**Why Did the Rabbis Oppose the Death Penalty?**

**תוספתא מסכת יבמות (ליברמן) פרק ח הלכה ז**

ר' עקיבא אומ' כל השופך דמים הרי זה מבטל את דמות שנ' שופך דם האדם באדם דמו ישפך.

Tosefta Yevamot 8:7

R. Akiva says: Anyone who spills blood has diminished the image, as it says, "One who spills the blood of a man, by a man his blood will be spilled, for in the image of God He made the man."

**דברים פרק כא**

(כג) לֹא תָלִין נִבְלָתוֹ עַל הָעֵץ כִּי קָבוֹר תִּקְבְּרֶנּוּ בַּיּוֹם הַהוּא כִּי קִלְלַת אֱלֹהִים תָּלוּי וְלֹא תְטַמֵּא אֶת אַדְמָתְךָ אֲשֶׁר יְקֹוָק אֱלֹהֶיךָ נֹתֵן לְךָ נַחֲלָה:

Do not leave his body up on the tree for you shall bury him that very day. For an affront to God is the hanged body, and you shall not defile your land that the Lord your God has given you as an inheritance.

**תוספתא מסכת סנהדרין (צוקרמאנדל) פרק ט הלכה ז**

היה ר' מאיר אומ' מה תלמ' לומר כי קללת אלהים תלוי לשני אחים תאומים דומין זה לזה אחד מלך על כל העולם כולו ואחד יצא לליסטייא לאחר זמן נתפס זה שיצא לליסטיא והיו צולבין אותו על הצלוב והיה כל עובר ושב או' דומה שהמלך צלוב לכך נאמר כי קללת אלהים תלוי:

**Tosefta Sanhedrin 9:7**

R. Meir would say: What does Scripture mean when it says, "for an affront to God is the hanged body? [This is similar to] twin brothers who look exactly alike. One of them was king over all of the world and one became a bandit. After a while the bandit was caught and they were crucifying him on a cross and everyone was saying, 'It looks like the king is being crucified.' That is what it means when it says, 'for an affront to God is a hanged body.'

**Mishnah Sandhedrin 6:5**

How is he hanged?

The post is sunk into the ground with a [cross-] piece branching off [at the top] and he brings his hands together one over the other and hangs him up [thereby].

R. Yose said: the post is leaned against the wall, and he hangs him up the way butchers do.

He is immediately let down.

If he is left [hanging] over night, a negative command is thereby transgressed, for it says, “You shall not let his corpse remain all night upon the tree, but you must bury him the same day because a hanged body is a curse against god” (Deut. 21:23).

As if to say why was he hanged? — because he cursed the name [of god]; and so the name of Heaven [God] is profaned.

R. Meir said: “When man suffers, what expression does the *shechinah* (God’s presence) use? “My head is too light (a euphemism for heavy) for me, my arm is too light (a euphemism for heavy) for me.”

**Sifra Kedoshim 10:9**

“He shall surely die”, by strangling. Is this by strangling or by one of the other forms of death mentioned in the Torah? Go and learn: any death not specified in the Torah, you are not allowed to prolong it and make it more difficult but rather you should make it easier, according Rabbi Yoshaya. Rabbi Yehudah Hanasi says, “It says in the Torah ‘death by the hand of Heaven and death by the hand of man’, just as death by the hand of Heaven leaves no mark, so too death by man should also have no mark. From here they said: “This is the procedure for strangling: They would bury him in dirt up to his knees, and put a coarse rope layered inside a soft rope around his neck. One would pull in one direction and the other would pull in the other direction until he dies.

**Mishnah Sanhedrin 6:4**

The place of stoning was twice a man's height.

One of the witnesses pushed him by the hips, [so that] he was overturned on his heart.

He was then turned on his back.

If that caused his death, he had fulfilled [his duty]; but if not, the second witness took a stone and threw it on his chest.

If he died thereby, he had done [his duty]; but if not, he [the criminal] was stoned by all Israel, for it is says: “The hand of the witnesses shall be first upon him to put him to death, and afterwards the hand of all the people” (Deut. 17:7).

**Mishnah Sanhedrin 7:2-3**

The manner in which burning is executed is as follows:

They would lower him into dung up to his armpits, then a hard cloth was placed within a soft one, 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 burned his bowels.

Rabbi Yehudah says, “If he died by their actions (by

pulling the rope) they would not have fulfilled the mitzvah of burning. Rather against his will they force open his mouth with tongs and throw the wick inside his mouth, and it would descend to his innards and burn him up inside.

Rabbi Eliezer the son of Zadok said, “It happened with the daughter of a Kohen who committed an act of harlotry and they surrounded her with bundles of leaves and burned her.” They said to him: “This happened because that court was not composed of expert judges.”

**Sifra Shemini**

And all of Israel shall mourn the burning (of Nadav and Avihu) that God burned: Why does it say 'the burning' (השרפה)? You should make the following comparison—it says here 'burning' and it says later 'burning'—just as the burning said here is a burning where the soul is burned and the body remains, so too is the burning there—a burning of the life force but the body remains. That is the burning that the Torah prescribes for the daughter of a priest and a woman and her mother.