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affords a basis for presumption, and they differ on the lines of Rabbi and R. Simeon b. Gamaliel?⁸ — No. Both agree with R. Simeon b. Gamaliel, but they differ on this question: One Master² holds that transgression affords a basis for presumption, the other Master,¹⁰ 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.¹¹ Now there he is not flagellated:¹² wherein then do they differ? — Rabina said: They differ as to whether one must be warned of the cell.¹³

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?¹⁴ — Resh Lakish quoted: Evil shall slay the wicked.¹⁵ 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;¹⁶ what is 'an evil trap'? — Resh Lakish said: A hook.¹⁷

MISHNAH. ONE WHO COMMITS MURDER WITHOUT WITNESSES IS PLACED IN A CELL AND [FORCIBLY] FED WITH BREAD OF ADVERSITY AND WATER OF AFFLICTION'.¹⁸

GEMARA. How do we know [that he committed murder]? — Rab said: On a 'disjoined' evidence.¹⁹ Samuel said: Without a warning.²⁰ 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.²¹ As we learned: It once happened that Ben Zakkai examined [the witnesses] as to the stalks of the figs.²²

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,²³ OR CURSES BY ENCHANTMENT, OR COHABITS WITH A HEATHEN [LIT. SYRIAN] WOMAN, HE IS PUNISHED BY ZEALOTS.²⁴ 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 STRANGLED; 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]²⁵ of libation.²⁶ And where is this alluded to?²⁷ That they come not to see how the holy things are stolen,²⁸ lest they [the purloiners] die.²⁹

OR CURSES BY ENCHANTMENT. R. Joseph learned, [He curses thus:] May the charm [the idol] slay its enchanter.³⁰ The Rabbis, others say, Rabbah b. Mari, say: [He curses:] May the charm slay him [his enemy], his Master and his Provider, etc.³¹

OR COHABITS WITH A HEATHEN WOMAN. R. Kahana propounded a problem to Rab:

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!

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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 showed 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' ([H]) time and place of the crime are meant; by 'minor circumstances' (bedikoth [H]) 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 honor 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. [H]
26. Num. IV, 7.
27. That a zealot who sees the theft must punish, i.e., slay him.
28. [H] 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 [H] may be an abbreviation of some transliterated unorthodox divine name, e.g., [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. oxe translates: May the charmer (= idol) slay its charmer (= God). But the Munich MS. reads [H] = what is like him (cf. [H] *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: [H] e.g., as the Nabateans curse, viz., Cursed be thou, thy possessor, and Him who gives thee possession.

Sanhedrin 82a

What if zealots did not punish him? Now Rab had completely forgotten [what he had learnt

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about this];¹ 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.² 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;³ 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;⁴ for Judah hath profaned the holiness [kodesh]⁵ of the Lord, — this refers to harlotry, and thus it is said, There shall be no consecrated harlot [kedeshah]⁶ of the daughters of Israel;⁷ 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.⁸ 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.⁹

R. Hiyya b. Abuiah 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:¹⁰ hath then a strange god a daughter — But it refers to one who cohabits with a heathen woman.

R. Hiyya b. Abuiah also said: 'This and yet another' is written upon Jehoiakim's skull.¹¹ 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.¹² 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 neighbors 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"'.¹³

When R. Dimi came,¹⁴ he said: The *Beth din* of the Hasmoneans¹⁵ decreed that one who cohabits with a heathen woman is liable to punishment on account of Nashga.¹⁶ When Rabin came,¹⁷ he said: On account of Nashgaz, i.e., *niddah*, *shifhah*, *goyyah* and *zonah*;¹⁸ but not on account of a married woman, because they themselves [sc. the heathens] do not recognize the marriage bond.¹⁹ But the other?²⁰ — They certainly gave no license to their wives.²¹

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;²² 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.²³ 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

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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.'²⁴ 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.²⁵ And it is also written, And Phineas, the son of Eleazar, the son of Aaron the priest, saw it.²⁶ 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':²⁷ whenever the Divine Name is being profaned, honor must not be paid to one's teacher.²⁸ 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;²⁹ hence one may not enter the house of learning with weapons.³⁰ 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 shows that the reference is to idolatry.
4. Lev. XVIII, 22.
5. [H]
6. [H]
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.

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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

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Levi is greater¹ 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;² [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;³ [iv] they did not slip off the spear; [v] an angel came and lifted up the lintel;⁴ [vi] an angel came and wrought destruction amongst the people.⁵ 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.⁶ Hence it is written, then stood up Phinehas, and executed judgment [wa-yefallel]⁷ R. Eleazar said: [wa-yispallel] [he prayed] is not written, but wa-yefallel,⁸ 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.'⁹ The tribes now began abusing him: 'See ye this son of Puti [= Putiel] whose maternal grandfather fattened [pittem] cattle for idols,¹⁰ 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.¹¹ [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;¹² and this atonement, [that Phinehas has made] is worthy of being an everlasting atonement.¹³

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?*¹⁴ — That wicked man, [sc. Zimri] cohabited four hundred and twenty-four times,¹⁵ that day, and Phinehas waited for his strength to weaken,¹⁶ not knowing that [God is] a King, against whom there is no rising up.¹⁷ 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*.¹⁸ 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 falsified¹⁹ her father's teachings.²⁰ Another interpretation is: She said to her father, 'Devour me [kosbi]²¹ this people,' And thus it is a popular proverb, 'What business hath Shewilanai²² by the reeds of the lake? What hath Shewilanai to do amongst the peeling rushes?²³ She prostitutes her mother.'²⁴

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]²⁵ the sins of his family;²⁶ 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 Zurishaddai.

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 learnt it: IF A PRIEST PERFORMED THE TEMPLE SERVICE 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

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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?²⁷ 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, That they come not to see how the holy things are stolen, lest they [the purloiners] die.²⁸ But what of one who **CURSES BY ENCHANTMENT?**²⁹ — [There too,] did not R. Joseph learn, [He curses thus:] May the charm slay the enchanter? So that it is somewhat analogous to blasphemy.³⁰ 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.³¹

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 show 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. [H], to argue.
9. Levi, the first ancestor of his tribe, had shown zeal for his sister's honor (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 ([H], 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.
15. The numerical value of *zarzir* [H], whilst cohabitation is understood from 'loins'.
16. Heb. [H], (weakened) is connected here with [H].
17. I.e., he need not have waited, for Zimri was already doomed.
18. I.e., she became very bloated. *Beth se'ah* is a field requiring one *se'ah* of seed.
19. From [H] falsehood.
20. V. 82a; he had instructed her to surrender only to the greatest man in Israel.
21. [H]
22. A common name for a dissolute woman. [The word is connected with the Arabic denoting 'womb opening', v. *MGWJ*. LXXIII, p. 398].
23. I.e., surely she goes to these secluded spots only for immoral purposes.
24. 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?'
25. From [H].
26. From [H]. 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.
27. V. *supra* 81b.
28. Num. IV, 20.
29. 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.
30. V. *supra* 56a. May Jose Smite Jose: blasphemy was punished by death.
31. That verse hints at death.