



Sanhedrin 69b

The William Davidson Talmud (Koren - Steinsaltz)



69b

- ואמאי אימא איילונית היא ואדעתא דהכי לא קדיש אלא לאו 1  
דאמרינן זיל בתר רובא ורוב נשים לאו איילונית נינהו

Rabbi Yirmeya of Difti explains how this mishna demonstrates that one follows the majority even in cases of capital law: **Why** is a man who engaged in intercourse with a three-year-old girl who was married to another man liable to receive the death penalty? **Say** that perhaps it will turn out that **she is a sexually underdeveloped woman [ailonit]** who is incapable of bearing children, **and her husband did not betroth her with this understanding;** and consequently the marriage is null, as it was entered into in error. Therefore, a man who engaged in intercourse with her should not be liable to receive the death penalty for adultery. **Rather, is it not that we say that one follows the majority, and the**



Sanhedrin 69b

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rather, is it not that we say that one follows the majority, and the majority of women are not sexually underdeveloped women, and therefore the assumption is that the betrothal was valid? This is proof that even in cases of capital law one follows the majority.



לא מאי חייב עליה דקתני קרבן 2

The Gemara refutes this claim: **No**; rather, **what** is the meaning of **that** which **is taught** in the mishna: And if she is married, a man other than her husband is **liable** for engaging in intercourse **with her** due to violation of the prohibition against intercourse with a married woman? This means that if a man unwittingly engaged in intercourse with a three-year-old girl who was married to another man, he is liable to bring a **sin-offering**, but there is no liability to receive the death penalty based on a majority.



והא מומתין על ידה קתני בבא עליה אביה 3



Sanhedrin 69b

The William Davidson Talmud (Koren - Steinsaltz)



- 3 והא מומתין על ידה קתני בבא עליה אביה

The Gemara asks: **But wasn't it taught** in the mishna: And if one of any of those with whom relations are forbidden, which are enumerated in the Torah, engaged in intercourse with her, the man is **executed by the court for engaging in intercourse with her?** The Gemara answers: This is referring to a case **where her father** or some other close relative **engaged in intercourse with her**, so that the prohibition is incest, rather than adultery.

- 4 והא אם בא עליה אחד מכל העריות קתני אלא הכא במאי עסקינן דקבלה עילויה

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## Sanhedrin 69b

*The William Davidson Talmud (Koren - Steinsaltz)*

- 4  
והא אם בא עליה אחד מכל העריות קתני אלא הכא במאי עסקינן  
דקבלה עילויה

The Gemara asks: **But wasn't it taught: If one of any of those with whom relations are forbidden engaged in intercourse with her**, the man is executed by the court for engaging in intercourse with her? This seems to indicate that the death penalty is imposed for all types of forbidden intercourse with a three-year-old girl, even if the intercourse is forbidden as a result of her being married. The Gemara refutes this claim: **Rather, what are we dealing with here?** With a case **where** the husband explicitly **accepted her upon himself** as his wife even if she turns out to be a sexually undeveloped woman. Therefore, another man who engages in intercourse with her is liable to receive the death penalty even if he is not one of her close relatives.



Sanhedrin 69b

The William Davidson Talmud (Koren - Steinsaltz)



- ת"ר המסוללת בבנה קטן והערה בה בית שמאי אומרים פסלה מן הכהונה ובית הלל מכשירין 5

§ The Sages taught in a *baraita*: If a woman was acting lewdly with her minor son and he performed the initial stage of intercourse with her, Beit Shammai say that he has thereby disqualified her from marrying into the priesthood. And Beit Hillel deem her fit to marry into the priesthood, because they maintain that the intercourse of a minor is not regarded as intercourse.

- אמר רבי חייא בריה דרבה בר נחמני אמר רב חסדא ואמרי לה אמר רב חסדא אמר זעירי הכל מודים בבן תשע שנים ויום אחד שביאתו ביאה פחות מבן שמנה שאין ביאתו ביאה לא נחלקו אלא בבן שמנה דב"ש סברי גמרינן מדורות הראשונים ובית הלל סברי לא גמרינו מדורות הראשונים 6





## Sanhedrin 69b

*The William Davidson Talmud (Koren - Steinsaltz)*

- אמר רבי חייא בריה דרבה בר נחמני אמר רב חסדא ואמרי לה  
אמר רב חסדא אמר זעירי הכל מודים בבן תשע שנים ויום אחד  
שביאתו ביאה פחות מבן שמנה שאין ביאתו ביאה לא נחלקו אלא  
בבן שמנה דב"ש סברי גמרינן מדורות הראשונים ובית הלל סברי  
לא גמרינן מדורות הראשונים

Rabbi Ḥiyya, son of Rabba bar Naḥmani, says that Rav Ḥisda says, and some say that Rav Ḥisda says that Ze'eiri says: All, i.e., both Beit Shammai and Beit Hillel, **concede with regard to a boy nine years and one day old that his intercourse** is regarded as **intercourse** and disqualifies a woman from marrying into the priesthood as well as results in her liability to receive the death penalty, even though he himself is not liable to receive it. And they also all concede concerning a boy **less than eight years old that his intercourse is not** regarded as **intercourse** vis-à-vis these *halakhot*. **They disagree only about a boy**



## Sanhedrin 69b

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## לא גמרינן מדורות הראשונים

Rabbi Ḥiyya, son of Rabba bar Naḥmani, says that Rav Ḥisda says, and some say that Rav Ḥisda says that Ze'eiri says: All, i.e., both Beit Shammai and Beit Hillel, concede with regard to a boy nine years and one day old that his intercourse is regarded as intercourse and disqualifies a woman from marrying into the priesthood as well as results in her liability to receive the death penalty, even though he himself is not liable to receive it. And they also all concede concerning a boy less than eight years old that his intercourse is not regarded as intercourse vis-à-vis these *halakhot*. They disagree only about a boy who is eight years old, as Beit Shammai maintain that we learn from earlier generations, when people were able to father children at that age, and we apply that reality to the present; and Beit Hillel maintain that we do not learn from earlier generations.