall go astray.<sup>35</sup> R. Ashi said: He was smitten with leprosy, for it is said, Thou hast destroyed all them that go a whoring from thee;<sup>36</sup> whilst elsewhere it is written, [And if it be not redeemed within the space of a full year, then the house . . . shall be established] la-zemithuth<sup>37</sup> [to him that hath bought it],<sup>38</sup> which we translate la-halutin<sup>39</sup> [i.e., 'absolutely and definitely the purchasers']. And we learnt: The only difference between him who is a mezora' muhlat [definitely a leper] and one who is locked up [for observation] is in respect of letting the hair grow wild and tearing the garments.<sup>40</sup>

(Mnemonic: Three, Saw, and Half; and Called.)

R. Johanan said: Three destroying angels appeared before Doeg: one caused him to forget his learning, one burnt his soul, and the third scattered his ashes in the synagogues and schoolhouses. R. Johanan also said: Doeg and Ahitophel did not see each other [i.e., were not contemporaries], Doeg living in Saul's reign, Ahitophel in David's. R. Johanan also said: Doeg and Ahitophel did not live out half their days. It has been taught likewise: Bloody and deceitful men shall not live out half their days:<sup>41</sup> Doeg's entire lifetime amounted only to thirty four years, and Ahitophel's to thirty three.

R. Johanan also said: At first David called Ahitophel his teacher, then his companion [colleague], and finally his disciple. At first he called him his teacher, as it is written, But it was thou, a man mine equal, my guide, and mine acquaintance.<sup>42</sup> Then his companions [as it is written] We took sweet

counsel together, and walked into the house of God in company.<sup>43</sup> Finally his disciple — Yea, mine own familiar friend, in whom I trusted,

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(1) Ibid.

(2) This is suggested by the use of the plural ‘among them that were slain by them,’ intimating that the various deaths inflicted upon others were all suffered by Balaam. Thus he was hung (strangulation), a fire was lit under him (burning), his head was struck off (decapitation), and then he was allowed to fall to earth (stoning); v. supra 45a.

(3) Heretic, v. Glos.

(4) Ps. LV, 24.

(5) cf. p.471. n. 1.

(6) [According to the view that all the Balaam passages are anti-Christian in tendency, Balaam being used as an alias for Jesus, Phinehas the Robber is thus taken to represent Pontius Pilatus, and the Chronicle of Balaam probably to denote a Gospel (v. Herford op. cit. 72ff.). This view is however disputed by Bacher and others: cf. Ginzberg, Journal of Biblical Literature, XLI, 121.]

(7) I Sam, XXI, 8. **אָנְדִּיר** denoting ‘anxious’.

(8) Ibid. XXII, 18. **אָנְדִּיר** with letters ‘woe’ being inserted,

(9) Ps. LII, 3.

(10) The psalm deals with Doeg; v. superscription in v. 2.

(11) I.e., to slander David and Abimelech for succouring him.

(12) Ibid. L, 16.

(13) Seeing that thou art both.

(14) Ibid.

(15) I.e., it did not penetrate into his heart and mould his character.

(16) Ibid, LII, 8.

(17) Job XX, 15.

(18) He has studied the Torah; wait till he forgets it.

(19) Do not wait for him to forget it naturally, but speed his forgetfulness.

(20) Ps. LII, 7.

(21) Ibid.

(22) Isa. XXXIII, 18.

(23) V. J.E. s.v. Masorah VIII, 366. It is there suggested that the Numerical Masorah, which counted and grouped the various elements of the Biblical text, developed on account of the copyists, who were paid according to the amount. The Talmud regards this as a work of piety and devotion, undertaken with the object of guarding the Bible from the introduction of spurious matter.

(24) I.e., who can draw conclusions by means of ad majus arguments.

(25) Rashi offers a number of interpretations: (i) who deduced three hundred laws from the upper stroke of the **ש**; (ii) who stated three hundred laws in respect of the defilement of one who enters the land of heathens in a tower-shaped conveyance; (iii) three hundred laws relating to the suspension of a tower in the air by means of enchantment. Another reading is, ‘on a tower standing in the air,’ i.e., not immediately situated upon the grounds but supported by pillars. The laws will refer to the cleanliness or otherwise of its contents (v. Ohal. IV, 1).

(26) ‘Damages’, the fourth Order (**סדר**) of the Talmud. When Rab Judah was head of the academy of Pumbeditha, only the fourth Order was studied, but not the other Orders. This would appear to be the meaning of the passage. But Weiss, Dor III, 196ff, having regard to the abundance of contributions in Rab's name by Rab Judah on the other orders, explains the passage to mean; ‘only as far as Nezikin.’ i.e., the first four Orders. These being of practical utility, were intensively studied, and new laws stated. But as for the last two Orders dealing with sacrifices and ritual purity, though taught in the academy, no effort was made to formulate new laws, since the subjects were of no practical interest to Babylon, and Rab Judah contented himself with teaching only what had been transmitted to him.

(27) Name of a treatise of the Mishnah and the Tosefta, belonging to the sixth Order; lec. var. ‘we study intensively the six Orders.’

(28) I.e., if their stalks came into contact with anything unclean, the vegetables or the olives themselves are unaffected.

(29) Rashi interprets: He did not know why they should be clean — i.e., he regarded these subjects as extremely difficult. Weiss a.l. explains: It is sufficient to deal with these matters on the basis of the discussions of Rab and Samuel,

without endeavouring to formulate new reasons or laws in connection with them.

(30) When special intercessory prayers for rain had to be offered, at which the shoes were removed, Rab Judah merely had to make resort to this self-humiliation in preparation for prayer, and they were immediately answered.

(31) I Sam. XVI, 7.

(32) V. p. 727.

(33) Ps. XXV, 14.

(34) V. supra.

(35) Prov. V, 23.

(36) Ps. LXXIII, 27.

(37) **צמיתות**.

(38) Lev. XXV, 30.

(39) [לְהַלְוִי, v. Targum Onkelos and Jonathan.]

(40) Which shows that the term **הלוט** is employed to denote a leper. Hence, the first verse is to be rendered, Thou hast smitten with definite (leprosy) all them that go a whoring from thee.

(41) Ps. LV, 24.

(42) Ibid. 14.

(43) Ibid. 15.

## Talmud - Mas. Sanhedrin 107a

which did eat of my bread, hath lifted up his heel against me.<sup>1</sup>

Rab Judah said in Rab's name: One should never [intentionally] bring himself to the test, since David king of Israel did so, and fell. He said unto Him, 'Sovereign of the Universe! Why do we say [in prayer] "The God of Abraham, the God of Isaac, and the God of Jacob," but not the God of David?' He replied, 'They were tried by me, but thou wast not.' Then, replied he, 'Sovereign of the Universe, examine and try me' — as it is written, Examine me, O Lord, and try me.<sup>2</sup> He answered 'I will test thee, and yet grant thee a special privilege;<sup>3</sup> for I did not inform them [of the nature of their trial beforehand], yet, I inform thee that I will try thee in a matter of adultery.' Straightway, And it came to pass in an eveningtide, that David arose from off his bed etc.<sup>4</sup> R. Johanan said: He changed his night couch to a day couch,<sup>5</sup> but he forgot the halachah: there is a small organ in man which satisfies him in his hunger but makes him hunger when satisfied.<sup>6</sup> And he walked upon the roof of the king's house: and from the roof he saw a woman washing herself; and the woman was very beautiful to look upon.<sup>7</sup> Now Bath Sheba was cleansing her hair behind a screen,<sup>8</sup> when Satan came to him, appearing in the shape of a bird. He shot an arrow at him, which broke the screen, thus she stood revealed, and he saw her. Immediately, And David sent and enquired after the woman. And one said, Is not this Bath Sheba, the daughter of Eliam, the wife of Uriah the Hittite? And David sent messengers, and took her, and she came unto him, and he lay with her; for she was purified from her uncleanness: and she returned unto her house.<sup>9</sup> Thus it is written, Thou hast proved mine heart; thou hast visited me in the night; thou hast tried me, and shalt find nothing; I am purposed that my mouth shall not transgress.<sup>10</sup> He said thus: 'Would that a bridle had fallen into the mouth of mine enemy [i.e., himself], that I had not spoken thus.'<sup>11</sup>

Raba expounded: What is meant by the verse, To the Chief Musician, A Psalm of David. In the Lord put I my trust: how say ye to my soul, Flee as a bird to your mountain?<sup>12</sup> David pleaded before the Holy One, blessed be He: 'Sovereign of the Universe! Forgive me that sin, that men may not say, "Your mountain [sc. the king] has been put to flight by a bird."<sup>13</sup>

Raba expounded: What is meant by the verse, Against thee, thee only, have I sinned, and done this evil in thy sight: that thou mightest be justified when thou speakest, and be clear when thou judgest?<sup>14</sup> David pleaded before the Holy One, blessed be He: 'Thou knowest full well that had I wished to suppress my lust, I could have done so, but, thought I, let them [the people] not say, "The servant triumphed against his Master."<sup>15</sup>

Raba expounded: What is meant by the verse, For I am ready to halt, and my sorrow is continually before me?<sup>16</sup> Bath Sheba, the daughter of Eliam, was predestined for David from the six days of Creation, but that she came to him with sorrow.<sup>17</sup> And the school of R. Ishmael taught likewise: She was worthy [i.e., predestined] for David from the six days of Creation, but that he enjoyed her before she was ripe.<sup>18</sup>

Raba expounded: What is meant by the verse, But in mine adversity they rejoiced, and 'gathered themselves together: yea, the abjects gathered themselves together against me, and I knew it not; they did tear me, and ceased not?<sup>19</sup> David exclaimed before the Holy One, blessed 'be He, 'Sovereign of the Universe! Thou knowest full well, that had they torn my flesh, my blood would not have flown.<sup>20</sup> Moreover, when they are engaged in studying the four deaths inflicted by Beth din they interrupt their studies and taunt me [saying], "David, what is the death penalty of him who seduces a married woman?" I reply to them, "He who commits adultery with a married woman is executed by strangulation, yet has he a portion in the world to come. But he who publicly puts his neighbour to shame has no portion in the world to come."

Rab Judah said in Rab's name: Even during David's illness he fulfilled the conjugal rights<sup>21</sup> [of his eighteen wives], as it is written, I am weary with my groaning: all the night make I my bed to swim; I water my couch with my tears.<sup>22</sup> Rab Judah also said in Rab's name: David wished to worship idols, as it is written, And it came to pass, that when David was come to the head, where he worshipped God.<sup>23</sup> Now rosh ['head'] can only refer to idols, as it is written, This image's head was of fine gold.<sup>24</sup> [But] Behold, Hushai the Archite came to meet him with his coat rent, and earth upon his head.<sup>25</sup> He demonstrated with David, 'Shall people say, A king like thee has worshipped idols!' He replied, 'And shall a king like myself be slain by his son! Let me worship idols rather than that the Divine Name be publicly profaned!'<sup>26</sup> He retorted, 'Why then didst thou marry a beautiful woman [captured in battle]?'<sup>27</sup> He replied, 'The Merciful One permitted a beautiful woman. He rejoined, 'Dost thou not interpret the proximity of verses? For in proximity thereto<sup>28</sup> is written, If a man have a stubborn and rebellious son,<sup>29</sup> [this teaches:] Whoever marries a beautiful woman [taken in battle] will have a stubborn and rebellious son.'

R. Dosetai of Beri<sup>30</sup> expounded: Unto whom may David be likened? Unto a heathen merchant.<sup>31</sup> David said before the Holy One, blessed be He, 'Sovereign of the Universe! [Who can understand his errors?]'<sup>32</sup> He replied, 'They are forgiven thee.' 'Cleanse thou me from secret faults,' [he pursued]. 'I grant it thee.' 'Keep back thy servant also from presumptuous sins!' — 'Tis granted.' 'Let them not have dominion over me: then shall I be upright: so that scholars may not discuss me.'<sup>33</sup> 'Granted.' 'And I shall be innocent from the great transgression: so my sins may not be recorded.' He replied, 'That is impossible. If the [single] yod which I removed from Sarai<sup>34</sup> continuously cried out [in protest] for many years until Joshua came and I added it to his name, as it is written, And Moses called Oshea the son of Nun Jehoshua:<sup>35</sup> how much more so a complete section!'

And I shall be innocent from great transgression. He pleaded before Him, 'Sovereign of the Universe! Pardon me that sin completely [as though it had never been committed].' He replied, 'It is already ordained that thy son Solomon should say in his wisdom, Can a man take fire in his bosom, and his clothes not be burned? Can one go upon hot coals, and his feet not be burned? So he that goeth in to his neighbour's wife; whosoever toucheth her shall not be innocent.'<sup>36</sup> He lamented, 'Must I<sup>37</sup> suffer so much!' He replied, 'Accept thy chastisement,' and he accepted it.

Rab Judah said in Rab's name: Six months was David smitten with leprosy, the Shechinah deserted him, and the Sanhedrin held aloof from him. 'He was smitten with leprosy' — as it is written, Purge me with hyssop, and I shall be clean; wash me, and I shall be whiter than snow.<sup>38</sup> 'The Shechinah deserted him' — as it is written, Restore unto me the joy of thy salvation,' and uphold me with thy free spirit.<sup>39</sup> 'And the Sanhedrin kept aloof from him' — as it is written, Let those that fear thee turn unto me, and those that have known thy testimonies.<sup>40</sup> How do we know that it was for six months? — Because it is written, And the days that David reigned over Israel were forty years:

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(1) Ibid. XLI, 10. This is understood to refer to Ahitophel, and 'which did eat my bread', as a metaphor for 'who learnt of my teaching'.

(2) Ibid. XXVI, 1.

(3) Lit., 'I will do something for thee.'

(4) II Sam. XI, 2.

(5) I.e., he cohabited by day instead of night, that he might be free from desire by day.

(6) With regard to human passion, 'the appetite grows by what it feeds on'.

(7) Ibid.

(8) Or 'beehive' (Rashi).

(9) Ibid, 2f.

(10) Ps. XVII, 3.

- (11) I.e., 'would that I had not asked God to try me'. By a play on words, 'on (E.V. 'I am purposed') is connected with **זממא** 'a bridle', and the second half of the verse is explanatory of the first: 'Would that my mouth had been bridled, so that I would not have to admit now, "Thou hast proved etc."'
- (12) Ibid. XI, 1.
- (13) V. supra.
- (14) Ibid. LI, 6.
- (15) V. supra. Had David not yielded, his plea for the inclusion of 'the God of David' would have been justified.
- (16) Ibid. XXXVIII, 18.
- (17) Translating **לצלע** (E.V. 'to halt'), 'a rib': 'For I am ready for my rib,' i.e., Bath Sheba, David's rib.
- (18) I.e., before she was his legitimate wife.
- (19) Ibid. XXXV, 15.
- (20) [By reason of the shame to which he had been put. Cf. B.M. 58b: The red color of the face departs, and the white takes its place.]
- (21) Lit., 'eighteen marital duties.'
- (22) Ibid. VI, 7.
- (23) II Sam. XV, 32.
- (24) Dan. II, 32.
- (25) II Sam. Ibid.
- (26) For then it would be said that Absalom had slain him because of his idolatry, which would justify him and his supporters.
- (27) Absalom's mother, Maachah the daughter of Talmai, king of Geshur, was, according to tradition, a war captive.
- (28) I.e., the section permitting a beautiful woman captured in battle.
- (29) Deut. XXI, 18.
- (30) [Near Safed, v. Horowitz, I.S., Palestine and the Adjacent Countries. s.v. **בירי**]
- (31) Who begins by offering small wares; emboldened by his success, he presses more and more upon the purchaser. So David made a small request of God: it being granted, he proceeded to ask for more and more.
- (32) Ps. XIX, 13; i.e., he asked pardon for sins committed in error.
- (33) Holding me up as an example and warning — **ימשלו** 'have dominion' is connected with **משל**.
- (34) **שרי**, when her name was changed to Sarah, **שרה**.
- (35) Num. XIII, 16; thus turning **יהושע** into **יהושע**.
- (36) Prov. VI, 27ff.
- (37) Lit., 'that man.'
- (38) Ps. LI, 9. Hyssop was required for the purification of a leper; v. Lev. IV, 4.
- (39) Ibid. 14.
- (40) Ps. CXIX, 79.

## Talmud - Mas. Sanhedrin 107b

Seven years reigned he in Hebron, and thirty and three years reigned he in Jerusalem;<sup>1</sup> whilst [elsewhere] it is written, In Hebron reigned he over Judah seven years, and six months.<sup>2</sup> Thus, these six months are not counted [in the first passage quoted], proving that he was smitten with leprosy.<sup>3</sup> He prayed to Him, 'Sovereign of the Universe! Forgive me that sin!' 'It is forgiven thee.' '[Then] shew me a token for good,' that they which hate me may see it, and be ashamed; because thou, Lord, hast helped me, and comforted me.'<sup>4</sup> He replied, 'In thy lifetime I will not make it known [that I have forgiven thee] but in the lifetime of thy son Solomon.' [Thus:] When Solomon built the Temple, he wished to take the ark into the Holy of Holies, but the gates [thereof] cleaved to each other [and would not open]. He uttered twenty-four psalms,<sup>5</sup> but was not answered. He then further supplicated, Lift up your head, O ye gates; and be ye lifted up, ye everlasting doors; and the King of glory shall come in. Who is this King of glory? The Lord strong and mighty, the Lord mighty in battle. And it is further said, Lift up your heads, O ye gates, even lift them up, ye everlasting doors.<sup>6</sup> Still he was not answered. But on praying, O Lord God, turn not away the face of thine anointed: remember the mercies of David thy servant,<sup>7</sup> he was immediately answered. In that hour the faces of

David's enemies turned [black] as the bottom of a pot [in their discomfiture], and all Israel knew that the Holy One, blessed be He, had forgiven him that sin.

GEHAZI,<sup>8</sup> as it is written, And Elisha came to Damascus:<sup>9</sup> whither did he go? — R. Johanan said: He went to bring Gehazi back to repentance, but he would not repent. 'Repent thee,' he urged. He replied, 'I have thus learnt from thee: He who sins and causes the multitude to sin is not afforded the means of repentance.' What had he done? — Some say: He hung a loadstone above Jeroboam's sin [i.e., the Golden Calf], and thus suspended it between heaven and earth [by its magnetism]. Others maintain: He engraved the Divine Name in its [sc. the calf's] mouth, whereupon it [continually] proclaimed, 'I [am the Lord thy God],' and 'Thou shalt have no [other] gods before me.'<sup>10</sup> Others say: He drove the Rabbis away from him [sc. Elisha], as it is written. And the sons of the prophets said unto Elisha, Behold now, the place where we dwell with thee is too strait for us;<sup>11</sup> proving that till then it was not too narrow.<sup>12</sup>

Our Rabbis taught: Let the left hand repulse but the right hand always invite back: not as Elisha, who thrust Gehazi away with both hands,<sup>13</sup> as it is written, And Naaman said, Be content, take two talents. And he urged him, and bound [two talents of silver in two bags. . .] And Elisha said unto him, Whence comest thou, Gehazi? And he said, Thy servant went no whither. And he said unto him, Went not my heart with thee, when the man turned again from his chariot to meet thee? Is it a time to receive money, and to receive garments, and oliveyards, and vineyards, and sheep and oxen, and menservants and maidservants?<sup>14</sup> But had he taken so much? He had only taken silver and garments! — R. Isaac said: Just then Elisha was sitting and lecturing on the eight [unclean] reptiles.<sup>15</sup> Now Naaman, the chief captain of the king of Syria, was a leper. A maiden, who had been captured from the land of Israel, said to him, 'If thou wilt go to Elisha, he will heal thee.' When he came there he said to him, 'Go and dip thyself in the Jordan.' 'Thou dost but ridicule me!' he exclaimed. But his companions urged him, 'What does it matter to thee? Go and test it.' So he went, dipped himself in the Jordan and was healed. He returned and offered him all he had, but he [Elisha] refused to accept it. Thereupon Gehazi left Elisha's presence, went and took whatever he did, and put it away. When he returned, Elisha saw a leprous eruption on his head. 'Thou wicked man,' he cried, 'the time has come for thee to receive thy reward [for studying the laws] of the eight reptiles!'<sup>16</sup> [So] 'The leprosy therefore of Naaman shall cleave unto thee, and unto thy seed for ever.' And he went out from his presence a leper as white as snow.<sup>17</sup>

And there were four leprous men at the entering in of the gate.<sup>18</sup> R. Johanan said: They were Gehazi and his three sons. It was taught, R. Simeon b. Eleazar said: Human nature,<sup>19</sup> a child and a woman — the left hand should repulse them, but the right hand bring them back.<sup>20</sup>

Our Rabbis taught: Elisha was ill on three occasions: once when he incited the bears against the children, once when he repulsed Gehazi with both hands, and the third [was the illness] of which he died; as it is written, Now Elisha was fallen sick of his sickness where of he died.<sup>21</sup> Until Abraham there was no old age:<sup>22</sup> whoever saw Abraham said, 'This is Isaac;' and whoever saw Isaac said, 'This is Abraham.' Therefore Abraham prayed that there should be old age, as it is written, And Abraham was old, and well stricken in age.<sup>23</sup> Until Jacob there was no illness,<sup>24</sup> so he prayed and illness came into existence, as it is written, And one told Joseph, Behold, thy father is sick.<sup>25</sup> Until Elisha no sick man ever recovered, but Elisha came and prayed, and he recovered, as it is written, Now Elisha was fallen sick of sickness whereof he died.<sup>26</sup>

MISHNAH. THE GENERATION OF THE FLOOD HAS NO PORTION IN THE FUTURE WORLD, NOR WILL THEY STAND AT THE [LAST] JUDGMENT, AS IT IS WRITTEN, [AND THE LORD SAID,] MY SPIRIT WILL NOT ALWAYS ENTER INTO JUDGMENT WITH MAN:<sup>27</sup> THERE WILL BE NEITHER JUDGMENT NOR [MY] SPIRIT FOR THEM.<sup>28</sup> THE GENERATION OF THE DISPERSION HAVE NO PORTION IN THE FUTURE WORLD, AS IT

IS WRITTEN, SO THE LORD SCATTERED THEM ABROAD FROM THENCE UPON THE FACE OF ALL THE EARTH:<sup>29</sup> 'SO THE LORD SCATTERED THEM ABROAD', REFERS TO THIS WORLD, 'AND FROM THENCE DID THE LORD SCATTER THEM ABROAD',<sup>30</sup> TO THE WORLD TO COME. THE MEN OF SODOM HAVE NO PORTION IN THE FUTURE WORLD, AS IT IS WRITTEN, BUT THE MEN OF SODOM WERE WICKED AND SINNERS BEFORE THE LORD EXCEEDINGLY:<sup>31</sup> 'WICKED IN THIS WORLD, AND 'SINNERS' IN THE WORLD TO COME;<sup>32</sup> YET WILL THEY STAND AT JUDGMENT. R. NEHEMIAH SAID: NEITHER [THE GENERATION OF THE FLOOD NOR THE MEN OF SODOM] WILL STAND AT JUDGMENT, AS IT IS WRITTEN, THEREFORE

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(1) I Kings II, 11.

(2) II Sam, V, 5.

(3) A leper being accounted as dead.

(4) Ps. LXXXVI, 17.

(5) In II Chron. VI, words for prayer, supplication and hymn, occur twenty-four times (Rashi and Maharsha).

(6) Ibid. XXIV, 7ff.

(7) II Chron. VI, 42.

(8) The Talmud now proceeds to show that he has no portion in the coming world,

(9) II Kings VIII, 7. The text of the Talmud reads, 'And Elisha went to Damascus,' Actually there is no such verse, and so the one quoted must be substituted. And the Talmud asks 'whither did he go?' since the text 'And Elisha came to Damascus' implies that his objective was not Damascus, but, happening to come there (on his way to a certain destination, unspecified), he was consulted about Ben-hadad's illness as related in the chapter. Therefore the Talmud asks, what then was the original purpose of his journey? (Maharsha).

(10) Magical powers were ascribed to the Divine Name; v. p. 446, n. 9.

(11) II Kings VI, 1.

(12) Because they were not given access to him at all. This was said after Gehazi left Elisha; v. 27.

(13) In the uncensored editions there follows here, 'and not like R. Joshua b. Perahjah, who repulsed Jesus (the Nazarene) with both hands. Gehazi, as it etc.'

(14) II Kings V, 23-26.

(15) [Name of the Chapter in Mishnah Shabbath XIV, 1. Cf. Lev. XI, 29.]

(16) That is the meaning of 'Is it a time to receive money, and ... garments, and oliveyards etc.' — Eight objects are enumerated, corresponding to the eight reptiles, the former being referred to by Elisha as a fit reward for studying the latter.

(17) II Kings V, 27. The uncensored edition continues: What of R. Joshua b. Perahjah? — When King Jannai slew our Rabbis, R. Joshua b. Perahjah (and Jesus) fled to Alexandria of Egypt. On the resumption of peace, Simeon b. Shetach sent to him: 'From me, (Jerusalem) the holy city, to thee, Alexandria of Egypt (my sister). My husband dwelleth within thee and I am desolate.' He arose, went, and found himself in a certain inn, where great honour was shewn him. 'How beautiful is this Acsania!' (The word denotes both inn and innkeeper. R. Joshua used it in the first sense; the answer assumes the second to be meant.) Thereupon (Jesus) observed, 'Rabbi, her eyes are narrow.' 'Wretch,' he rebuked him, 'dost thou thus engage thyself.' He sounded four hundred trumpets and excommunicated him. He (Jesus) came before him many times pleading, 'Receive me!' But he would pay no heed to him. One day he (R. Joshua) was reciting the Shema', when Jesus came before him. He intended to receive him and made a sign to him. He (Jesus) thinking that it was to repel him, went, put up a brick, and worshipped it. 'Repent,' said he (R. Joshua) to him. He replied, 'I have thus learned from thee: He who sins and causes others to sin is not afforded the means of repentance.' And a Master has said, 'Jesus the Nazarene practised magic and led Israel astray.' For a full discussion of this passage and attempted explanation of this anachronism making Jesus a contemporary of King Jannai (104-78 B.C.E.). v. Herford, op. cit. 51ff. [The tradition of an early Jesus was also known to Epiphanius. Whether he derived this tradition from the Talmud or from an independent source is a moot point hotly contested by Klausner and Guttman; v. MGWJ. 1931, 250ff. and 1933, 38. In any case there does not appear to be sufficient data available to account for this tradition.]

(18) Ibid. VII, 3.

(19) [Heb. yezer, יצר, v. Lazarus, Ethics, II, 106ff.]

(20) One must not attempt to subdue his desires altogether, which is unnatural, but to regulate them. In chiding a child



and a woman, one must not be too severe, lest they be so disheartened as to be driven away far from repentance altogether.

(21) II Kings XIII, 14. 'Was fallen sick' denotes one illness; 'of his sickness' another, and 'whereof he died' a third (Rashi).

(22) I.e., old age did not mark a person.

(23) Gen. XXIV, 1. He is the first of whom this is said.

(24) One lived his allotted years in full health and then died suddenly.

(25) Ibid. XLVIII, 1. V. preceding note.

(26) This shews that he had been sick on previous occasions too' but recovered.

(27) Gen. VI, 3.

(28) I.e., they will neither be judged, nor be granted of my spirit to enable them to share in the world to come.

(29) Ibid. XI, 8.

(30) Ibid. 9.

(31) Ibid. XIII, 13.

(32) I.e., their claim to a portion therein will not be admitted.

### **Talmud - Mas. Sanhedrin 108a**

THE UNGODLY SHALL NOT STAND IN THE JUDGMENT, NOR SINNERS IN THE CONGREGATION OF THE RIGHTEOUS:<sup>1</sup> THEREFORE 'THE UNGODLY SHALL NOT STAND IN THE JUDGMENT', REFERS TO THE GENERATION OF THE FLOOD; NOR SINNERS IN THE CONGREGATION OF THE RIGHTEOUS', TO THE MEN OF SODOM. THEY [THE SAGES] ANSWERED HIM: THEY WILL NOT STAND IN THE CONGREGATION OF THE RIGHTEOUS, BUT THEY WILL STAND IN THE CONGREGATION OF THE WICKED.<sup>2</sup> THE SPIES HAVE NO PORTION IN THE WORLD TO COME, AS IT IS WRITTEN, EVEN THOSE MEN THAT DID BRING UP THE EVIL REPORT UPON THE LAND, DIED BY THE PLAGUE BEFORE THE LORD.<sup>3</sup> '[THEY] DIED' — IN THIS WORLD, 'BY THE PLAGUE' — IN THE WORLD TO COME.<sup>4</sup> THE GENERATION OF THE WILDERNESS HAVE NO SHARE IN THE FUTURE WORLD AND WILL NOT STAND AT THE [LAST] JUDGMENT, AS IT IS WRITTEN, IN THIS WILDERNESS THEY SHALL BE CONSUMED, AND THERE THEY SHALL DIE:<sup>5</sup> THIS IS R. AKIBA'S VIEW. R. ELIEZER SAID: CONCERNING THEM IT IS SAID, GATHER MY SAINTS TOGETHER UNTO ME; THOSE THAT HAVE MADE A COVENANT WITH ME BY SACRIFICE.<sup>6</sup> THE CONGREGATION OF KORAH IS NOT DESTINED TO ASCEND [FROM THE EARTH], AS IT IS WRITTEN, AND THE EARTH CLOSED UPON THEM' — IN THIS WORLD, 'AND THEY PERISHED FROM AMONG THE CONGREGATION' — IN THE NEXT:<sup>7</sup> THIS IS R. AKIBA'S OPINION. R. ELIEZER SAID: OF THEM IT IS WRITTEN, THE LORD KILLETH, AND MAKETH ALIVE: HE BRINGETH DOWN TO THE GRAVE, AND BRINGETH UP.<sup>8</sup>

GEMARA. Our Rabbis taught: The generation of the flood have no portion in the world to come, as it is written, And every living substance was destroyed which was upon the face of the ground<sup>9</sup> and every living substance was destroyed refers to this world; which was upon the face of the ground — to the next: this is R. Akiba's view. R. Judah b. Bathyra maintained: They will neither revive nor be judged, as it is written, My spirit will not always enter into judgment with man:<sup>10</sup> teaching, neither judgment nor spirit.<sup>11</sup> Another meaning of 'My Spirit will not enter etc.': their soul shall not return to its sheath.<sup>12</sup> R. Menahem son of R. Jose said: Even when the Holy One, blessed be He, restores the souls to the dead bodies,<sup>13</sup> their soul shall grieve them in the Gehenna, as it is written, Ye shall conceive chaff ye shall bring forth stubble: your soul, as fire, shall devour you.<sup>14</sup>

Our Rabbis taught: The generation of the flood waxed haughty only because of the good which the Holy One, blessed be He, lavished upon them. Behold, what is written of them? Their houses are safe from fear, 'neither is the rod of God upon them,<sup>15</sup> it is also written, Their bull gendereth, and

faileth not,' their cow calveth, and casteth not her calf;<sup>16</sup> further, They send forth their little ones like a flock, and their children dance;<sup>17</sup> further, They take the timbrel and the harp, and rejoice at the sound of the organ;<sup>18</sup> and it is also written, They spend their days in prosperity, and their years in pleasures;<sup>19</sup> and it is also written, and in a moment go down to the grave.<sup>20</sup> And 'tis that which caused them to say to God, Depart from us; for we desire not the knowledge of thy ways. What is the Almighty, that we should serve him? and what profit should we have, if we pray unto him?<sup>21</sup> They said thus: Do we need Him for aught but the drop of rain? We have rivers and wells to supply our wants. Thereupon the Holy One, blessed be He, said: By that very good which I lavished upon them they provoke Me, and by that I will punish<sup>22</sup> them, as it is written, And behold, I, even I, do bring a flood of waters upon the earth.<sup>23</sup>

R. Jose said: They waxed haughty only on account of the covetousness of the eye-ball, which is like water, as it is written, And they took them wives from all which they chose.<sup>24</sup> Therefore He punished them by water, which is like the eye-ball,<sup>25</sup> as it is written, All the fountains of the great deep were broken up, and the windows of heaven were opened.<sup>26</sup>

R. Johanan said: The corruption of the generation of the Flood is characterised as great, and their punishment is characterised as great. Their corruption is characterised as great, as it is written, And God saw that the wickedness of man, was great in the earth;<sup>27</sup> and their punishment is characterised as great, as it is written, All the fountains of the great deep. R. Johanan said: Three of those [hot fountains] were left,<sup>28</sup> the gulf of Gaddor, the hot-springs of Tiberias, and the great well of Biram.<sup>29</sup>

For all flesh had corrupted his way upon the earth.<sup>30</sup> R. Johanan said: This teaches that they caused beasts and animals, animals and beasts, to copulate; and all of these were brought in connection with man, and man with them all. R. Abba b. Kahana said, All of them returned [to their own kind], excepting the tushlami.<sup>31</sup>

And God said unto Noah, the end of all flesh is come before me.<sup>32</sup> R. Johanan said: Come and see how great is the power of robbery. for lo, though the generation of the flood transgressed all laws, their decree of punishment was sealed only because they stretched out their hands to rob, as it is written, for the earth is filled with violence through them, and, behold, I will destroy them with the earth.<sup>33</sup> And it is 'also written, Violence [i.e., robbery] is risen up into a rod of wickedness: none of them shall remain, nor of their multitude, nor any of theirs: neither shall there be wailing for them.<sup>34</sup> R. Eleazar said: This teaches that it [violence personified] erected itself like a staff, stood before the Holy One, blessed be He, and said: 'Sovereign of the Universe! [There is no good in aught] of them, or aught of their multitude, or of theirs; neither shall there be wailing for them.' The School of R. Ishmael taught: The doom [of destruction] was decreed against Noah too, but that he found favour in the eyes of God, as it is written, It repenteth me that I have made them. But Noah found grace in the eyes of the Lord.<sup>35</sup>

And the Lord was comforted that he had made man in the earth.<sup>36</sup> When R. Dimi came<sup>37</sup> he said: The Holy One, blessed be He, exclaimed, 'I did well in preparing graves for them in the earth.'<sup>38</sup> How is this signified [by the verse]? — Here is written, And the Lord was comforted;<sup>39</sup> whilst elsewhere it is stated, And he comforted them, and spake kindly to them.<sup>40</sup> Others say, [He exclaimed,] 'I did not do well in establishing graves for them in the earth;'<sup>41</sup> here it is written, And it repented the Lord; whilst elsewhere it is written, And the Lord repented of the evil which he had thought to do unto his people.<sup>42</sup>

These are the generations of Noah: Noah was a just man, and perfect in his generations.<sup>43</sup> R. Johanan said: In his generations, but not in other generations. Resh Lakish maintained: [Even] in his generations — how much more so in other generations. R. Hanina said: As an illustration of R. Johanan's view, to what may this be compared? To a barrel of wine lying in a vault of acid: in its

place, its odour is fragrant [by comparison with the acid]; elsewhere, its odour will not be fragrant.<sup>44</sup> R. Oshaia said: As an illustration of Resh Lakish's view, to what may this be compared? To a phial of spikenard oil lying amidst refuse: [if] it is fragrant where it is, how much more so amidst spices!<sup>45</sup>

And every living substance was destroyed which was upon the face of the ground, [both man and cattle].<sup>46</sup> If man sinned, how did the beasts sin? — A Tanna taught on the authority of R. Joshua b. Karha: This may be compared to a man who set up a bridal canopy for his son, and prepared a banquet with every variety [of food]. Subsequently his son died, whereupon he arose and broke up the feast,<sup>47</sup> saying, 'Have I prepared all this for any but my son? Now that he is dead, what need have I of the banquet?' Thus the Holy One, blessed be He, said too, 'Did I create the animals and beasts for aught but man: now that man has sinned, what need have I of the animals and beasts?'

All that was in the dry land died;<sup>48</sup> but not the fish in the sea.

R. Jose of Caesarea taught: What is meant by the verse, He is swift as the waters; their portion is cursed in the earth: [he beholdeth not the way of the vineyards]?<sup>49</sup> This teaches that the righteous Noah rebuked them, urging, 'Repent; for if not, the Holy One, blessed be He, will bring a deluge upon you and cause your bodies to float upon the water like gourds, as it is written, He is light [i.e., floats] upon the waters. Moreover, ye shall be taken as a curse for all future generations,<sup>50</sup> as it is written, their portion is cursed' in the earth. He beholdeth not the way of the vineyards: this teaches that they looked by the way of the vineyards.<sup>51</sup> They said to him, 'Who then prevents him?'<sup>52</sup> — He replied.<sup>53</sup> 'I have one dear one<sup>54</sup> to draw out from you.'<sup>55</sup>

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(1) Ps. I, 5.

(2) I.e., they shall stand at the last judgment like all other evildoers.

(3) Num. XIV, 37.

(4) This passage 'the spies . . . next' is omitted in the Yerushalmi.

(5) Ibid. 35.

(6) Ps. L, 5.

(7) Num. XVI, 33.

(8) I Sam. II, 6.

(9) Gen. VII, 23.

(10) Gen. VI, 3.

(11) V. supra.

(12) I.e., their bodies; connecting Yadon, יָדוֹן with nadan נָדַן 'sheath', 'case'.

(13) This phrase has become liturgical.

(14) Isa. XXXIII, 11.

(15) Job XXI, 9.

(16) Ibid. 10.

(17) Ibid. 11.

(18) Ibid. 12.

(19) Ibid. XXXVI, 11.

(20) Ibid. XXI, 13 — they do not suffer before death.

(21) Ibid. 14.

(22) Lit., 'judge'.

(23) Gen. VI, 17.

(24) Ibid. VI, 2.

(25) Just as tears gush forth from the eye-ball, which is a small place, so water streams forth from a well.

(26) Ibid. VII, 11.

(27) Ibid. VI, 5.

(28) It is stated further on that hot water gushed forth from these fountains. Only three such fountains remained after the flood.

(29) גַּדָּר (Gadara) was famous for its thermal springs; Eusebius, Jerome, and other authors of antiquity speak of its thermal waters, and it is identified with Gum Kreis — Neubauer, *Geographie*, p. 35. Biram, identified with Baaras near the thermal spring of Callirhoe, east of the Dead Sea. V. Neubauer, *op. cit.* 36.

(30) *Ibid.* VI, 12.

(31) The name of a bird (Tartarian lark, v. Jast.), which, according to R. Abba b. Kahana, copulates indiscriminately.

(32) *Ibid.* 13.

(33) *Ibid.*

(34) Ezek. VII, 11.

(35) Gen. VI, 7f. The first verse indicates that God's regret in the first instance extended to all, Noah included, but that a special exception was made in his favour.

(36) *Ibid.* VI, 6. V. below for this translation:

(37) V. p. 390, n. 1.

(38) Since the wicked are thereby destroyed.

(39) E.V. 'repented'.

(40) *Ibid.* L, 21. By comparing יִנְחֵם in both places, he translates it 'comforted' in the first as in the second, the comfort being that since man was evil, it was fortunate that God had instituted graves, i.e., death.

(41) [Since having regard to their evil they do not deserve an honourable grave but to perish ignominiously by the flood (Yad Ramah).]

(42) Ex. XXXII, 14.

(43) Gen. VI, 9.

(44) So Noah: by comparison with the rest of his generation, who were exceptionally wicked, he stood out as a righteous man; in other generations he would not have been superior to the average person.

(45) Thus, if Noah was righteous even when his entire surroundings were evil, how much more so had he lived amongst righteous men!

(46) *Ibid.* VII, 23.

(47) Lit., 'broke up the canopy.'

(48) Gen. VII, 22.

(49) Job XXIV, 18.

(50) Lit., 'all that come into the world.'

(51) V. p. 743, n. 5. The passage is out of place here and the Wilna Gaon deletes it.

(52) If He has such power, what prevents him from using it?

(53) The speaker now is God.

(54) Lit., 'pigeon'. [A better reading: 'He (God) has one dear one, (the speaker being Noah).]

(55) One righteous man who must first die, so that he may not suffer your punishment, viz., Methuselah.

## Talmud - Mas. Sanhedrin 108b

'If so, [they retorted,] we will not turn aside from the way of the vineyards.'<sup>1</sup>

Raba taught: What is meant by the verse, He that is ready to slip with his feet is as a stone despised in the thought of him that is at ease?<sup>2</sup> — This teaches that when Noah rebuked them and spoke words to them that were as hard as fiery flints, they derided him. Said they to him, 'Old man, what is this ark for?' — He replied, 'The Holy One, blessed be He, will bring a flood upon you.' 'A flood of what,' they jeered? 'If a flood of fire, we have a substance called 'alitha;<sup>3</sup> whilst should He bring a flood of water: if He brings it up from the earth, we have iron plates with which we can cover the earth [to prevent the water from coming up]; if from heaven, we have a substance called 'akob (others say, 'akosh)<sup>4</sup> [which can ward it off].' — He replied. 'He will bring it from between the heels of your feet, as it is written, He is ready for the steps of your feet.'<sup>5</sup> It has been taught: The waters of the flood were as severe as semen,<sup>6</sup> as it is written, It is ready for the steps of the feet.<sup>7</sup>

R. Hisda said: With hot passion they sinned, and by hot water they were punished. [For] here it is written, And the water cooled;<sup>8</sup> whilst elsewhere it is said, Then the king's wrath cooled down.<sup>9</sup>

And it came to pass, after seven days, that the waters of the flood were upon the earth.<sup>10</sup> What was the nature of these seven days?<sup>11</sup> — Rab said: These were the days of mourning for Methuselah, thus teaching that the lamenting for the righteous postpones retribution. Another meaning is: After the seven days during which the Holy One, blessed be He, reversed the order of nature,<sup>12</sup> the sun rising in the west and setting in the east.<sup>13</sup> Another meaning: the Holy One, blessed be He, [first] appointed a long time for them, and then a short time.<sup>14</sup> Another meaning: After the seven days during which He gave a foretaste of the future world, that they might know what good they had withheld from themselves.

Of every clean beast thou shalt take to thee by sevens, man and wife.<sup>15</sup> Have then beasts marital relationship? — R. Samuel b. Nahman said in R. Jonathan's name: It means of those with which no sin had been committed.<sup>16</sup> Whence did he [Noah] know? — R. Hisda said: He led them past the ark; those which the ark accepted had certainly not been the object of sin; whilst those which it rejected had certainly been the object of sin. R. Abbahu said: [He took only] those which came of their own accord.<sup>17</sup>

Make thee an ark of gopher wood:<sup>18</sup> what is 'gopher'? — R. Adda said: The scholars of R. Shila said, It is mabliga;<sup>19</sup> others maintain, golamish.<sup>20</sup>

A window<sup>21</sup> shalt thou make to the ark.<sup>22</sup> R. Johanan said: The Holy One, blessed be He, instructed Noah, 'Set therein precious stones and jewels, so that they may give thee light, bright as the noon.'<sup>23</sup> And in a cubit shalt thou finish it above:<sup>24</sup> for thus would it stand firm.<sup>25</sup> With lower, second, and third stories shalt thou make it.<sup>26</sup> A Tanna taught: The bottom storey was for the dung; the middle for the animals; and the top for man.

And he sent forth a raven.<sup>27</sup> Resh Lakish said: The raven gave Noah a triumphant retort. It said to him, 'Thy Master hateth me, and thou hatest me. Thy Master hateth me — [since He commanded] seven [pairs to be taken] of the clean [creatures], but only two of the unclean.<sup>28</sup> Thou hatest me — seeing that thou leavest the species of which there are seven, and sendest one of which there are only two. Should the angel of heat or of cold smite me, would not the world be short of one kind? Or perhaps thou desirest my mate!' — 'Thou evil one!' he exclaimed; 'even that which is [usually] permitted me<sup>29</sup> has [now] been forbidden: how much more so that which is [always] forbidden me!' And whence do we know that they<sup>30</sup> were forbidden? — From the verse, And thou shalt enter into the ark, thou, and thy sons, and thy wife, and the wives of thy sons with thee;<sup>31</sup> whilst further on it is written, Go forth from the ark, thou, and thy wife, and thy sons, and thy sons' wives with thee.<sup>32</sup> Whereon R. Johanan observed: From this we deduce that cohabitation had been forbidden.<sup>33</sup>

Our Rabbis taught: Three copulated in the ark, and they were all punished — the dog, the raven, and Ham. The dog was doomed to be tied, the raven expectorates [his seed into his mate's mouth]. and Ham was smitten in his skin.<sup>34</sup>

Also he sent forth a dove from him, to see if the waters were abated.<sup>35</sup> R. Jeremiah said: This proves that the clean fowl dwelt with the righteous.<sup>36</sup> And lo, in her mouth was an olive leaf taraf [as food].<sup>37</sup> R. Eleazar said: The dove prayed to the Holy One, blessed be He, 'Sovereign of the Universe! Let my sustenance be as bitter as the olive, but in Thy charge, rather than sweet as honey and in the charge of flesh and blood.' Whence do we know that taraf connotes food? — From the verse, Feed me<sup>38</sup> with food convenient for me.<sup>39</sup>

After their kinds they went forth from the ark.<sup>40</sup> R. Johanan said: After their kinds, but not they [alone].<sup>41</sup> R. Hana b. Bizna said: Eliezer [Abraham's servant] remarked to Shem [Noah's] eldest son,<sup>42</sup> 'It is written, After their kinds they went forth from the ark. Now, how were you situated?'<sup>43</sup>

— He replied. ‘[In truth], we had much trouble in the ark. The animals which are usually fed by day we fed by day; and those normally fed by night we fed by night. But my father did not know what was the food of the chameleon. One day he was sitting and cutting up a pomegranate, when a worm dropped out of it, which it [the chameleon] consumed. From then onward he mashed up bran for it, and when it became wormy, it devoured it. The lion was nourished by a fever, for Rab said, "Fever sustains for not less than six (days) nor more than thirteen."<sup>44</sup> As for the phoenix,<sup>45</sup> my father discovered it lying ‘in the hold of the ark. "Dost thou require no food?" he asked it. "I saw that thou wast busy," it replied, "so I said to myself, I will give thee no trouble." "May it be (God's) will that thou shouldst not perish," he exclaimed; as it is written, Then I said, I shall die in the nest, but I shall multiply my days as the phoenix.’<sup>46</sup>

R. Hana b. Liwai said: Shem, [Noah's] eldest son,<sup>47</sup> said to Eliezer [Abraham's servant]. ‘When the kings of the east and the west attacked you, what did you do?’ — He replied. ‘The Holy One, blessed be He, took Abraham and placed him at His right hand, and they [God and Abraham] threw dust which turned to swords, and chaff which turned to arrows, as it is written, A Psalm of David. The Lord said unto my master, Sit thou at my right hand, until I make thine enemies thy footstool<sup>48</sup> and it is also written, Who raised up the righteous man [Sc. Abraham] from the east, called him to his foot; gave the nations before him, and made him rule over kings? he made his sword as the dust, and his bow as driven stubble.’<sup>49</sup>

Nahum of Gimso<sup>50</sup> was accustomed, whatever befell him, to say, ‘This too is for good.’ It once happened that the Jews wished to send a gift to the Emperor. Said they. ‘By

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(1) The meaning is somewhat obscure. Rashi interprets: we will insist in going through the crooked paths which cross the vineyards, instead of going on the straight high-way — a metaphor for pervasion. Maharsha explains: the vineyards are symbols of wine and licentiousness. The metaphor then is quite obvious.

(2) Job XII, 5.

(3) [A fire-extinguishing demon, the *Pyralis*. V, Lewysohn, *Zoologie*, 351.]

(4) [A legendary fungus which when donned on the head protects against rain. Lewysohn, *op. cit.*, p. 343. identifies in with the *Alcyonium cydonium*.]

(5) *Ibid.* The idea seems to be that He would bring it in such a way as to render all protectives useless, just as though the deluge were to well up from between their very feet; v. also next passage in text.

(6) *I.e.*, thick and hot.

(7) Here understood as a euphemism for sperm.

(8) (E.V. ‘abated’.) Gen. VIII, 1.

(9) Est. VII, 10. In both cases the root שִׁכַּךְ is used, giving them the same meaning, and proving that the water was hot when it descended.

(10) Gen. VII, 10.

(11) That God should have postponed the flood on their account.

(12) *Lit.*, ‘beginning’.

(13) That the wicked might be arrested by the phenomenon and led to repentance.

(14) He first gave them 120 years in which to repent (this being the homiletical interpretation of Gen. VI, 3); this ended, he gave them a further seven days’ grace.

(15) *Ibid.* VII, 2. This is the literal translation.

(16) V. *supra* 108a; *i.e.*, those which had mated only with their kind.

(17) Only such coming as fulfilled the above condition.

(18) *Ibid.* VI, 14.

(19) A resinous tree, a species of cedar. (*Jast.*)

(20) Also a species of cedar, and very hard and stone-like. (*Jast.*)

(21) *Heb. zohar*, צֹהַר.

(22) *Ibid.* 16.

(23) *Heb. zoharayim*, צֹהָרִים.

- (24) Ibid.
- (25) The sides being sloping, the rain would fall off it.
- (26) Ibid. [Some MSS, have the following addition: and the door of the ark shalt thou set in the side thereof (ibid.) in order to enable the nozila (a huge animal of the antelope species that could not be accommodated in the ark on account of its size) to put its head therein (it having been tied to the ark behind which it ran); v. Gen. R. XXXI, 13.]
- (27) Ibid. VIII, 7.
- (28) The raven is unclean (Lev. XI, 15).
- (29) I.e., his own wife.
- (30) The wives.
- (31) Gen. VI. 18.
- (32) Ibid. VIII, 26.
- (33) Since it is obvious that Noah's wife etc., were to leave the ark with him, the verse must be explained as granting permission for the resumption of marital ties. Hence these were interdicted in the ark.
- (34) I.e., from him descended Cush (the negro) who is black-skinned.
- (35) Ibid. VIII, 8.
- (36) This is deduced from 'from him', which is not mentioned in connection with the raven.
- (37) טרף (E.V. 'plucked off'.) Ibid. 11.
- (38) הטרפני haterifeni, derived from טרף.
- (39) Prov. XXX, 8.
- (40) Gen. VIII, 19.
- (41) The meaning is obscure. Maharsha explains it thus: — As stated above, whilst in the ark, copulation was forbidden. On their exit, it was permitted. That is the significance of 'after their kind', which denotes that mating was resumed, and they ceased to be a group of single entities.
- (42) [Or 'great son', i.e., the most important of his sons, v. supra 69b. (Yad. Ramah.)]
- (43) 'After their kind' implies that they kept to the habits of their kind throughout the flood. 'How then were you able to take care of them, and give them individual attention, since animals' habits are so divergent?'
- (44) Those that suffer from fever can do without food.
- (45) [Heb. אורישנה reading doubtful, 'urishna' or 'urshana'. V. Lewysohn Zoologie, 353, and Gudemann, M., Religionsgeschichtliche Studien, 55].
- (46) Job XXIX, 18: v. A.J.V., a legendary immortal bird.
- (47) V. p. 746, n. 7.
- (48) Ps. CX, 1: supposed to be said by Eliezer, 'my master' referring to Abraham.
- (49) Isa. XLI, 2.
- (50) A town in Judea. [V. II Chron. XXVIII, 18.] It is always written in two words: **זו גם זו** which, taken by themselves, mean 'this too', and this connotation was attached thereto on account of his habit of saying, 'This too is for good.'

## Talmud - Mas. Sanhedrin 109a

whom shall we send it? We will send it by Nahum of Gimso, who is well versed in miracles.' On arriving at a certain inn, he wished to lodge there. 'What hast thou with thee,' they asked him? He replied. 'I am bearing tribute to the Emperor.' So they arose at night, untied his box, removed all its contents, and refilled it with earth. When he arrived there<sup>1</sup> it was found to be earth. 'The Jews mock me!' he exclaimed. So they led him out to execution. 'This too is for good.' said he. Then Elijah came, disguised as one of theirs [the Romans], and suggested to them, 'Perhaps this is the earth of Abraham, the patriarch, who threw earth which turned to swords, and chaff which became arrows!' So they examined it, and found it to be even so: and a district which they had been unable to conquer, they threw this earth at it and conquered it. Thereupon they led him to the treasury and said to him, 'Take what thou pleasest!' So he filled his box with gold. On his return, the inmates [of the inn where he had previously been robbed] asked him, 'What didst thou take to the king?' 'What I took away from here I carried there,' was his reply. So they took [the same] and brought it there, [as a result of which] these folk were executed.

THE GENERATION OF THE DISPERSION HAVE NO PORTION IN THE WORLD TO COME etc. What did they do? — The scholars of R. Shila taught: They said, 'Let us build a tower, ascend to heaven, and cleave it with axes, that its waters might gush forth.' In the West [sc. Palestine academies]<sup>2</sup> they laughed at this: If so, they should have built it on a mountain!<sup>3</sup>

R. Jeremiah b. Eleazar said: They split up into three parties. One said, 'Let us ascend and dwell there;' the second, 'Let us ascend and serve idols;' and the third said, 'Let us ascend and wage war [with God].' The party which proposed, 'Let us ascend, and dwell there' — the Lord scattered them: the one that said, 'Let us ascend and wage war' were turned to apes, spirits, devils, and night-demons; whilst as for the party which said, 'Let us ascend and serve idols' — 'for there the Lord did confound the language of all the earth.'<sup>4</sup>

It has been taught. R. Nathan said: They were all bent on idolatry. [For] here it is written, let us make us a name;<sup>5</sup> whilst elsewhere it is written, and make no mention of the name of other gods:<sup>6</sup> just as there idolatry is meant, so here too. R. Jonathan said: A third of the tower was burnt, a third sunk [into the earth], and a third is still standing.<sup>7</sup> Rab said: The atmosphere of the tower causes forgetfulness. R. Joseph said: Babylon and Borsif<sup>8</sup> are evil omens for the Torah.<sup>9</sup> What is the meaning of Borsif? — R. Assi said: An empty [shafi] pit [bor].<sup>10</sup> THE MEN OF SODOM HAVE NO PORTION IN THE WORLD TO COME etc. Our Rabbis taught: The men of Sodom have no portion in the future world, as it is written, But the men of Sodom were wicked and sinners before the Lord exceedingly:<sup>11</sup> wicked — in this world, and sinners — in respect of the world to come.<sup>12</sup> Rab Judah said: [They were] wicked — with their bodies [i.e., immoral] and sinners — with their money [i.e., uncharitable]. 'Wicked — with their bodies,' as it is written, How then can I do this great wickedness, and sin against God?<sup>13</sup> 'And sinners — with their money,' as it is written, and it be sin unto thee.<sup>14</sup> 'Before the Lord' refers to blasphemy; 'exceedingly' — that they intentionally sinned. A Tanna taught: Wicked — with their money; and sinners — with their bodies 'Wicked — with their money,' as it is written, And thine eye be wicked against thy poor brother;<sup>15</sup> 'and sinners — with their bodies,' as it is written, and I will sin against God.<sup>16</sup> Before the Lord — this refers to blasphemy. Exceedingly — this refers to bloodshed, as it is written, Moreover, Manasseh shed innocent blood exceedingly.<sup>17</sup>

Our Rabbis taught: The men of Sodom waxed haughty only on account of the good which the Holy One, blessed be He, had lavished upon them. What is written concerning them? — As for the earth, out of it cometh bread: and under it it is burned up as it were with fire. The stones of it are the place of sapphires: and it hath dust of gold. There is a path which no fowl knoweth, and which the vulture's eye hath not seen: The lion's whelps have not trodden it, nor the fierce lions passed by it.<sup>18</sup> They said: Since there cometh forth bread out of [our] earth, and it hath the dust of gold, why should we suffer wayfarers, who come to us only to deplete our wealth. Come, let us abolish<sup>19</sup> the practice of travelling<sup>20</sup> in our land, as it is written, The flood breaketh out from the inhabitants,' they are forgotten of the foot; they are dried up, they are gone away from men.<sup>21</sup>

Raba gave the following exposition: What is meant by the verse, How long will ye imagine mischief against a man? ye shall be slain all of you: ye are all as a bowing wall, and as a tottering fence?<sup>22</sup> This teaches that they used to cast [envious] eyes at wealthy men, place them by a leaning wall, thrust it upon them, then go and take their wealth. Raba expounded: What is meant by the verse, In the dark they dig through houses, which they had marked for themselves in the daytime: they know not the light?<sup>23</sup> This teaches that they used to cast [envious] eyes at wealthy men, and entrust balsamum into their keeping, which they placed in their storerooms. In the evening they would come and smell it out like dogs, as it is written, They return at evening: they make a noise like a dog, and go round about the city.<sup>24</sup> Then they would go, burrow in, and steal the money, [and as for their victim — ] They cause him to go naked without clothing,<sup>25</sup> that they have no covering in the cold.<sup>26</sup> They lead away the ass of the fatherless, they take the widow's ox for a pledge.<sup>27</sup> They



remove the landmarks; they violently take away flocks, and feed them.<sup>28</sup> And he [the victim] shall be brought to the grave, and shall remain in the tomb.<sup>29</sup> R. Jose taught this in Sepphoris. That night [after his lecture] three hundred [houses] were broken into in Sepphoris. So they came and harassed him. Said they to him, 'Thou hast shown<sup>30</sup> a way to thieves!' He replied, 'Could I have known that thieves would come?'<sup>31</sup> When R. Jose died, the gutters of Sepphoris ran with blood.<sup>32</sup>

[Reverting to the misdeeds of the Sodomites] they ruled: He who has [only] one ox must tend [all the oxen of the town] for one day; but he who has none must tend [them] two days.<sup>33</sup> Now a certain orphan, the son of a widow, was given oxen to tend. He went and killed them' and [then] said to them [the Sodomites],

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(1) In the Emperor's presence.

(2) V, supra 17b.

(3) And not in a valley.

(4) Gen. XI, 9.

(5) Ibid. 4.

(6) Ex. XXIII, 13.

(7) [Identified by Obermeyer. op. cit. 314, as the Borsippa Tower, near Babylon. V. next note]

(8) \*\* A city frequently identified with Babel. Neubauer, op. cit., pp. 327, 346, observes that Borsif was not far from Borsippa. A sect of Chaldean astrologers had their locale there, for which reason the Talmud says that the place is unfavourable for study.

(9) Because one's learning is soon forgotten there.

(10) I.e., a pit emptied of its waters — a place where all knowledge is forgotten.

(11) Gen. XIII, 13.

(12) I.e., they are excluded therefrom on account of sin.

(13) Ibid. XXXIX, 9 — the reference is to adultery.

(14) Deut. XV, 9 — the reference is to the withholding of financial assistance from the poor.

(15) Ibid. V. previous note.

(16) V, supra n. 3.

(17) II Kings XXI, 16.

(18) Job XXVIII, 5-8.

(19) Lit., 'cause to be forgotten.'

(20) Lit., 'the law of the foot.'

(21) Ibid. 4.

(22) Ps. LXII, 4.

(23) Job XXIV, 16.

(24) Ps. LIX, 7.

(25) Job XXIV, 10.

(26) Ibid. 7.

(27) Ibid. 3.

(28) Ibid. 2.

(29) Ibid. XXI, 32.

(30) Lit., 'given'.

(31) Or, 'Did I then know that ye are thieves' — i.e., that there are so many thieves amongst you (Rashi)

(32) An expression denoting the great loss that was felt. — This is really irrelevant here, but that R. Jose has just been mentioned (Rashi).

(33) This was a measure of oppression against the poor.

## **Talmud - Mas. Sanhedrin 109b**

'He who has an ox, let him take one hide; he who has none, let him take two hides.' 'What is the meaning of this?' they exclaimed. Said he, 'The final usage [i.e., the disposal of the ox when dead]

must be as the initial one; just as the initial usage is that he who possesses one ox must tend for one day, and he who has none must tend two days; so should be the final usage: he who has one ox should take one hide, and he who has none should take two.' [Likewise, they ruled,] He who crosses with the ferry must pay one zuz [for the privilege], but he who does not, [entering by another way] must give two. If one had rows of bricks every person came and took one, saying, 'I have taken only one.' If one spread out garlic or onions [to dry them], every person came and took one, saying, 'I have taken only one.'

There were four judges in Sodom, [named] Shakrai, Shakurai, Zayyafi, and Mazle Dina.<sup>1</sup> Now, if a man assaulted his neighbour's wife and bruised her, they would say [to the husband], 'Give her to him, that she may become pregnant for thee.' If one cut off the ear of his neighbour's ass, they would order, 'Give it to him until it grows again.' If one wounded his neighbour they would say to him [the victim], 'Give him a fee for bleeding thee.' He who crossed over with the ferry had to pay four zuzim, whilst he who crossed through the water had to pay eight. On one occasion, a certain fuller happened to come there. Said they to him, 'Give us four zuzim [for the use of the ferry].' But, protested he, 'I crossed through the water!' 'If so,' said they, 'thou must give eight zuzim for passing through the water.' He refused to give it, so they assaulted him. He went before the judge, who ordered, 'Give them a fee for bleeding and eight zuzim for crossing through the water. Now Eliezer, Abraham's servant, happened to be there, and was attacked. When he went before the judge, he said, 'Give them a fee for bleeding thee.' Thereupon he took a stone and smote the judge. 'What is this!' he exclaimed. He replied, 'The fee that thou owest me give to this man [who attacked me], whilst my money will remain in statu quo.' Now, they had beds upon which travellers slept. If he [the guest] was too long, they shortened him [by lopping off his feet]; if too short, they stretched him out. Eliezer, Abraham's servant, happened to go there. Said they to him, 'Arise and sleep on this bed!' He replied, 'I have vowed since the day of my mother's death not to sleep in a bed.' If a poor man happened to come there, every resident gave him a denar, upon which he wrote his name, but no bread was given him. When he died, each came and took back his. They made this agreement amongst themselves: whoever invites a man [a stranger] to a feast shall be stripped of his garment. Now, a banquet was in progress, when Eliezer chanced there, but they gave him no bread. Wishing to dine, he went and sat down at the end of them all. Said they to him, 'Who invited thee here?' He replied to the one sitting near him, 'Thou didst invite me.' The latter said to himself, 'Peradventure they will hear that I invited him, and strip me of my garments!' So he took up his raiment and fled without. Thus he [Eliezer] did to all, until they had all gone; whereupon he consumed the entire repast. A certain maiden gave some bread to a poor man, [hiding it] in a pitcher. On the matter becoming known, they daubed her with honey and placed her on the parapet of the wall, and the bees came and consumed her. Thus it is written, And the Lord said, The cry of Sodom and Gomorrah, because it is great:<sup>2</sup> whereon Rab Judah commented in Rab's name: On account of the maiden [ribah].<sup>3</sup>

THE SPIES HAVE NO PORTION IN THE WORLD TO COME, AS IT IS SAID, EVEN THOSE MEN THAT DID BRING UP THE EVIL REPORT UPON THE LAND, DIED BY THE PLAGUE BEFORE THE LORD:<sup>4</sup> DIED [IMPLIES] IN THIS WORLD; BY THE PLAGUE — IN THE NEXT.<sup>5</sup> THE ASSEMBLY OF KORAH HAVE NO PORTION IN THE WORLD TO COME, AS IT IS WRITTEN, AND THE EARTH CLOSED UPON THEM, [IMPLYING] IN THIS WORLD, AND THEY PERISHED FROM AMONG THE CONGREGATION — IN THE NEXT — THIS IS R. AKIBA'S VIEW. R. ELIEZER SAID: OF THEM THE WRIT SAITH, THE LORD KILLETH AND MAKETH ALIVE: HE BRINGETH DOWN TO THE GRAVE, AND BRINGETH UP.<sup>6</sup>

Our Rabbis taught: THE ASSEMBLY OF KORAH HAVE NO PORTION IN THE WORLD TO COME, for it is said, And the earth closed upon them; and they perished from among the congregation: this is R. Akiba's view. R. Judah b. Bathyra said: They are as a lost article, which is sought, for it is said, I have gone astray like a lost sheep: seek thy servant; for I do not forget thy

commandments.<sup>7</sup>

Now Korah took . . .<sup>8</sup> Resh Lakish said: He took a bad bargain for himself, being plucked out<sup>9</sup> of Israel. The son of Izhar: a son who incensed<sup>10</sup> the whole world with himself as the [heat of] noon.<sup>11</sup> The son of Kohath,<sup>12</sup> a son who set the teeth of his progenitors on edge.<sup>13</sup> The son of Levi: a son who became an inmate<sup>14</sup> of Gehenna. Then why not state too ‘the son of Jacob’, [implying] a son who marched<sup>15</sup> himself into Gehenna? — R. Samuel b. R. Isaac answered: Jacob supplicated for himself [not to be enumerated amongst Korah's ancestors], as it is written, O my son, come not into their secret: unto their assembly, mine honour, be not thou united:<sup>16</sup> ‘O my soul, come not unto their secret’ — this refers to the spies;<sup>17</sup> ‘unto their assembly, mine honour, be not thou united’ — to the Assembly of Korah.

Dathan<sup>18</sup> [denotes] that he violated God's law;<sup>19</sup> Abiram<sup>20</sup> — that he stoutly refused to repent;<sup>21</sup> On<sup>22</sup> — that he sat in lamentations;<sup>23</sup> Peleth<sup>24</sup> — that wonders were wrought for him;<sup>25</sup> the son of Reuben — a son who saw and understood.<sup>26</sup>

Rab said: On, the son of Peleth, was saved by his wife. Said she to him, ‘What matters it to thee? Whether the one [Moses] remains master or the other [Korah] becomes master, thou art but a disciple.’ He replied, ‘But what can I do? I have taken part in their counsel, and they have sworn me [to be] with them.’ She said, ‘I know that they are all a holy community, as it is written, seeing all the congregation are holy, everyone of them.’<sup>27</sup> [So,] she proceeded, ‘Sit here, and I will save thee.’ She gave him wine to drink, intoxicated him and laid him down within [the tent]. Then she sat down at the entrance thereto

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(1) These are fictitious names meaning, Liar, Awful Liar, Forger, and Perverter of Justice.

(2) Heb, rabbah, רבה, Gen. XVIII, 20.

(3) ריבה, a play on רבה.

(4) Num. XIV, 37.

(5) Wilna Gaon deletes this whole passage, from ‘THE SPIES... THE NEXT,’ v. p. 738, n. 6.

(6) I Sam. II, 6. The Wilna Gaon deletes this whole passage.

(7) Ps. CXIX, 176: though gone astray, they will be found and restored to their share in the future world.

(8) Num. XVI, 1.

(9) A play on קרה and קרהה ‘baldness’.

(10) Lit., ‘heated’.

(11) יצהר is connected with צהרים noon.

(12) הקהה with which קהת is related.

(13) I.e., who disgraced his parents.

(14) Lit., ‘company’, ‘escort’, לוייה a play of words on לוי.

(15) Connecting יעקב with עקב ‘to trace’, ‘follow’.

(16) Gen. XLIX, 6.

(17) In no case is the genealogy of the spies traced to Jacob (Rashi).

(18) Korah's confederate. Num. XVI, 1.

(19) דת, a play on דתן.

(20) V, note 12.

(21) איבר, a play on אבירם.

(22) V. n. 12. On means also ‘lamentation’.

(23) I.e., he repented for having joined them.

(24) On's father.

(25) Connecting the name with the root פלא, ‘wonder’. He abandoned the conspiracy, and was miraculously saved from its fate.

(26) ראו-בן ‘He saw and perceived’ that the conspiracy was unjust, and therefore kept aloof from it.

(27) Ibid. 3.

## Talmud - Mas. Sanhedrin 110a

and loosened her hair. Whoever came [to summon him] saw her and retreated.<sup>1</sup> Meanwhile, Korah's wife joined them [the rebels] and said to him [Korah], 'See what Moses has done. He himself has become king; his brother he appointed High Priest; his brother's sons he hath made the vice High Priests. If terumah is brought, he decrees, Let it be for the priest; if the tithe is brought, which belongs to you [i.e., to the Levite], he orders, Give a tenth part thereof to the priest. Moreover, he has had your hair cut off,<sup>2</sup> and makes sport of you as though ye were dirt; for he was jealous<sup>3</sup> of your hair.' Said he to her, 'But he has done likewise!' She replied, 'Since all the greatness was his, he said also, Let me die with the Philistines.<sup>4</sup> Moreover, he has commanded you, Set [fringes] of blue wool [in the corners of your garments];<sup>5</sup> but if there is virtue in blue wool, then bring forth blue wool, and clothe thine entire academy therewith.'<sup>6</sup> Thus it is written, Every wise woman buildeth her house<sup>7</sup> — this refers to the wife of On, the son of Peleth; but the foolish plucketh it down with her hands — to Korah's wife.

And they rose up before Moses, with certain of the children of Israel, two hundred and fifty:<sup>8</sup> they were the most distinguished men of the community; chosen for the appointed times:<sup>9</sup> meaning, they were skilled in intercalating the year<sup>10</sup> and fixing new moons; men of renown, famous throughout the whole world.

And when Moses heard it, he fell upon his face.<sup>11</sup> What news did he hear? — R. Samuel b. Nahmani said in R. Jonathan's name: That he was suspected of [adultery with] a married women, as it is written, They were jealous of Moses in the camp,<sup>12</sup> which teaches that every person warned his wife<sup>13</sup> on Moses' account, as it is written, And Moses took the tabernacle, and pitched it without the camp.<sup>14</sup>

And Moses rose up and went in to Dathan and Abiram.<sup>15</sup> Resh Lakish said: This teaches that one must not be obdurate in a quarrel;<sup>16</sup> for Rab said: He who is unyielding in a dispute violates a negative command, as it is written, And let him not be as Korah, and as his company.<sup>17</sup> R. Ashi said: He deserves to be smitten with leprosy: here it is written, [as the Lord said] to him by the hand of Moses,<sup>18</sup> whilst elsewhere, it is said, And the Lord said furthermore unto him, Put now thine hand into thy bosom. [. . . and when he took it out, behold, his hand was leprous as snow].<sup>19</sup>

R. Joseph said: Whoever contends against the sovereignty of the House of David deserves to be bitten by a snake. Here it is written, And Adonijah slew sheep and oxen and fat cattle by the stone of Zoheleth;<sup>20</sup> whilst elsewhere it is written, with the poison of serpents [zohale]<sup>21</sup> of the dust.<sup>22</sup> R. Hisda said: Whoever contends against [the ruling of] his teacher is as though he contended against the Shechinah, as it says, when they strove against the Lord.<sup>23</sup> R. Hama son of R. Hanina said: Whoever quarrels<sup>24</sup> with his teacher is as though he quarrelled with the Shechinah, as it is said, This is the water of Meribah; because the children of Israel strove with the Lord.<sup>25</sup> R. Hanina b. Papa said: Whoever expresses resentment against his teacher, is as though he expressed it against the Shechinah, as it is said, Your murmurings are not against us, but against the Lord.<sup>26</sup> R. Abbahu said: He who imputes [evil] to his teacher is as though he imputed [it] to the Shechinah, as it says, And the people spake against God, and against Moses.<sup>27</sup>

Riches kept for the owners thereof to their hurt:<sup>28</sup> Resh Lakish said: This refers to Korah's wealth. And all the substance that was at their feet:<sup>29</sup> R. Eleazar said: This refers to a man's wealth, which puts him on his feet. R. Levi said: The keys of Korah's treasure house were a load for three hundred white mules,<sup>30</sup> though all the keys and locks were of leather.<sup>31</sup>

R. Hama son of R. Hanina said: Three treasures did Joseph hide in Egypt: one was revealed to

Korah; one to Antoninus the son of Severus,<sup>32</sup> and the third is stored up for the righteous for the future time.

R. Johanan also said: Korah was neither of those who were swallowed up nor of those who were burnt. 'Neither of those who were swallowed up' — as it is written, [And the earth . . . swallowed them up. . .] and all the men that appertained unto Korah,<sup>33</sup> [implying], but not Korah himself. 'Nor of those who were burnt' — for it is written, What time the fire devoured two hundred and fifty men,<sup>34</sup> — but not Korah.<sup>35</sup> A Tanna taught in a Baraitha: Korah was one of those who were swallowed up and burnt.<sup>36</sup> 'Of those who were swallowed up' — as it is written, . . . and swallowed them up together with Korah.<sup>37</sup> 'Of those who were burnt' — since it is written, And there came out a fire from the Lord, and consumed the two hundred and fifty men [that offered incense],<sup>38</sup> which includes Korah.<sup>39</sup>

Raba said: What is meant by the verse, The sun and the moon stood still in their zebul, at the light of thine arrows they went?<sup>40</sup> — This teaches that the sun and the moon ascended from the rakia' to the zebul, and exclaimed before the Holy One, blessed be He, 'Sovereign of the Universe! If thou wilt execute justice for Amram's son [by punishing Korah and his assembly], we will go forth [to give light]; if not, we will not go forth.' Thereupon he shot arrows at them, saying, 'For My honour ye did not protest, yet ye protest for the honour of flesh and blood!'<sup>41</sup> So now they do not go forth until they are driven to it.<sup>42</sup>

Raba gave the following exposition: What is meant by the verse, But if the Lord make a new thing, and the earth open her mouth?<sup>43</sup> — Moses said to the Holy One, blessed be He, 'If the Gehenna has already been created, 'tis well; if not, let the Lord create it.' Now, in respect of what? If actually to create it, but there is no new thing under the sun!<sup>44</sup> But [he prayed] that its mouth might be brought up [to the spot where they were standing].

Notwithstanding the children of Korah died not.<sup>45</sup> A Tanna taught: It has been said on the authority of Moses our Master: A place was set apart for them in the Gehenna, where they sat and sang praises [to God].

Rabbah b. Bar Hana said: I was proceeding on my travels, when an Arab said to me, 'Come, and I will shew thee where the men of Korah were swallowed up.' I went and saw two cracks whence issued smoke. Thereupon he took a piece of clipped wool, soaked it in water, attached it to the point of his spear, and passed it over there, and it was singed. Said I to him, 'Listen to what you are about to hear.' And I heard them saying thus: 'Moses and his Torah are true, but they [Korah's company] are liars.'

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(1) It being immodest to look upon a married woman's loosened hair.

(2) In accordance with the purification rites of the Levites; and let them share all their flesh (Num. VIII, 7).

(3) Lit., 'cast his eyes' — with envy.

(4) Judges XVI, 30. This was used proverbially to denote readiness to suffer, so that others might suffer too. — Moses, retaining all the greatness himself, did not mind shaving his own hair off, seeing that he had caused all the rest to do so, thus depriving them of their beauty.

(5) Num. XV, 38.

(6) Why limit it to a thread in the corner of the garment? Every scholar ought to be completely garbed therewith.

(7) Prov. XIV, 1.

(8) Num. XVI, 2.

(9) So translated here. E.V. 'famous in the congregation'.

(10) V, supra 2a.

(11) Ibid. 4.

(12) Ps. CVI, 16.

- (13) V. p. 583, n. 1.
- (14) Ex. XXXIII, 7 — to avoid all ground of suspicion.
- (15) Num. XVI, 25.
- (16) Moses disregarded his own dignity, going forth to the rebels in an attempt to end the quarrel.
- (17) Ibid. XVII, 5.
- (18) Ibid.
- (19) Ex. IV, 6; to which 'the hand of Moses' is taken to allude.
- (20) I Kings I, 9.
- (21) **וְהָיָה**.
- (22) Deut. XXXII, 24.
- (23) Num. XXVI, 9. The reference is to Korah's rebellion; though against Moses only, it is stigmatised as being against God.
- (24) I.e., in general.
- (25) Ibid. XX, 13. V. n. 14.
- (26) Ex. XVI, 8.
- (27) Num. XXI, 5.
- (28) Eccl. V, 12.
- (29) Deut. XI, 6.
- (30) This of course is not to be taken literally.
- (31) Instead of metal, so as to be light in weight, yet they amounted to such a load.
- (32) V. p. 610, n. 7.
- (33) Num. XVI, 32.
- (34) Ibid. XXXVI, 10.
- (35) Since there were two hundred and fifty besides Korah; v. XVI, 17, where Korah is mentioned apart from the two hundred and fifty.
- (36) First his soul was burnt, the body remaining intact, and this in turn was swallowed up (Rashi).
- (37) Ibid. 10.
- (38) Ibid. XVI, 35.
- (39) He includes Korah among the two hundred and fifty men who offered incense, as stated in v. 17.
- (40) Hab. III, 11; according to tradition, there are seven heavens, of which zebul is one. What were they doing in zebul, seeing that they are set in the rakia' — a lower heaven, translated in Gen. I, 4, 'firmament'?
- (41) Men worship you, whereby they dishonour Me, yet ye do not protest.
- (42) [As they do not wish to give light to sinful man.]
- (43) Num. XVI, 30.
- (44) Eccl. I, 9.
- (45) Num. XXVI, 11.

## **Talmud - Mas. Sanhedrin 110b**

The Arabian then said to me, 'Every thirty days Gehenna causes them to turn back [here] like meat in a pot, and they say thus: "Moses and his Torah are true, but they are liars."' <sup>1</sup> THE GENERATION OF THE WILDERNESS HATH NO PORTION IN THE WORLD TO COME etc. Our Rabbis taught: The generation of the wilderness hath no portion in the world to come, as it is written, in this wilderness they shall be consumed, and there they shall die. <sup>2</sup> 'they shall be consumed', refers to this world; 'and there they shall die' — to the world to come. And it is also said, Forty years long was I grieved with his generation [sc. of the wilderness — . . .] Unto whom I swear in my wrath that they should not enter into my rest: <sup>3</sup> this is R. Akiba's view. R. Eliezer maintained: They will enter into the future world, for it is written, Gather my saints together unto me; those that have made a covenant with me by sacrifice. <sup>4</sup> How then do I interpret <sup>5</sup> Unto whom I swear in my wrath etc? — [Only] in my wrath I swear, but repented thereof. R. Joshua b. Karha said: This verse was spoken only in reference to future generations. [Thus:] Gather my saints together unto me — this refers to the righteous of every generation; that have made a covenant with me — to Hananiah, Mishaël, and

Azariah, who submitted to the fiery furnace; by sacrifice — to R. Akiba and his companions, who gave themselves up to immolation for the sake of the Torah.<sup>6</sup> R. Simeon b. Manasya said: They will enter the future world, as it is said, And the ransomed of the Lord shall return, and come to Zion with songs.<sup>7</sup> Rabbah b. Bar Hana said in R. Johanan's name: [Here] R. Akiba abandoned his love.<sup>8</sup> For it is written, Go and cry in the ears of Jerusalem, saying, Thus saith the Lord: I remember thee, the kindness of thy youth, the love of thine espousals, when thou wentest after me in the wilderness, in a land that was not sown;<sup>9</sup> if others will enter [the future world] in their merit, surely they themselves most certainly will!

MISHNAH. THE TEN TRIBES WILL NOT RETURN [TO PALESTINE], FOR IT IS SAID, AND CAST THEM INTO ANOTHER LAND, AS IS THIS DAY:<sup>10</sup> JUST AS THE DAY GOES AND DOES NOT RETURN, SO THEY TOO WENT AND WILL NOT RETURN: THIS IS R. AKIBA'S VIEW. R. ELIEZER SAID: AS THIS DAY — JUST AS THE DAY DARKENS AND THEN BECOMES LIGHT AGAIN,<sup>11</sup> SO THE TEN TRIBES — EVEN AS IT WENT DARK FOR THEM, SO WILL IT BECOME LIGHT FOR THEM.

GEMARA. Our Rabbis taught: The ten tribes have no portion in the world to come,<sup>12</sup> as it says, And the Lord rooted them out of their land in anger, and in wrath, and in great indignation:<sup>13</sup> And the Lord rooted them out of their land, refers to this world; and cast them into another land — to the world to come:<sup>14</sup> this is R. Akiba's view. R. Simeon b. Judah, of the Kefar of Acco,<sup>15</sup> said on R. Simeon's authority: If their deeds are as this day's,<sup>16</sup> they will not return; otherwise they shall. Rabbi said: They will enter the future world, as it is said, [And it shall come to pass] in that day, that the great trumpet shall be blown, [and they shall come which were ready to perish in the land of Assyria, and the outcasts in the land of Egypt, and shall worship the Lord in the holy mount of Jerusalem].<sup>17</sup>

Rabbah b. Bar Hana said in R. Johanan's name: [Here] R. Akiba abandoned his love,<sup>18</sup> for it is written, Go and proclaim these words toward the north, and say, Return, thou backsliding Israel, saith the Lord; and I will not cause mine anger to fall upon you; for I am merciful, saith the Lord, and I will not keep mine anger for ever.<sup>19</sup>

Now, to what does 'his love' refer? — Even as it has been taught: The children of the wicked of Israel, [who died] in their minority, will not enter the future world, as it is written, For, behold, the day cometh that shall burn as an oven; and all the proud, yea, and all that do wickedly, shall be stubble: and the day that cometh shall burn them up, saith the Lord of hosts, that it shall leave them neither root or branch:<sup>20</sup> 'root', refers to this world; 'branch' — to the world to come:<sup>21</sup> This is Rabban Gamaliel's view. R. Akiba said: They will enter the world to come, as it is written, The Lord preserveth petha'im,<sup>22</sup> and in the island cities, a child is called pattia;<sup>23</sup> and it is said also, Hew the tree down, and destroy it: yet leave the stump of the roots thereof in the earth.<sup>24</sup> How then do I interpret<sup>25</sup> 'that it shall leave them neither root nor branch'? — That He shall not leave them [unpunished the violation of] a single precept or the remnant thereof [i.e., even the most insignificant precept]. Another interpretation: 'root' refers to the soul, and 'branch' to the body.<sup>26</sup> But as for young children of the wicked heathens, all agree that they will not enter the future world. And R. Gamaliel<sup>27</sup> deduces it from And thou hast made all their memory perish.<sup>28</sup>

It has been said: An infant — from when may he enter the future world? — R. Hiyya and R. Simeon b. Rabbi [disagree]: one maintained, from birth; the other, from when it spoke. The one who says that it is from birth derives it from the verse, They shall come, and shall declare his righteousness unto a people that shall be born, that he hath done this.<sup>29</sup> The one who holds, from when it spoke, [deduces it] from the verse, A seed shall serve him; it shall be related of the Lord for a generation.<sup>30</sup>

It has been stated: Rabina maintained: From conception,<sup>31</sup> as it is written, A seed shall serve him.

R. Nahman b. Isaac said: From its circumcision, for it is written, I am afflicted and ready to die from my youth up; while I suffer thy terrors I am distracted.<sup>32</sup>

It was taught on R. Meir's authority: From when he said Amen, as it is written, Open ye the gates, that the righteous nation which keepeth the truth may enter in:<sup>33</sup> render not which keepeth the truth<sup>34</sup> but which sayeth Amen.<sup>35</sup>

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(1) [V. B.B. 74a, with slight variations.]

(2) Num. XIV, 35.

(3) Ps. XCV, 10f.

(4) Ibid. L, 5. This description fits the generation of the wilderness. Cf. And he sent young men of the children of Israel, which offered burnt offerings, and sacrificed peace offerings of oxen unto the Lord . . . And Moses took the blood (thereof), and sprinkled it on the people, and said, Behold the blood of the covenant, which the Lord hath made with you concerning all these words. (Ex. XXIV, 5, 8).

(5) Lit., 'fulfil.'

(6) R. Akiba disobeyed the Roman edict forbidding the practice and teaching of religion, and was martyred in consequence. — Ber. 61b. He was executed after several years of imprisonment (supra 12a) about the year 132 C.E.

(7) Isa. XXXV, 10: he regards 'the ransomed of the Lord' as alluding to those who left Egypt, whom the Lord 'ransomed'.

(8) In his love for Israel he generally sought the happiest destinies for them. Here, however, he taught that the generation of the wilderness had no portion in the world to come, though, as the speaker proceeds to demonstrate, he could so have interpreted a verse as to grant them a share therein.

(9) Jer. II, 2: thus the merit of this act of faith on the part of the generation of the wilderness stood their descendants in good stead and conferred the privilege upon them of a share in the future world.

(10) Deut. XXIX, 27.

(11) Becoming dark in the evening and light in the morning.

(12) [I.e., not in the hereafter but in the Messianic days.]

(13) Ibid.

(14) I.e., into a place other than the future world.

(15) V. p. 484, n. 7.

(16) I.e., if they do not repent, 'this day' referring to the time of their being exiled.

(17) Isa. XXVII, 13: 'the holy mount of Jerusalem' is understood here to mean the future world.

(18) V, p.758, n. 7.

(19) Jer. III, 12.

(20) Mal. III, 19.

(21) And both are assumed to refer to the young children of the wicked.

(22) פתאים. (E.V. 'the simple'.)

(23) פתיה.

(24) Dan. IV, 20; i.e., the family stock remains, the children of the wicked entering the future world.

(25) Lit., 'fulfil'.

(26) But of the wicked themselves, not their children. Thus we see R. Akiba, in his love for Israel, interpreting the verse as leniently as possible.

(27) The name is deleted by the Wilna Gaon and this appears so too from Rashi.

(28) Isa. XXVI, 14.

(29) Ps. XXII, 32.

(30) Ibid. 31. It shall be related shews that when God's glory can be related by a person, i.e., when he can speak, he earns his right to a portion of the world to come.

(31) Lit., 'its being sown'.

(32) Ibid. LXXXVIII, 16, translated: I am poor and ready to die (like the wicked, i.e., without entering the future world) from my being cast forth (from the womb); but once I have borne thy dread i.e., circumcision, which one always bears on his body, I am whirled round — in the whirl of life (the future world).

(33) Isa. XXVI, 2.



(34) שומר אמונים.

(35) שאומר אמן.

## Talmud - Mas. Sanhedrin 111a

What is the meaning of Amen?<sup>1</sup> — R. Hanina said: God, faithful, King.<sup>2</sup>

Therefore hell hath enlarged herself, and opened her mouth without measure:<sup>3</sup> Resh Lakish said: [It means] for him who leaves undone even a single statute.<sup>4</sup> R. Johanan said to him: It is not pleasing to their Master<sup>5</sup> that you say thus to them. But [say], who has not studied even a single statute.<sup>6</sup>

And it shall come to pass, that in all the land, saith the Lord, two parts therein shall be cut off and die,' but the third shall be left therein.<sup>7</sup> Resh Lakish said: [This means] a third of the descendants of Shem.<sup>8</sup> Said R. Johanan to him: Their Master is not pleased that you say so of them. But [say thus:] a third even of all the descendants of Noah.

For I am married unto you: and I will take you one of a city, and two of a family.<sup>9</sup> Resh Lakish said: This is meant literally.<sup>10</sup> Said R. Johanan unto him: Their Master is not pleased that you say so of them.<sup>11</sup> But [say thus:] 'one of a city' [means that his virtues] shall benefit an entire city;<sup>12</sup> and 'two of a family' will benefit the entire family.<sup>13</sup> R. Kahana sat before Rab and stated: This is meant literally. Rab said to him: Their Master is not pleased that you say so of them. But [say thus:] 'one of a city' — shall benefit an entire city, and 'two of a family' — will benefit the entire family. He [Rab] then observed him dress his hair [instead of paying attention to his studies] and come and sit before Rab. Said he to him, And it shall not be found in the land of the living.<sup>14</sup> He exclaimed, 'You curse me!'<sup>15</sup> He replied, 'I but cite a verse, [which teaches,] The Torah shall not be found in one who attends to his own wants whilst studying it.'<sup>16</sup> It has been taught: R. Simai said: It says, And I will take you to me for a people,<sup>17</sup> and it is also said, And I will bring you in [unto the land etc.].<sup>18</sup> Their exodus from Egypt is thus likened to their entry into the [promised] land: just as at their entry into the [promised] land there were but two out of six hundred thousand,<sup>19</sup> so at their exodus from Egypt there were but two out of six hundred thousand.<sup>20</sup> Raba said: It shall be even so in the days of the Messiah, for it is said, And she shall sing there, as in the days of her youth, and as in the days when she came up out of the land of Egypt.<sup>21</sup>

It has been taught: R. Eleazar son of R. Jose said: I once visited Alexandria of Egypt and found an old man there, who said to me, 'Come, and I will shew thee what my ancestors did to thine: some of them they drowned in the sea, some they slew by the sword, and some they crushed in the buildings.'<sup>22</sup> And for this Moses was punished,<sup>23</sup> as it is said, For since I came to Pharaoh to speak in thy name, he hath done evil to this people,' neither hast thou delivered thy people at all.<sup>24</sup> Thereupon the Holy One, blessed be He, said to him, 'Alas for those who are gone and no more to be found! For how many times did I reveal Myself to Abraham, Isaac, and Jacob by the name of El Shaddai,<sup>25</sup> and they did not question my character,<sup>26</sup> nor say to Me, What is Thy name? I said to Abraham, Arise, walk through the land in the length of it, and in the breadth of it,' for I will give it unto thee:<sup>27</sup> yet when he sought a place to bury Sarah, he did not find one, but had to purchase it for four hundred silver shekels; and still he did not question My character. I said to Isaac, Sojourn in this land, and I will be with thee, and will bless thee.<sup>28</sup> yet his servants sought water to drink, and did not find it without its being disputed, as it is said, And the herdmen of Gerar did strive with Isaac's herdmen saying, The water is our's;<sup>29</sup> still he did not question My character. I said to Jacob, The land whereon thou liest, to thee will I give it, and to thy seed:<sup>30</sup> yet he sought a place to pitch his tent and did not find one until he purchased it for an hundred kesitah;<sup>31</sup> nevertheless he did not question My character; nor did they say to me, What is Thy name?<sup>32</sup> And now thou sayest to Me, Neither hast thou delivered thy people at all. [Therefore] Now shalt thou see what I will do to Pharaoh:<sup>33</sup> thou

shalt behold the war against Pharaoh, but not the war against the thirty one kings.’<sup>34</sup> And Moses made haste, and bowed his head toward the earth, and worshipped.<sup>35</sup> What did Moses see?<sup>36</sup> — R. Hanina b. Gamala<sup>37</sup> said: He saw long-suffering [as one of His attributes].<sup>38</sup> The Rabbis say: He saw [His attribute of] truth.<sup>38</sup> It has been taught in agreement with the one who holds that ‘he saw long-suffering,’ viz.,<sup>39</sup> When Moses ascended on high, he found the Holy One, blessed be He, sitting and writing ‘long-suffering’. Said he to Him, ‘Sovereign of the Universe! Long-suffering to the righteous?’ He replied, ‘Even’ to the wicked.’ He urged, ‘Let the wicked perish!’ ‘See now what thou desirest,’ was His answer.<sup>40</sup> ‘When Israel sinned,’ He said to him, ‘didst thou not urge Me, [Let Thy] long-suffering be for the righteous [only]?’

(1) When one responds ‘Amen’ after a benediction, how does it suggest ascent thereto and the acceptance of God’s yoke?

(2) אמן is an abbreviation of אל מלך נאמן.

(3) Isa. V, 15.

(4) Giving קל, translated ‘measure’, its usual meaning. Maharsha softens the severity of this statement by referring it to one whose evil deeds would be exactly counterbalanced by good deeds — in which case he would be saved from Gehenna — had he but fulfilled one more precept. But R. Johanan observed that even this is too harsh.

(5) Israel’s.

(6) But the study of a single statute saves one from Gehenna.

(7) Zech. XIII, 8.

(8) Mankind is descended from Noah and his three sons, Shem, Ham and Japheth. By a ‘third’ Resh Lakish understands the original number divided and again divided by three. Therefore a third of the first three gives Shem (since he was the ancestor of Israel, and it is assumed that Israel must be included amongst those saved) and then a further third of Shem.

(9) Jer. III, 14.

(10) Lit., ‘the words are as they are written.’

(11) For that is too pessimistic.

(12) For the sake of a single righteous man in a city I will bring the whole to Zion.

(13) V. preceding note.

(14) Job XXVIII, 13.

(15) For the Hebrew אל תמצא may also mean, ‘thou shalt not’, and he understood it in this sense.

(16) Lit., ‘over it’.

(17) Ex. VI, 7.

(18) Ibid.

(19) Only Caleb and Joshua, out of the 600,000 who left Egypt, entered Palestine.

(20) The rest perished in Egypt (as stated anon), yet that small fraction amounted to 600,000.

(21) Hos. II, 17.

(22) V. p. 688, n. 11.

(23) I.e., for losing faith in God through this.

(24) Ex. V, 23.

(25) God Almighty.

(26) Lit., ‘my attributes’, ‘my dealings’ with man. Whether my promises were reliable.

(27) Gen. XIII, 17.

(28) Ibid. XXVI, 3.

(29) Ibid. 20.

(30) Ibid. XXVIII, 13.

(31) Ibid. XXXIII, 19. R.V.; ‘piece of money’.

(32) The emphasis laid here upon the name of God, the virtue ascribed to the Patriarchs for refraining to ask it, and the reproach that Moses had wished to know it, are due to the fact that God’s name was regarded as more than a mere title of distinction. It represented His character, His Attributes, and the relationship in which He stood to His people. Consequently, to refrain from asking after God’s name was the equivalent of displaying complete confidence in Him, without examining his character closely to see whether His promises were reliable; whilst to ask it was to betray a lack of confidence.

(33) Ibid. VI, 1.

(34) I.e., the conquest of Palestine. V. Josh. XII, 24.

(35) Ex. XXXIV, 8.

(36) This verse follows the enumeration of God's thirteen Attributes. Which of these did he see, that he hastened to bow and worship?

(37) Var. lec. 'Gamaliel.'

(38) Ibid. 7.

(39) Lit., 'For it has been taught.'

(40) It is an ill-advised request, which thou wilt revoke at a future occasion, viz., at the sin of the Golden Calf.

## **Talmud - Mas. Sanhedrin 111b**

'Sovereign of the Universe!' said he, 'but didst Thou not assure me, Even to the wicked!' Hence it is written, And now, I beseech thee, let the power of my Lord be great, according as thou hast spoken, saying.<sup>1</sup>

R. Hagga was walking up the steps of Rabbah b. Shila's college, when he heard a child recite, Thy testimonies are very sure: holiness becometh thy house; O Lord, [thou art] for the length of days.<sup>2</sup> And in proximity thereto is stated, A prayer of Moses etc.<sup>3</sup> This proves, said he, that he saw [that God is] long-suffering.<sup>4</sup>

R. Eleazar said in R. Hanina's name: The Lord shall be a crown upon the head of every righteous man, as it is written, In that day shall the Lord of hosts be for a crown of glory [zebi], and for a diadem of beauty, unto the residue of his people etc.<sup>5</sup> What is meant by for a crown of glory, and for a diadem of beauty? — To those who obey His will and hope for His salvation.<sup>6</sup> I might think, this applies to all; therefore Scripture states, unto the residue of his people, [meaning] unto those who make themselves as a remnant.<sup>7</sup> And for a spirit of judgment to him that sitteth in judgment, and for strength to them that turn the battle to the gate.<sup>8</sup> 'And for a spirit of judgment' — this means, to him who rules over his inclinations;<sup>9</sup> 'and to him that sitteth in judgment': i.e., to him that renders an honest judgment according to the truth thereof;<sup>10</sup> 'and for strength' — viz., to him that prevails against his evil inclinations;<sup>11</sup> 'that turn the battle' — to those who engage in the battle of the Torah;<sup>12</sup> 'to the gate' — to those who repair morning and evening to the synagogue and house of study. But the Attribute of Judgment protested before the Holy One, blessed be He:<sup>13</sup> 'Sovereign of the Universe! Wherein do these differ from those?'<sup>14</sup> — He replied, 'But they also have erred through wine, and through strong drink are out of the way . . . paku pelilyah they stumble in judgement.'<sup>15</sup> Now pukah [the root idea of paku] can only mean the Gehenna, as it is said, That this shall be no grief unto thee;<sup>16</sup> and pelilyah can only refer to the judges, as it is said, and he shall pay as the judges determine.<sup>17</sup>

MISHNAH. THE INHABITANTS OF A SEDUCED CITY HAVE NO PORTION IN THE WORLD TO COME, AS IT IS WRITTEN, CERTAIN MEN, THE CHILDREN OF BELIAL, ARE GONE OUT FROM AMONG YOU, AND HAVE WITHDRAWN THE INHABITANTS OF THEIR CITY.<sup>18</sup> THEY ARE NOT EXECUTED UNLESS THE SEDUCERS ARE OF THAT CITY AND THAT TRIBE, AND THE MAJORITY THEREOF ARE SEDUCED, AND THE SEDUCERS ARE MEN. IF WOMEN OR MINORS SEDUCED IT, IF A MINORITY WERE SEDUCED, OR IF THE SEDUCERS WERE FROM WITHOUT THE CITY, THEY<sup>19</sup> ARE TREATED AS INDIVIDUALS, AND TWO WITNESSES AND A FORMAL WARNING ARE NECESSARY FOR EACH [OFFENDER]. IN THIS [THE PENALTY OF] INDIVIDUALS IS SEVERER THAN [THAT OF] A MULTITUDE, FOR INDIVIDUALS ARE STONED, THEREFORE THEIR PROPERTY IS SAVED; BUT MULTITUDES ARE DECAPITATED; HENCE THEIR POSSESSIONS ARE DESTROYED.

THOU SHALT SURELY SMITE THE INHABITANTS OF THAT CITY WITH THE EDGE OF THE SWORD.<sup>20</sup> A COMPANY OF ASS-DRIVERS OR CAMEL-DRIVERS PASSING FROM PLACE TO PLACE SAVES IT.<sup>21</sup> DESTROYING IT UTTERLY, AND ALL THAT IS THEREIN, AND THE CATTLE THEREOF: FROM THIS IT WAS DEDUCED THAT THE PROPERTY OF THE RIGHTEOUS, WHICH IS WITHIN [THE CITY] IS DESTROYED, BUT THAT WHICH IS WITHOUT IS SAVED, WHILST THAT OF THE WICKED, WHETHER WITHIN OR WITHOUT, IS DESTROYED.<sup>22</sup> AND THOU SHALT GATHER ALL THE SPOIL THEREOF IN TO THE MIDST OF THE PUBLIC SQUARE THEREOF ETC.<sup>23</sup> IF IT HAD NO PUBLIC SQUARE, ONE IS MADE FOR IT; IF IT WAS [SITUATED] WITHOUT [THE TOWN], IT IS BROUGHT WITHIN IT,<sup>24</sup> AS IT IS SAID, AND THOU SHALT BURN WITH FIRE THE CITY, AND ALL THE SPOIL THEREOF EVERY WHIT, FOR THE LORD THY GOD.<sup>25</sup>

THE SPOIL THEREOF' IMPLIES, BUT NOT THE SPOIL OF HEAVEN. HENCE IT WAS RULED, THE HOLY OBJECTS THEREIN<sup>26</sup> MUST BE REDEEMED; THE TERUMOTH<sup>27</sup> ALLOWED TO ROT; AND THE SECOND TITHE<sup>28</sup> AND THE SACRED WRITINGS HIDDEN.<sup>29</sup> A WHOLE-OFFERING FOR THE LORD THY GOD:<sup>30</sup> R. SIMEON SAID: THE HOLY ONE, BLESSED BE HE, DECLARED, IF YE EXECUTE JUDGMENT UPON THE SEDUCED CITY, I WILL ASCRIBE MERIT TO YOU AS THOUGH YE HAD SACRIFICED TO ME A WHOLE OFFERING. AND IT SHALL BE A HEAP FOR EVER;<sup>31</sup> [HENCE] IT MAY NOT BE CONVERTED INTO GARDENS AND ORCHARDS: THIS IS THE VIEW OF R. JOSE THE GALILEAN. R. AKIBA MAINTAINED: IT SHALL NOT BE BUILT AGAIN [IMPLIES] THAT IT MAY NOT BE REBUILT AS IT WAS, BUT MAY BE CONVERTED INTO GARDENS AND ORCHARDS. AND THERE SHALL CLEAVE NOUGHT OF THE CURSED THING TO THINE HAND: [THAT THE LORD MAY TURN FROM THE FIERCENESS OF HIS WRATH, AND SHEW THEE MERCY].<sup>32</sup> AS LONG AS THE WICKED EXIST IN THE WORLD, THERE IS FIERCE ANGER IN THE WORLD; WHEN THE WICKED PERISH FROM THE WORLD, FIERCE ANGER DISAPPEARS FROM THE WORLD.

GEMARA. Our Rabbis taught: [If thou shalt hear say in one of thy cities ... saying,] they have gone out: [this implies,] they, but not their agents.<sup>33</sup> Men: the plural cannot mean less than two.<sup>34</sup> Another explanation: men, [implies] but not women; men, but not minors. The children of Belial denotes children who have thrown off the Yoke of Heaven from their necks.<sup>35</sup> From among you, but not from a border town.<sup>36</sup> The inhabitants of their city — but not the inhabitants of a different city. Saying, [teaches that] witnesses and a formal warning are necessary for each offender.

It has been stated: R. Johanan maintained: One city might be divided among two tribes.<sup>37</sup> Resh Lakish said: One city might not be divided among two tribes.<sup>38</sup> R. Johanan asked Resh Lakish: UNLESS THE SEDUCERS ARE OF THAT CITY AND OF THAT TRIBE — surely it means, though the seducers be of that city, yet only if they belong to that tribe too does the law apply, but not otherwise; which proves that a city might be divided among two tribes? — No: such a case is possible if it [a portion of the town] came to them [the seducers] through inheritance,<sup>39</sup> or was gifted to them. He [further] objected: nine cities, out of these two tribes.<sup>40</sup> Surely it means four and a half from each, thus proving that a city might be divided among two tribes. — No: four from one and five from the other. If so, these should be specified.<sup>41</sup>

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(1) Num. XIV, 17; thus the Baraita shews that what called forth Moses' worship of God when Israel sinned through the Golden Calf was his vision of the Almighty as long-suffering.

(2) Ps. XCIII, 5; i.e., 'thou art long-suffering.'

(3) Ibid. XC, 1.

(4) Regarding the former verse as part of Moses' prayer.

(5) Isa. XXVIII, 5.

(6) Thus translating זְבִי (zebi, E.V. glory,) 'will,' 'desire' — a common meaning in the Talmud and Targumim, and

- deriving **צפירה** zefirah (E.V. 'beauty') from **צפה** 'to look forward', 'to hope'. The whole reads: In that day shall the Lord of hosts be for a crown of desire and for a diadem of hope etc.
- (7) I.e., of no value; hence, to the humble.
- (8) Ibid. 6.
- (9) Translating: and to a spirit, i.e., evil inclination, that is judged, i.e., subdued.
- (10) V, supra 7a.
- (11) Reversing them to noble desires — this is higher than ruling over them, which is merely a non-surrender to them.
- (12) In discussions and disputes thereon.
- (13) V, p. 630, n. 7.
- (14) Those who have these qualities, how are they differentiated from those who lack them?
- (15) **פקו פלילה** Ibid. 7.
- (16) **לפוקה** I Sam. XXV, 31.
- (17) **בפלילים** Ex. XXI, 22. I.e., judges that go astray and render unfair judgments are consigned to the Gehenna.
- (18) Deut. XIII, 14. The deduction is from, are gone out from among you, implying that they have lost their share in the future world (Rashi and the Yad Ramah). Bertinoro deduces it from the word Belial **בליעל**, which he reads **בלי יעל** 'without ascending', i.e., who will never ascend from the grave to the future world.
- (19) The inhabitants.
- (20) Ibid. 26.
- (21) If a travelling caravan made a thirty days' halt in the town, its members are regarded as inhabitants. Consequently, if they resist seduction, and their abstention turns the remainder who abstain from idolatry too, and would otherwise be in a minority, into a majority, the town is saved from the fate of a condemned city. — This is followed in the text by 'as it is said etc.' But as the deduction is from 'inhabitants', not from the verse next quoted, the Wilna Gaon deletes 'as it is said'. [Yad Ramah preserves another reading: 'they are saved', that is, if the caravan passing through the city becomes involved in the seduction, they do not share the fate of the inhabitants, but are treated as individual idolators, provided they did not halt for thirty days.]
- (22) This is deduced from all. This too is followed by 'as it is said', which is also deleted by the Wilna Gaon (and in both cases Rashi's version seems to lack it too), and for the same reason.
- (23) Ibid. 17.
- (24) [By building a city wall outside it.]
- (25) Ibid. Hence everything, including the market place, must be within the city.
- (26) I.e., such objects which, though consecrated, (e.g., for general Temple use as distinct from sacrifices) should be redeemed.
- (27) V. Glos.
- (28) This is discussed in the Gemara.
- (29) I.e., buried, which is the meaning of **גנז** when used in connection with sacred objects no longer fit for use; v. Meg. 26b on the hiding of a Scroll of the Torah which has mouldered away. It is insufficient merely to put away these objects, viz., the sacred writings and the second tithe, and let them rot (as in the case of terumah), because being available to all, they would probably, in a moment of forgetfulness, be put to some use; whereas terumah was eaten only by the priests, who were very observant. (Tosefot Yomtob a.l.) S. Krauss in Sanh.-Mak. a.l. remarks that **גנז** is a general term for withdrawing a Scroll from its public use in the synagogue, and presumably he understands it in the same light here. This meaning, however, is quite unsuited to the context (which deals with the method of destruction to be applied to holy things, which, though not to be burnt, are nevertheless to be disposed of, as is seen in the case of terumah and holy objects), particularly as the word is here applied to both the sacred Writings and the second tithe, and in the case of the latter this interpretation is obviously impossible.
- (30) Ibid. [**בליעל** (E.V. 'in its entirety') denotes also whole-offering.]
- (31) Ibid.
- (32) Ibid.
- (33) I.e., only if the seducers of the same city personally enticed the majority of the city to idolatry. But if a number were enticed by their agents, the law of a condemned city does not apply, the enticed ones being punished as individuals.
- (34) If only one person seduced a city, it is not treated as such.
- (35) [**בליעל** is explained **בלי עול** 'without a yoke'.]
- (36) Only a town that is among you can become a condemned city. But a border town, in close proximity to Gentile

cities, is not treated as such (v, supra 16b).

(37) I.e., when Canaan was parcelled out among the tribes, and the boundary line of a tribal portion cut across a town, that town would legally belong to the two tribes.

(38) The whole legally belonging to the tribe the greater part of which fell within its borders. Jerusalem, which belonged partly to Benjamin and partly to Judah, was an exception on this view (Early Tosafoth, Yoma 12a).

(39) Rashi explains: if the seducers, though not of the tribe to which the city belonged, inherited part thereof through a daughter who became heiress of an estate after having married out of her tribe.

(40) Judah and Simeon. Josh. XXI, 16.

(41) Which tribe gave four and which five?

## **Talmud - Mas. Sanhedrin 112a**

This is a difficulty.<sup>1</sup> The scholars propounded: What if they were self-seduced? Since Scripture writes [Certain men . . .] have seduced the inhabitants etc. It implies, but not if they were self-seduced; or perhaps, [the law holds good] even if they were self-seduced?<sup>2</sup> — Come and hear: IF WOMEN OR MINORS SEDUCED IT [... THEY ARE TREATED AS INDIVIDUALS]: but why so? Should it not be [at least] as though they were self-seduced?<sup>3</sup> — [No.] The latter are enticed through their own desires, whilst the former are influenced by women and minors.<sup>4</sup> UNLESS THE MAJORITY THEREOF ARE SEDUCED. How is this encompassed?<sup>5</sup> R. Judah said: We judge and imprison, judge and imprison.<sup>6</sup> Said 'Ulla to him: Then thou delayest the judgment of these.<sup>7</sup> But 'Ulla said thus: We judge and stone them, and judge and stone.<sup>8</sup> It has been stated: R. Johanan maintained: We judge and stone them, judge and stone them. Resh Lakish ruled: Many courts of law are set up.<sup>9</sup> But that is not so, For did not R. Hama, son of R. Jose, say in R. Oshaia's name: Then thou shalt bring forth that man or that woman ... unto thy gates:<sup>10</sup> [this teaches,] a man or a woman thou mayest bring forth to thy gates, but not a whole city?<sup>11</sup> — But many lawcourts are set up and the indictments examined [but no verdicts pronounced]; then the accused are taken to the great Beth din, their trials completed, and they are executed.

THOU SHALT SURELY SMITE THE INHABITANTS OF THAT CITY etc. Our Rabbis taught: If a company of ass-drivers or camel-drivers passing from place to place lodges therein and were seduced together with it: if they had stayed there thirty days, they are decapitated and their possessions destroyed;<sup>12</sup> if less, they are stoned, but their possessions unharmed.<sup>13</sup>

An objection was raised: 'How long must [a stranger] stay in a town, that he may be as its citizen?<sup>14</sup> Twelve months'? — Raba answered: There is no difficulty. The latter [period is necessary] for one to be a full citizen; the former, to be regarded a town resident.<sup>15</sup> And it has been taught likewise: He who forswears benefit from the citizens of a town is forbidden to benefit from any one who has tarried twelve months therein, but if less he is permitted. [If he forswears benefit from] the residents of a town, he may not benefit from any one who has tarried there thirty days, but if less, he is permitted.

DESTROYING IT UTTERLY, AND ALL THAT IS THEREIN etc.<sup>16</sup> Our Rabbis taught: Destroying it utterly, and all that is therein:<sup>17</sup> this excludes the property of righteous men without the city. 'And all that is therein:' this includes the property of righteous men within it. 'The spoil of it' [teaches], but not the spoil of Heaven.<sup>18</sup> 'And all the spoil of it', teaches that the property of the wicked without the city is included.

R. Simeon said: Why did the Torah ordain that the property of the righteous within the city shall be destroyed? What caused them to dwell therein? Their wealth.<sup>19</sup> Therefore their wealth is destroyed.

The Master said: And all the spoil of it thou shalt gather includes the property of the wicked

without it. R. Hisda observed: But only if it can be gathered thereinto.<sup>20</sup>

R. Hisda said: Entrusted objects of the inhabitants of a doomed city are permitted. How so? Shall we say, Those belonging to another city and now within it?<sup>21</sup> Is it then not obvious that they are permitted, not being ‘the spoil thereof’? If, again, the reference is to their own objects placed in another city: in this case, if they can be gathered thereinto,<sup>22</sup> why are they permitted? Whilst if they cannot be gathered, then surely he has already stated this once! — No. After all, it refers to objects of another city placed in this one. But the circumstances are that [the person to whom they were entrusted] accepted responsibility for them.<sup>23</sup> I might think, since he accepted responsibility, they are as his;<sup>24</sup> therefore, he teaches [otherwise].

R. Hisda said: An animal, the property partly of a condemned city and partly of another, is forbidden [entirely]; dough, belonging partly to a condemned city and partly to another, is permitted. Why so? Because an animal is as undivided,<sup>25</sup> whilst dough is as though [already] divided.

R. Hisda propounded: An animal of a condemned city — does shechita<sup>26</sup> avail to purify it from [the uncleanness of] nebelah:<sup>27</sup> the Divine Law said, [Thou shalt surely smite . . . the cattle thereof] with the edge of the sword: hence it is all alike, whether slaughtered [ritually] or killed;<sup>28</sup> or perhaps, having been ritually slaughtered, the shechita is efficacious [to permit it]. What is the law? [This problem is] to stand over.

R. Joseph<sup>29</sup> propounded: What of the hair of the righteous women [within the condemned city]?<sup>30</sup> Raba asked: This implies that the hair of the wicked women is forbidden!<sup>31</sup> [Surely] Scripture writes, Thou shalt gather . . . and thou shalt burn, denoting, that which only lacks gathering and burning [is forbidden for general use, yet must be thus destroyed;] excluding this, which needs cutting off, gathering and burning?<sup>32</sup> — But, said Raba, the problem refers to a wig. How so? If it is fastened to herself it is as herself?<sup>33</sup> — It is necessary [to propound this] only if it is hanging on a nail [i.e., not being worn]: is it as other property of the righteous within the town, and destroyed; or perhaps, since it is donned and doffed, it is as her garments? [The problem is] to stand over.

AND THOU SHALT GATHER ALL THE SPOIL OF IT INTO THE MIDST OF THE PUBLIC SQUARE THEREOF etc. Our Rabbis taught: If it has no public square, it cannot become a condemned city: this is R. Ishmael's view. R. Akiba said: If it has no public square, a public square is made for it. Wherein do they differ? — The one maintains that ‘the public square thereof’ implies, that which was originally [before sentence] so; whilst the other holds that ‘the public square thereof’ implies even if it has [only] now become one. [

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(1) Though not actually refuting Resh Lakish, the Biblical expression ‘nine out of the two’ is difficult.

(2) The Bible merely stating a general truth, that people are usually enticed to idolatry by others, but not making this an integral condition of the law.

(3) Thus proving that self-seduction is insufficient.

(4) When they are drawn to idolatry by their own wish, their desire for it must be very strong; consequently, the place is treated as a seduced city. But if enticed by women or minors, their adherence thereto is weaker, and hence the law does not apply. — This distinction is merely stated as a possibility, not a certainty.

(5) Since each individual's offence must be attested by two witnesses and preceded by a formal warning, how is it possible for a whole town to be treated so simultaneously?

(6) If a few are observed practising idolatry, they are tried and sentenced; but instead of being executed, they are imprisoned. Then others are similarly treated, and the process is repeated until a majority have thus been sentenced. Then they are all tried together, and the place declared a condemned city.

(7) Which is forbidden.

(8) I.e., every few caught practising idolatry are stoned, as idolaters. But when half of a town have thus been executed, and there are still more, the place is declared a condemned city, and the rest are decapitated.

- (9) That all may be judged simultaneously, and the provisions of a condemned city applied.
- (10) Deut. XVII, 5.
- (11) I.e., only individuals are tried by the local Beth din, but a community can be tried only by the great Sanhedrin of 71; how then can many courts of law be set up?
- (12) As the inhabitants of the condemned city, wherein they are included after a stay of thirty days.
- (13) As is the case of individuals.
- (14) To share in their general liabilities in respect of town maintenance; v. B.B. 7b.
- (15) And since in the case of a seduced city the condemnation extends to 'the inhabitants', a period of thirty days suffices.
- (16) Ibid.
- (17) The Wilna Gaon deletes 'and all that is therein'.
- (18) V. Mishnah on 111b.
- (19) Only for the sake of wealth would the righteous live in such a wicked town.
- (20) Only if it is so near that it can be brought into the doomed city on the same day that everything else is carried into the public square, but not if it is more than a day's journey distant (Rashi).
- (21) I.e., the doomed city, the articles having been entrusted to its inhabitants.
- (22) V. n. 3.
- (23) For damage etc.
- (24) Cf. p. 773, n. 5.
- (25) For to obtain even the smallest part of it, the whole must be slaughtered.
- (26) Ritual slaughtering according to the Jewish law.
- (27) V. Glos: the problem is, if slaughtered ritually, is it 'purified.' i.e., permitted?
- (28) I.e., however it comes to its death the animal is forbidden, being regarded as though slain by the edge of the sword!
- (29) This passage is cited in 'Ar. 7b with the reading R. Jose son of R. Hanina.
- (30) Is it permitted or forbidden for use?
- (31) If cut off before execution.
- (32) I.e., it is not ready for immediate burning, but must first be cut off. Such is not forbidden.
- (33) And regarded as personal wear, which are not destroyed in the case of the righteous.

## **Talmud - Mas. Sanhedrin 112b**

THE HOLY OBJECTS THEREIN MUST BE REDEEMED etc. Our Rabbis taught: If there were holy objects therein, that which is dedicated to the altar [i.e., for sacrifices] must die; to the Temple repair, must be redeemed; terumoth must be allowed to rot, and the second tithe and sacred Writings hidden. R. Simeon said: 'The cattle thereof,' — but not firstlings or tithes.<sup>1</sup> 'The spoil thereof,' excludes sacred money and tithe money.<sup>2</sup>

The Master said: 'If there were holy objects therein, that which is dedicated to the altar must die.' But why should they die? Let them graze until unfit [for sacrifice], then be sold,<sup>3</sup> and the money utilised for a free-will offering! — R. Johanan answered, The sacrifice of the wicked is an abomination.<sup>4</sup> Resh Lakish said: It is the property of its owner, the reference here being to dedicated animals for which the owner is responsible [if lost or injured], and [the ruling] according to R. Simeon, who maintained that such is the owner's property.<sup>5</sup> But since the second clause is R. Simeon's, it follows that the first is not? — [Say, then,] the reference is to sacrifices of lower sanctity, and it agrees with R. Jose the Galilean, who maintained that such are the property of their owners. But what of sacrifices of the highest sanctity? Are they to be redeemed! [If so,] the second clause, instead of teaching that that which is dedicated to the Temple repair must be redeemed, should have drawn and taught a distinction in that very matter [viz., animals dedicated to the altar]. [Thus:] This law [that the animals must die] holds good only of sacrifices of lower sanctity, but sacrifices of the highest sanctity are to be redeemed? — Since there is the sin-offering [among the latter], which, if its owner die, must perish, this cannot be stated as a general rule.<sup>6</sup>



Now it is intelligible that R. Johanan did not answer as Resh Lakish, since it is written, 'The sacrifice of the wicked is an abomination'<sup>7</sup> but why did Resh Lakish not answer as R. Johanan? — He can reply to you: When do we say, 'The sacrifice of the wicked is an abomination'? When they are in their original state; but these, since their state is changed [if the animal is redeemed], are changed.<sup>8</sup>

'R. Simeon said: The cattle thereof implies, but not the firstlings or tithes.' To what does this refer? Shall we say, to unblemished animals? Then they are the 'spoil of Heaven'<sup>9</sup> But if blemished, they are 'the spoil of it'<sup>10</sup> — Rabina answered: In truth, the reference is to blemished animals. But [only] that which is eaten as 'the cattle thereof' [is destroyed], excluding these, which are eaten not as 'the cattle thereof' but as firstlings and tithes,<sup>11</sup> and are thus considered 'spoil of Heaven'.<sup>12</sup>

Now this [Rabina's answer] conflicts with Samuel's. For Samuel said [in explanation of the same difficulty]: Everything can be sacrificed, and everything can be redeemed. Now, what does this mean? — It means this: That which is sacrificed if unblemished, and redeemed when blemished,<sup>13</sup> is excluded by 'the spoil of it';<sup>14</sup> but that which is offered up if unblemished, but not redeemed when blemished, e.g., the firstling and the tithe, is excluded by 'and the cattle thereof'.<sup>15</sup>

THE TERUMOTH MUST BE ALLOWED TO ROT. R. Hisda said: This applies only to terumah in the hands of an Israelite;<sup>16</sup> but if in the hands of the priest, being his property, it must be burnt. R. Joseph objected: THE SECOND TITHE AND THE SACRED WRITINGS MUST BE HIDDEN. Now, the second tithe in the hands of an Israelite is as terumah in the hand of the priest,<sup>17</sup> yet it teaches, THEY MUST BE HIDDEN, [but not burnt]. But if it [R. Hisda's dictum] was stated, it was thus stated: R. Hisda said: This applies only to terumah in the hand of the priest;<sup>18</sup> but terumah in the hand of an Israelite must be given to a priest of another city.

We learnt<sup>19</sup> elsewhere: 'Dough of the second tithe is exempt from hallah:<sup>20</sup> this is R. Meir's view. But the Sages hold it liable.' R. Hisda said: This refers only to the second tithe in Jerusalem, R. Meir maintaining that the second tithe is sacred property,<sup>21</sup> whilst the Rabbis regard the second tithe as secular property. But in the provinces,<sup>22</sup> all agree that it is exempt.<sup>23</sup>

R. Joseph objected: THE SECOND TITHE AND SACRED WRITINGS MUST BE HIDDEN. To what does this refer? Shall we say to Jerusalem?<sup>24</sup> But can it become a condemned city? Has it not been taught, 'Ten things were said concerning Jerusalem, and this is one of them, [viz.,] it cannot become a condemned city.'<sup>25</sup> But if it [the second tithe] was of another city, and was brought up thither [to Jerusalem],<sup>26</sup> surely its barriers have received it.<sup>27</sup> Hence it must surely refer to the provinces, yet it is stated, THEY MUST BE HIDDEN?<sup>28</sup> — No. In truth, it is of another city and brought thither [to Jerusalem]; but we deal with a case where it became defiled.<sup>29</sup> Then should it not be redeemed? For R. Eleazar said: Whence do we know that if the second tithe became defiled it can be redeemed even in Jerusalem? From the verse, When thou art not able to bear it [then thou shalt turn it into money].<sup>30</sup> Now se'eth<sup>31</sup> can only refer to eating, as . . . And he took and sent mase'oth<sup>32</sup> [messes] unto them from before him?<sup>33</sup> — We deal with purchased [commodities].<sup>34</sup>

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(1) Which were of a sacred character, the flesh being eaten by the owners, and the blood and fat offered on the altar.

(2) I.e., the money for which sacred objects and tithes were redeemed.

(3) Because an animal dedicated to the altar may not be redeemed as long as it is fit to be sacrificed.

(4) Prov. XXI, 27; and even the money received for its redemption is abhorrent for sacrifice.

(5) When a person vows, dedicating a particular animal for a sacrifice, which is subsequently lost or destroyed, he is not bound to replace it, it being regarded from the moment of the dedication as sacred property, not his own, and he has no further obligation in respect of it. But if he vows to bring a sacrifice, and then dedicates an animal for the purpose, he is bound to replace it if subsequently lost or destroyed, since his vow did not specify that particular animal. R. Simeon maintains that since he must bear the responsibility for it, it is regarded as his own property. Consequently, if in a

condemned city, it must be destroyed, like all other secular possessions therein.

(6) If the owner of any sacrifice of the highest sanctity, excepting the sin-offering, dies, the animal is put to pasture until it receives a blemish, when it is redeemed. But if a sin-offering, it is slain (not as a sacrifice). In the case under discussion, the owners are executed: consequently, it cannot be stated as a general rule that sacrifices of the highest sanctity must be redeemed, and therefore the second clause speaks of animals dedicated to the Temple repair instead.

(7) Which is quite a sufficient answer.

(8) And the verse is inapplicable; hence another answer must be sought.

(9) Since the blood and fat must be offered on the altar; hence their exclusion is deduced from 'and the spoil of it', as stated above.

(10) Being blemished, their blood and fat are not offered upon the altar. Consequently they belong entirely to their owners, and should be destroyed, being included in 'the spoil of it'.

(11) Notwithstanding that their blood and fat are not offered upon the altar, when their owners eat them they do not regard them as ordinary animals, such as could be denominated 'the cattle thereof', but as firstlings and tithes.

(12) [MSS, delete 'and . . . Heaven'.]

(13) Viz., all sacrifices of lower sanctity, excepting firstlings and tithes.

(14) Thus in his opinion, he disagrees with the view of the first Tanna, who maintains that such sacrifices are destroyed, as they are their owners 'property'.

(15) [Even if unblemished, they are not considered as 'spoil of Heaven', which is not in agreement with Rabina.]

(16) I.e., before it was given to the priest. Since it does not belong to the Israelite, and he might have given it to the priest of some other town, it is regarded as property merely entrusted to an inhabitant of this town, and therefore not destroyed. On the other hand, since he may have intended to give it to a priest of the same town, it may not be eaten. Hence it is left to rot.

(17) Since both belong to their possessor.

(18) Which, being his own property must be destroyed, though not burnt, on account of its sanctity.

(19) This is the formula introducing a Mishnah. But the passage cited is a Baraita, and **תנן** 'we learnt', is probably an error for **תניא** 'it has been taught'.

(20) **חלה**, the first portion of the dough. V. Num. XV, 20.

(21) Whereas only secular food is liable to hallah. Cf. Ye shall offer up a cake of the first of your dough for an heave offering. (Num. XV, 20), thus excluding sacred dough, which belongs to Heaven.

(22) A technical term for the whole of Palestine as opposed to Jerusalem.

(23) Since the owner may not eat it there, it is certainly sacred property.

(24) Which became a condemned city.

(25) V. B.M. 82b.

(26) [Before the city was seduced.]

(27) I.e., once within Jerusalem, the law of that town applies to it, and therefore, since it cannot become a condemned city, it should be permitted even for food.

(28) Thus proving that the second tithe in the provinces is treated as secular property.

(29) In which case it may not be eaten; consequently it must be hidden.

(30) Deut. XIV, 25.

(31) **שאת** (E.V. 'to bear').

(32) **משאת**.

(33) Gen. XLIII, 34. Thus he translates the first verse: If thou art not able to eat it — being defiled — then thou shalt turn it into money — i.e., redeem it.

(34) The original second tithe having been redeemed, the money was expended upon commodities, which in turn became defiled. At this stage it assumed that only the original second tithe can be redeemed if defiled, but not that purchased with the redemption money.

## Talmud - Mas. Sanhedrin 113a

But let them be redeemed, for we learnt: If that which was purchased with the [redemption-] money of the second tithe became defiled, it is redeemed.<sup>1</sup> — This agrees with R. Judah, who ruled: It must be buried. If so, why particularly [the second tithe] of a condemned city; the same applies to any

place in general?<sup>2</sup> — But in reality, it refers to undefiled [second tithe], the circumstances being that the barriers of Jerusalem had fallen. And this is in accordance with Raba's dictum. For Raba said: The law of the walls [of Jerusalem], in that it [the second tithe] must be eaten within them, is Biblical; but that they have retaining power,<sup>3</sup> is merely Rabbinical. Now, when did the Rabbis decree this? Only as long as the walls exist; but if the walls are gone [having fallen], the decree does not hold good.<sup>4</sup>

**SACRED WRITINGS MUST BE HIDDEN.** Our Mishnah does not agree with R. Eliezer. For it was taught, R. Eliezer said: No city containing even a single mezuzah<sup>5</sup> can be condemned.<sup>6</sup> Why so? Because it says [in reference thereto], and thou shalt burn with fire the city and all the spoil thereof every whit.<sup>7</sup> But if it contains a single mezuzah, this is impossible, because it is written, Ye shall not so do unto the Lord your God.<sup>8</sup>

**R. SIMEON SAID: THE HOLY ONE BLESSED BE HE, DECLARED** etc. Shall we say that they<sup>9</sup> disagree in respect of the dictum of R. Abin in R. Elai's name: For R. Abin said in the name of R. Elai: Wherever you find a general proposition in the form of a positive command and a particular specification in the form of a negative injunction, they are not interpreted as a general proposition followed by a particular specification:<sup>10</sup> one Master<sup>11</sup> agreeing with Abin's dictum,<sup>12</sup> while the other Master<sup>13</sup> rejects R. Abin's dictum.<sup>14</sup> — No! All accept R. Abin's rule. But here the ground of their dispute is this: the one Master<sup>11</sup> maintains that [it shall not be built] 'od [again] implies 'not at all',<sup>15</sup> whilst the latter<sup>13</sup> holds that 'od implies 'as it was formerly'.<sup>16</sup>

**IT MAY NOT BE REBUILT, BUT MAY BE CONVERTED INTO GARDENS AND ORCHARDS.** Our Rabbis taught: If it contained trees already cut down [before the city was condemned], they are forbidden; but if still growing [in the soil], they are permitted.<sup>17</sup> But the trees of a different city, whether cut down or growing in the soil, are forbidden. What is alluded to by 'a different city'? — R. Hisda said: Jericho; for it is written, And the city shall be accursed [...] to the Lord.<sup>18</sup>

And Joshua adjured them at that time, saying: Cursed be the man before the Lord, that riseth up and buildeth this city Jericho: he shall lay the foundation thereof in his firstborn, and in his youngest son shall he set up the gates of it.<sup>19</sup> It has been taught: Neither Jericho with the name of a different town, nor a different town under the name of Jericho. It is written, in his days did Hiel the Bethelite build Jericho: he laid the foundations thereof in Abiram his firstborn, and set up the gates thereof in his youngest son Segub, according to the word of the Lord, which he spoke by Joshua the son of Nun.<sup>20</sup> It has been taught: In Abiram his firstborn: he was wicked, and so he could not have learnt from his death; but in his youngest son Segub he should have taken a lesson. What then did Abiram and Segub do?<sup>21</sup> — This is its meaning: From Abiram his firstborn that wicked man [Hiel] should have learnt [that its doors would be set up only with the death of] Segub his youngest son. Now, since it is written, in Abiram his firstborn, I know that Segub was his youngest:<sup>22</sup> why then state Segub his youngest son? — This teaches that he buried [his children] in succession from Abiram to Segub.<sup>23</sup> Now Ahab was his close friend.<sup>24</sup> He and Elijah went to enquire after his welfare in the house of mourning.<sup>25</sup> He [Ahab] sat and remarked, 'Perhaps when Joshua pronounced his curse, it was thus: Neither Jericho under a different name, nor a different city by the name of Jericho?' Elijah replied, 'That is so.' Said he, 'If Moses' curse was not fulfilled, for it is written, And ye turn aside, and serve other gods, and worship them,' which is followed by, and he shut up the heaven that there be no rain, etc.:<sup>26</sup> yet though that man set up idols upon every single furrow, the rain did not permit him to go and worship them;<sup>27</sup> shall the curse of Joshua, his disciple, have been fulfilled?' Straightway, And Elisha the Tishbite, who was of the inhabitants of Gilead, said unto Ahab, As the Lord God of Israel liveth, before whom I stand, there shall not be dew or rain these years, but according to my word.<sup>28</sup> He prayed, and the key of rain was given him, upon which he arose and departed. And the word of the Lord came unto him, saying, Get thee hence, and turn thee eastward,

and hide thyself by the brook Cherith, that is before Jordan . . . And the ravens brought him bread and flesh in the morning etc.<sup>29</sup> Whence [did they bring it]? — Rab Judah said in Rab's name: From Ahab's slaughterers.

And it came to pass after a while, that the brook dried up, because there had been no rain in the land.<sup>30</sup> Now, when [God] saw that the world was distressed [because of the drought], it is written, And the word of the Lord came unto him, saying, Arise, get thee to Zarephath.<sup>31</sup> And it is further written, And it came to pass after these things, that the son of the woman, the mistress of the house, fell sick.<sup>32</sup> Elijah prayed that the keys of resurrection might be given him, but was answered, Three keys have not been entrusted to an agent:<sup>33</sup> of birth,<sup>34</sup> rain, and resurrection. Shall it be said, Two are in the hands of the disciple<sup>35</sup> and [only] one in the hand of the Master? Bring [Me] the other and take this one, as it is written, Go, shew thyself unto Ahab; and I will send rain upon the earth.<sup>36</sup>

A certain Galilean expounded before R. Hisda: If one should make an analogy in respect of Elijah, what does this matter resemble? A man who locked his gate and lost the key.<sup>37</sup> R. Jose taught in Sepphoris: Father Elijah<sup>38</sup>

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(1) Ma'as. Sh. III, 10.

(2) This difficulty really arose when it was first answered that the reference is to the defiled second tithe, but it was postponed whilst other objections were put forward.

(3) I.e., that once within the precincts of Jerusalem, the second tithe is retained by the walls and cannot be redeemed and taken out.

(4) Hence, in this case, since it actually belongs to the condemned city, and Jerusalem cannot assimilate it to itself, because its walls had fallen, it must be destroyed; but being sacred, it is hidden instead of burnt.

(5) V. Glos.

(6) V. supra 71a.

(7) Deut. XIII, 17.

(8) Ibid. XII, 4, referring back to the preceding verse, And ye shall destroy the name of them, i.e., the idols; hence in his view the whole law of a condemned city does not apply if it contains sacred writings.

(9) R. Jose the Galilean and R. Akiba.

(10) The rule in such a case is: the general proposition includes only what is enumerated in the particular specification. But when one is thrown into the form of a positive command and the other stated as a negative injunction this does not apply. Now, in the passage under discussion, And it shall be an heap forever is a general proposition, implying that it may not be turned even into parks or orchards; whilst it shall not be built again is a particular specification, denoting a prohibition against the erection of houses, etc., which require building, but not against parks, etc. Now had they both been expressed in the form of a positive or negative command, the rule of exegesis would be as stated, the particularized expression defining the general proposition. Thus: It shall be an heap for ever, and that only in respect of rebuilding, but not in respect of parks, etc. Since, however, they are not both expressed in the same form, this method of exegesis is not followed, but the two clauses are regarded as distinct, a different exegetical rule being followed; viz., 'That which was included in the general proposition and was then separately stated is intended to illumine the former' (for it shall not be built again, which refers to houses, etc., was really included in the general proposition). Thus: And it shall be an heap for ever implies a prohibition of parks and orchards. Now, how is this implication understood? Because Scripture continues, it shall not be built again, from which we deduce, just as a building is anything erected in a human settlement, so it shall be an heap for ever prohibits everything that finds a place in civilization, and therefore includes gardens, etc.

(11) R. Jose, the Galilean.

(12) Consequently he forbids the laying out of parks.

(13) R. Akiba.

(14) Hence forbids only building.

(15) Hence gardens are forbidden.

(16) Consequently **וְיָבֵן** limits the meaning of the former passage, as it would be understood by R. Abin's rule.

(17) Thou shalt gather . . . and thou shalt burn excludes that which cannot immediately be gathered into the public square, but must first be cut down.

(18) Josh. VI, 17; hence there everything was forbidden.

(19) Ibid. 26.

(20) I Kings XVI, 34; he did not actually build Jericho but a different town which he called Jericho, and was punished in accordance with Joshua's oath, proving that this too was forbidden. Rashi, however, points out that there is nothing to shew that a different town is referred to.

(21) It is now assumed that the meaning is: Hiel could not have deduced from Abiram's death that Joshua's curse was being fulfilled, because Abiram was wicked, to which fact Hiel might have attributed his death. But Segub was not evil, and therefore he should have known that his death was the result of his curse. Therefore the Talmud asks: what did Abiram and Segub do, i.e., how do we know that one was wicked and the other not (Maharsha).

(22) For, as the verse informs us that Joshua's curse was fulfilled, it follows that Segub must have been his youngest.

(23) Rashi regards this passage 'now, since it . . . to Segub' as distinct from the preceding. Maharsha treats it as a continuation thereof. Hiel's wickedness was evinced by the fact that the death of his children one after the other failed to make him desist from his impious work.

(24) Heb. שושבין שושבין, particularly denotes the bridegroom's best man (v, supra 27b).

(25) I.e., when he was in mourning for the death of his children.

(26) Deut. XI, 16f.

(27) In spite of his idolatry, there were such heavy rains as to render the roads impassable.

(28) I Kings XVII, 1. This verse immediately follows the one treating of Hiel's building of Jericho.

(29) Ibid. 2f, 6.

(30) Ibid. 7.

(31) Ibid. 8f.

(32) Ibid. 17.

(33) God entrusted the keys of His treasures to various angels, God's agents. But three had never been entrusted to them.

(34) Lit., 'a woman in confinement.

(35) Since the key of rain was already in Elijah's possession, and now he was asking for the key of resurrection too.

(36) Ibid. XVIII, 1; I but not thou. The whole passage is adduced to shew how God, having given the key of rain to Elijah, obtained its return, and that the illness of the widow's son was for that purpose.

(37) So Elijah, having obtained the key of rain, locked it up, but could not unlock it when necessary.

(38) A term of reverence and endearment.

## Talmud - Mas. Sanhedrin 113b

was a hot tempered man. Now, he [Elijah] used to visit him, but [after this] he absented himself three days and did not come. When he came on the fourth day, he [R. Jose] said to him, Why didst thou not come before?' He replied, '[Because] thou didst call me hot tempered.' He retorted, 'But before us [thou] Master hast displayed [thy] temper!'<sup>1</sup> AND THERE SHALL CLEAVE NOUGHT OF THE CURSED THING TO THINE HAND: FOR AS LONG AS THE WICKED EXIST IN THE WORLD, THERE IS FIERCE ANGER IN THE WORLD, etc. Who are the wicked? — R. Joseph said: Thieves.<sup>2</sup>

Our Rabbis taught: When the wicked enter the world, wrath enters therein, for it is written, When the wicked cometh, then cometh also contempt, and with ignominy, reproach.<sup>3</sup> When the wicked perish from the world, good comes to the world, as it is written, And when the wicked perish, there is exultation.<sup>4</sup> When the righteous departeth from the world, evil entereth therein, as it is written, The righteous perisheth, and no man layeth it to heart: and merciful men are taken away, none considering that the righteous is taken away from the evil to come.<sup>5</sup> When the righteous cometh into the world, good cometh into the world as it is written, This same shall comfort us in our work and in the toil of our hands.<sup>6</sup>

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(1) By staying away for three days for such a trivial reason.

(2) [With particular reference to those who appropriate property of a condemned city. Cf. Sem. II, 9, where such an offence is made equivalent to the most cardinal sins (v. Yad Ramah and Glosses of Zebi Chajes).]

- (3) Prov. XVIII, 3.
- (4) Ibid. XI, 10.
- (5) Isa. LVII, 1.
- (6) Gen. V, 29.