## נגמר הדין פרק שישי

(fol. 23a) משנה א: נְגְמַר הַדִּין מוֹצִיאִין אוֹתוֹ לְסוֹקְלוֹ. בֵּית הַסְּקִילָה הָיָה חוּץ לְבֵית דִּין (fol. 23a) שׁנה א: נְגְמַר הַדִּין מוֹצִיאִין אוֹתוֹ לְסוֹקְלוֹ. בֵּית הַסְּקִילָה הָיָה חוּץ לְבֵית דִּין שְׁנָּאֲמַר הוֹצֵא אֶת־הַמְסְלֵּל אֶל־מָחוּץ לַמְּחֲנֶה. וְאֶחָד עוֹמֵד עַלְיו זְכוּת הַלְּה מֵנִיף בַּסוּדָרִין וְהַפּוּדְרִין הְסִוּס רָף וּמַצְמִידוֹ. אֲפִילוּ הוּא אוֹמֵר יֶשׁ לִי לְלַמֵּד עַל עַצְמִי זְכוּת מַחֲזִירִין אוֹתוֹ וַאֲפִילוּ אַרְבָּעָה וַהַפּוּס רָךְ וּמַצְמִידוֹ. אֲפִילוּ הוּא אוֹמֵר יֶשׁ לִי לְלַמֵּד עַל עַצְמִי זְכוּת מַחֲזִירִין אוֹתוֹ וַאֲפִילוּ אַרְבָּעָה וַחֵמִשְׁה פְּצָמָה בִּלְבַד שַׁיָּהֵא מַפִּשׁ בְּדְבָרָיו.

**Mishnah 1**: If sentence was passed<sup>1</sup>, one brings him out to be stoned. The place for stoning was outside the court as it is said: *Bring the blasphemer outside the camp*<sup>2</sup>. One person was standing outside the court building with towels in his hand<sup>3</sup>; a horse<sup>4</sup> was standing ready at a distance but so he could see him<sup>5</sup>. If one said<sup>6</sup>, I have an argument in his favor, that one waves his towels, the horse gallops and stops him<sup>7</sup>. Even if he himself says, I have an exculpatory argument for myself, one returns him<sup>8</sup> even four or five times, on condition that his argument be substantial.

- 1 If in a capital case the accused was condemned to death. In the list of biblical death penalties (Mishnah 7:1) stoning is mentioned first; therefore, the details of the stoning procedure are explained first.
- 2 Lev. 24:14. A walled city is the equivalent of the desert "camp"; the execution took place outside the city walls (Ketubot 4:6, Note 132). However, the unfaithful preliminarily married virgin was stoned in front of her parents' house (Deut. 22:21, Tosephta 10:10, Babli 45b) and the idolator at his place of worship (Deut. 17:5; Sifry Deut. 148; Babli Ketubot 45b).
- 3 Latin *sudarium*, -i, n.; in the Talmudim used for any rectangular piece of cloth too

small to cover the body. Here it is used for signal flags.

- 4 Meaning: a man on a horse.
- 5 The horse was stationed on the road to the place of execution as far away as possible so that the rider still could see the person holding the signal flags.
- 6 One of the judges or of the law students remaining in the court building.
- 7 The procession to the place of execution cannot start until the judges reassemble and decide whether the new argument is weighty enough to restart the deliberations towards a new vote.
- 8 To the court building to present his case to the judges.

(23b line 14) הלכה א: נְגְמֵר הַדִּין כול'. מַתְנִיתִין אוֹ כְרַבִּי אוֹ כְרַבָּנָן בְּעִיר שֻׁלְּגוֹיִם. דְּתַנֵּי בְּשְׁעַר דָּ. בְּשַׁעַר שָׁנִּיְדְּוֹם. בְּיַעַר הָּבִּין כול'. מַתְנִיתִן אוֹ כְרַבִּי אוֹ כְרַבְּנָן בְּעִיר שֶׁנְּיִדְּוֹם. בְּשְׁעַרִידְּ. בְּשַׁעַר שְׁנִּיְבְּהֹ בְּאַבְרִידְּ בְּשַׁעַר שְׁנִּיְבְיה בְּיַעַר שְׁנִּיְבְּהֹ בְּאַבְרִידְּ וַנְאֲמֵר לְהַלָּן כִּי־ִפְּצֵא בְּקְרְבְּּדְ בְּאַבֶּר שְׁעָרֶידְ הָאָמוּר לְהַלָּן כְּי־ִפְּצֵא בְּקְרְבְּּדְ בְּאַבְר שְׁעָרֶידְ הָאָמִיּר לְהַלָּן שְׁעַר שְׁנִידּוֹן שַׁעַר שְׁנִיִּדוֹן בּוֹ. בַּשְׁעַר שְׁנִידְּ הָאָמוּר לְהַלָּן וְהְוֹצֵאתְ בַּוֹּ אַתְרִידְּ הָאָמוּר לְהַלָּן שְׁעַר שְׁנִידּוֹן בּוֹ. אֶתְּ־הָאִישׁ הַהֹּוּא אוֹ אֶת־הָאִשָּׁה הַהָּוֹא אֵל אֶל־לְּיךְ. מֵה שְׁעָרֶידְ הָאָמוּר לְהַלָּן שְׁעַר שְׁנִידּוֹן בּוֹ. אַלְרִיךְ הָאָמוּר כָּאן שַׁעַר שְׁנִידּוֹן בּוֹ. אוֹ שְׁעָר שְׁנִידּוֹן בּוֹ בוֹ.

**Halakhah 1**: "If sentence was passed," etc. The Mishnah<sup>9</sup> either follows Rebbi or the rabbis in a Gentile city<sup>10</sup>. As we have stated: Rebbi said<sup>11</sup>, *at your gates*<sup>12</sup>, at the gate they were found. You are saying so, or maybe at the gate they were judged? It is said here, *at your gates*, and it says there, *if there be found in your midst, at one of your gates*<sup>13</sup>. Since *gates* mentioned there refers to the gate where he was found, *gates* mentioned here also refers to the gate where he was found. But the rabbis say, *at your gates*, at the gate where he was judged. You are saying so, or maybe at the gate were he was found? It is said here, *at your gates*, and it says there, *take this man or this woman*... *to your gates*<sup>14</sup>. Since *gates* mentioned there refers to the gate where he was judged, *gates* mentioned here also refers to the gate where he was judged.

- 9 The Mishnah has a blanket statement which treats all kinds of stoning in the same way (cf. Note 2). While it is not specified where the stoning takes place, it is clear that it cannot be in front of the court building, where the rabbis require the idolator to be stoned.
- 10 The rabbis agree that in a city whose majority population is Gentile and idolatrous, a stoning for idolatry must take place in the Jewish quarter [Tosephta Chapter 10 in the *editio princeps* (10:4 in the Wilna ed.), missing in Zuckermandel's edition, Halakhah 10:10.]
- 11 A similar text is anonymous in *Sifry Deut*. 148.
- The paragraph about punishment for idolatry (Deut. 17:2-7) mentions that idolatry was practiced at your gates (v. 2) and that the idolator should be stoned at your gates (v. 5). The context indicates that the first gate is the place of worship, the second the place of execution. talmudic doctrine of unique meaning of lexemes requires that at your gates have the same meaning in both cases. Either the meaning in v. 5 is induced by that of v. 2 (Rebbi) or that in v. 2 by v. 5 (the rabbis). On methodological grounds, Rebbi's position is preferred in the Babylonian sources (Ketubot 45b and Sifry).
- 13 Deut. 17:2.
- 14 Deut. 17:5.

אָמַר רְבִּי יוֹחָנֶן. כַּתְּחִילָּה בֵּין גַשׁ מַפְּשׁ בַּדְּבָרָיו בֵּין לָאוּ שׁוֹמְעִין לוֹ. מִיכֶּן וְהֵילְדְּ נֵשׁ מַפְּשׁ בַּדְבָרָיו שׁוֹמְעִין לוֹ. מִיכֶּן וְהִילִּדְּ נֵשׁ מַפְּשׁ בַּדְבָרָיו שׁוֹמְעִין לוֹ וְאָם לָאוֹ אֵין שׁוֹמְעִין לוֹ. אֶמְרֵי. וְהוּא שְׁיֵשׁ בַּדְבָרָיו הָאַחַרוֹנִים מַפְּשׁ בַּדְבָרָיו שׁוֹמְעִין לוֹ וְאָם לָאוֹ אֵין שׁוֹמְעִין לוֹ. אֶמְרֵים. הָא לֹא נִשְׁתַּתַק הָיָה לוֹ מַפְשׁ בַּעְל עַצְמוֹ וְכִוּת. שְׁמַע רְבִּי יוֹחָנֶן וָמַר. הֵא שְׁאֵלְתָא דְחַמְרָא. אֶלֶּא כִינִי. הֲרִי שְׁהָיָה יוֹצֵא לְלַמֵּד עַל עַצְמוֹ וְכוּת. שָׁמַע רְבִּי יוֹחָנֶן וָמַר. הֵא שְׁאֵלְתָא דְחַמְרָא. אֶלֶּא כִינִי. הָרִי שְׁהָיָה יוֹצֵא לִיהָרג וְאָמֵר. וְשׁ לִי לְלַמֵּד עַל עַצְמִי זְכוּת וְנִשְׁתַּתְק. כֵּן אָנוּ אוֹמְרִים. הָא אִילוּ לֹא נִשְׁתַּתִק הָיָה לוֹ לוֹ לְלַמֵּד עַל עַצְמוֹ וֹכוּת. אָמֶר. הֵא אָמִירָה.

Rebbi Johanan said, the first time one listens to him whether or not his arguments are substantial<sup>15</sup>. After that, if his arguments are substantial<sup>16</sup> one listens to him, otherwise one does not listen to him. They said, only if his later arguments are substantial<sup>17</sup>.

Hizqiah asked: If he was led out to be executed when he became paralyzed, do we say that had he not become paralyzed, he would have argued for his acquittal? Rebbi Johanan heard this and said, this is a donkey's question<sup>18</sup>. But it must be: If he was led out to be executed and said, I have to argue for my acquittal: when he became paralyzed, do we say that had he not become paralyzed, he would have argued for his acquittal? He said, that is a statement<sup>19</sup>.

- 15 In the Tosephta (9:4): The first three times. In the Babli (45a) Rav Pappa's statement parallels that of R. Johanan here.
- 16 As the Babli points out, this implies that some persons learned in the law are always near the condemned for preliminary evaluation of his arguments.
- 17 The statement of the Mishnah that the court is reconvened only if the arguments presented be substantial, refers only to the second and following times, not to the first appeal.
- 18 It is stated in Mishnah 2 that the entire world is invited to present exculpatory arguments. Do we say that because somewhere in the world a person may be paralyzed now, one can never execute anybody? (Babli 43a in the name of Babylonian scholars.)
- 19 Hizqiah agrees with the reformulation and its consequence, *viz.*, that the execution cannot proceed. The Babli leaves it as an open question.

(fol. 23a) **משנה ב**: אָם מֶצְאוּ לוֹ זְכוּת פְּטָרוּחוּ וְאִם לָאו יוֹצֵא לִיסְקֵל. וְהַכְּרוֹז יוֹצֵא לְפָנֶיו אִישׁ פְּלוֹנִי בֶּן פְּלוֹנִי יוֹצֵא לִסְּקֵל עַל שֶׁעָבַר עֲבֵרָה פְלוֹנִית וּפְלוֹנִי וּפְלוֹנִי עֵדָיו וְכָל־מִי שֶׁהוּא יוֹדֵע לוֹ זְכוּת יָבוֹא וִילִמֵד: **Mishnah 2**: If they found him innocent<sup>20</sup>, they free him, otherwise he is led to be stoned. The herald<sup>21</sup> goes before him: "X ben Y is led to be stoned because he committed crime Z; U and V testified against him<sup>22</sup>. Anybody who knows of his innocence shall come and argue."

- 20 Upon reconsideration.
- 21 Greek κῆρυξ.

22 The call is for witnesses who can prove the original witnesses to be perjured.

(23b line 31) **הלכה בּ:** אָם מֶצְאוּ לוֹ זְכוּת כול'. תַּנֵּי. שׁוֹר הַיּוֹצֵא לִיּסְקֵל וְנְמְצְאוּ עֵידָיו זוֹמְמִין. רְבִּי יוֹחָנֶן אָמֵר. כָּל־הַקּוֹדֵם בּוֹ זָכָה. רֵישׁ לָקִישׁ אָמֵר. הֶפְּקֵר טָעוּת הוּא. וְכֵן עֶבֶד הַיּוֹצֵא לִיּסְקֵל וְהָקַדְּישׁוֹ בְעַלֵיו. רְבִּי יוֹחָנֵן אֲמֵר. זַכָה לְעַצְמוֹ. רִישׁ לַקִישׁ אַמֵּר. יִיאוּשׁ שַׁלְּטַעוּת הוּא.

**Halakhah 2**: "If they found him innocent," etc. <sup>23</sup>It was stated: If a bull was led out to be stoned when its witnesses were found to be perjured, Rebbi Johanan said, the first to come acquires it; Rebbi Simeon ben Laqish said, it was a false declaration of ownerlessness<sup>24</sup>. Similarly, if a slave was led out to be stoned when his owner dedicated him to the Temple<sup>25</sup>, Rebbi Johanan said, he acquired himself; Rebbi Simeon ben Laqish said, it was false despair.

- 23 Better versions of this paragraph are in 10:8 Note 337, *Bava qamma* 4:9 Notes 122-125.
- 24 This is Babylonian spelling. The Yerushalmi form is הבקר.
- 25 One has to read with the parallel

sources: When his witnesses were found perjured. At the moment the slave is condemned to death, he loses all value for his owner; valueless objects cannot be dedicated. Therefore the dedication is the equivalent of declaring the slave ownerless.

(fol. 23a) משנה גיּ רָחוֹק מָבֵּית הַסְּקִילָה עָשֶׂר אַמּוֹת אוֹמֵר לוֹ הְתְוַדֵּה שָׁכֵּן דֶּרֶךְ כָּל־הַמּוּמָתִין מְּבָּל הַמִּתְנַדְּה יָשׁ לוֹ חֵלֶק לְעוֹלֶם הַבָּא. שֶׁכֵּן מָצִינוּ בְעָכָן שֶׁאָמֵר לוֹ יְהוֹשַׁעַ בְּנִי שְׁים־נֵּא מִתְנַדְּיו שְׁכֶּן הַתְּלַבְי לִי מְהַ עָשִׁית אַל־תְּכַחָד מִמְנִּיי וַשְׁנַיִין שְׁנִּתְכַּ הַבָּא לִי מֶה עָשִּׁיתִ אַל־תְּכִי יִשְּׂרָאֵל וְכָיָאת וְכָזְאת עָשְׂיתִי וּמְנַיִין שֶׁנְּרְכַּבֵּר אֶתִי שֻׁלְּתְל וְכָזְאת וְכָזְאת וְכָזְאת עָשְׂיתִי וֹמְנַיִין שֶׁנְּרְכַּבְּר יְיִבִּיוֹם הַיָּה אַתְּה עָכוּר וְאֵי אַתָּה לוֹ וִדּוּיוֹ שְׁנָּאֲמֵר וַיִּאַמְר וְיָאַמְר וְיִבּיִּאְעֵרְרְךְּ יִי בַּיִּוֹם הַיָּה. הַיּוֹם הַיָּה אַתָּה עָכוּר וְאֵי אַתָּה לֵנוֹר לְבִוֹא.

**Mishnah 3**: Ten cubits' distance from the place of stoning one tells him: confess! So is the way of any dying person to confess, since anyone who confesses has part in the World to Come. For so we find about Achan to

whom Joshua said, my son, honor the Eternal, the God of Israel, confess to Him, and tell me what you did, do not hide it from me. Achan answered Joshua and said, in fact I sinned against the Eternal, the God of Israel, and such and such I did<sup>26</sup>. From where that his confession atoned for him? For it is said, Joshua said to him, how did you devastate us; may the Eternal devastate you on this day<sup>27</sup>. This day you are devastated; you are not devastated in the Future World.

26 Jos. 7:19-20.

27 Jos. 7:25.

(23b line 35) **הלכה ג**י בחוק מבית הסקילה עשר אמות כול'. את מוצא שפשמעל עכן בחרם התחיל יהושע מפייס לפני הקדוש ברוד הוא ואומר. רבונו שלעולם. הודיעיני מי זה האיש. אַמַר לוֹ הַקַּדוֹשׁ בַּרוּדָּ הוּא. אֵינִי מִפַּרְסֶם כַּל־בַּרִייַה וָלֹא עוֹד אַלַא נִמְצֵאתִי אוֹמֵר לַשׁוֹן הַרַע. אַלָּא לַדְּ וָהַעֲמֶיד אָת יִשְרָאָל לִשְׁבַטִיו וַהַפֶּל עַלְיהַן גּוֹרָלוֹת. מיַּד אָנִי מוֹצִיאוֹ. הַדָּא הִיא דָּכָתִיב וַיַּשְׁכֵּם יִהוֹשָׁעַ בַּבֹּקָר וַיַּקְרֵב אֵת־יִשְׂרָאֵל לְשָׁבָטֵיוּ וַיִּלְכֵּד עַכָּן בֵּן־כַּרְמֵי בַּן־זֵרֵח לְמַטֵּה יָהוּדָה: אַמַר לוֹ עַכַן. מַה. בַּגוֹרַל אַתָּה תוֹפְשִׁינִי. לֶית בְּכַל־הַהֶן דַּרָא כַּשֵׁר אֵלָא אַתִּ וּפִינָחַס. אַסְקוּן נִיבְזִין בֵּינֵיכוֹן. פַּנָטוֹס דְמַתַפַּייֵס חַד מִינַכוֹן. וָלֹא עוד אֶלַא לְמֹשֶׁה רַבַּדְ לֵית מִידְמוֹדְ אַלָא תַּלִתִּין אוֹ אַרָבַּעִין יוֹמִין. לֹא כֵן אַלְפַּן משֶׁה רַבַּן עַל־פֵּי | שְׁנַיִם עֵדִׁים. שְׁרִיתָה טָעֵי. בּאוֹתַהּ שַעָה צַבָּה יָהוֹשָׁעַ בִּרוּחַ הַקּוֹדֵשׁ שֶׁהוּא מַחַלֶּק לִישַׂרָאֵל אֶת הַאַרְץ בַּגוֹרַל. הַדָא הִיא דכתיב וַיַּשַׁלַדְ לַהָּם יהושע גורל. אמור מעתה. אנו מוציאין שם רע על הגורלות. וַלֹא עוד אָלָא שָׁאָם נִתְקִייִמוּ עַכְשַׁיוֹ יָהוּ כַל־יִשְׁרָאָל אוֹמְרִים. בַּדַינֵי נְפַשׁוֹת נִתְקִייִמוּ כַּל־שָׁכֶּן בִּדִינֵי מָמוֹנוֹת. וְאִם בָּטְלוּ עַכְשָׁיו יְהוּ כָּל־יִשָּׁרַאֵל אוֹמְרִים. בְּדֵינֵי נְפַשׁוֹת בַּטְלוּ כַּל־שַׁכֵּן בִּדִינֵי מַמוֹנוֹת. בּאוֹתַהּ שַׁעָה התחיל יהושע מפייס לעכן וּמשבע ליהּ באלהי ישראַל וָאוֹמֵר לוֹ. בָּנַי שִׁים־נַא כָבוֹד לַיִי אֱלֹהֵי יִשְׂרָאֱל. וַיַּעָן עָכָן אֶת־יְהוֹשָׁעַ וַיֹּאמֵר. אַמְנַה. מַהוּ אַמְנַה. קוּשְּׁטָא. אַנֹכֵי ָחָטָּאתִי לַיִי אֱלֹהֶי יִשְׁרָאֶׁל. אֲמַר לֵיהּ. מַה אֲנָא בָעִי מִינַךְ חַדַא וְאַתּ אֲמָרַת לִי תַּרְתֵּי. אֲמַר לֵיהּ. אַנִי הוּא שֶׁמַעַלְתִּי בָחֶרֶם מִדְיַן וּבָחֶרֶם יָרִיחוֹ. אַמַר רְבִּי תַנְחוּמַא. בָּאַרבַּעָה חַרְמִים מָעַל. בְּחֵרֶם כְּנַעַנִי מֶלֶךְ עַרָד. בָּחֵרֶם סִיחוֹן וְעוֹג. בָּחֵרֶם מִדְיָן. בָּחֵרֶם וְרִיחוֹ. וּמְנַיִין שֶׁכִּיפֵּר לוֹ ווִידּוּיוֹ. ַשְׁנָאֲמַר וּבָנֵי זָֹרֵח וֹמָרִי וְאֵיתָן וגו'. רְבִּי יָהוֹשָׁעַ בֵּן לֵוֵי אָמַר. וְמִרִי זֶה עָכָן שַׁעָשָּׁה מַעֲשֶׂה וְמְרִי רָבִּי שְׁמוּאֵל בַּר נַחְמָן אָמַר. הֵימָן זֶה עָכָן. אָמְנָה אָנֹכֵי חָטָאתִיֹ. כּוּלָם חֲמִשֶּׁה. וְכִי אֵינִי יוֹדֵע שָׁהַן חֲמִשָּׁה. אֶלֹא מִלַמֵּד שֵׁאַף עָכָן יֵשׁ לוֹ חֵלֵק לְעָתִיד לָבוֹא.

**Halakhah 3**: "Ten cubits' distance from the place of stoning," etc. You find that when Achan stole from the ban, Joshua started supplicating before the Holy One, praise to Him, and said: Master of the Universe, inform me who is the man. The Holy One, praise to Him, answered: I never publicize

any creature. In addition, would I not be guilty of slander<sup>28</sup>? But go and let Israel stand up by its tribes and throw lots, then immediately I shall draw him That is what is written: Joshua got up early in the morning and summoned Israel by its tribes. Achan ben Karmi ben Zerah from the tribe of Jehudah was caught<sup>29</sup>. Achan told him, how? Do you catch me by lots<sup>30</sup>? There is nobody more pious in the present generation than you or Phineas. Let lots be thrown between you, certainly<sup>31</sup> one of you will be caught. Not only this, but your teacher Moses died only 30 or 40 days ago. Did not our teacher Moses instruct us: By the testimony of two witnesses<sup>32</sup>? You started erring. At that moment did Joshua have a vision by the holy spirit how he distributes the Land to Israel by lots. That is what is written: Joshua threw lots for them<sup>33</sup>. This means, we are giving lots a bad name. Not only this, but if lots are confirmed now, all of Israel will say, since the lots were true in criminal matters, so much more in money matters. But if they are repudiated now, all of Israel will say, since the lots were repudiated in criminal matters, so much more in money matters. At that moment, Joshua started supplicating Achan, entreated him in the name of Israel's God, and said to him: my son, honor the Eternal, the God of Israel, . . . Achan answered Joshua and said, in fact<sup>26</sup>. What means אמנה? Truth<sup>34</sup>. I sinned against the Eternal, God of Israel. He told him, I asked you for one and you are answering me two<sup>35</sup>? he answered, I stole from the ban of Midian and the ban of Jericho. Rebbi Tanhuma said, he stole from four bans: The ban of the Phoenician, king of Arad, the ban of Sihon and Og, the ban of Midian, the ban of Jericho.

From where that his confession atoned for him? It is said<sup>36</sup>, *the sons of Zerah: Zimri and Ethan*, etc. Rebbi Joshua ben Levi said, Zimri is Achan who behaved like Zimri<sup>37</sup>. Rebbi Samuel bar Nahman said, *Heman*<sup>38</sup> that is Achan, *omna* I sinned. *Altogether five*. Did I not know that they were five<sup>39</sup>? But it teaches that Achan also has part in the World to Come<sup>40</sup>.

<sup>28</sup> Babli 11a, 43b. An expanded version in *Tanhuma Mas* e 5.

<sup>29</sup> Jos. 7:16.

<sup>30</sup> The entire procedure described in *Jos.* 7:16-26 cannot be justified either in pentateuchal or in rabbinic law.

- 31 Greek πάντως. The outcome of drawing of lots is essentially predetermined by the set from which the lot is drawn.
- 32 Deut. 19:15.
- 33 Jos. 18:10.
- 34 Deriving אמנה from the root אמן.
- 35 Referring to the doubling *such and such* in v. 7:20.
- 36 The assassin of king Ela, *1K*. 16:10. In *Jos*. 7:19, the son of Zerah and father of

Carmi is called *Zavdi*, not *Zimri*. This underlies the talmudic doctrine that all of Chronicles is to be explained alegorically.

- 38 Aramaic הֵימָן is Hebrew נֶאֶמָן, cf. Note 34.
- 39 Since the verse enumerates five sons of Zerah.
- 40 Since he is counted together with Ethan and Heman, the composers of psalms. Tosephta 9:5.

(fol. 23a) **משנה ד**: וְאָם אֵינוֹ יוֹדֵעַ לְהְתְוַדּוֹת אוֹמְרִים לוֹ אֱמוֹר תְּהֵא מִיתָתִי כַּפָּרָה עַל כָּל עֲוֹוֹנוֹתַי. רַבִּי יְהוּדָה אוֹמֵר אִם הָיָה יוֹדֵע שְׁהוּא מְזוּמֶם אוֹמֵר תְּהֵא מִיתָתִי כַּפָּרָה עַל כָּל עֲווֹנוֹתַי חוּץ מֵעוֹן זֶה. אָמִרוּ לוֹ אָם כֵּן יִהוּ כָל־אַדָם אוֹמֵר כַּדְּ כָּדֵי לְנַקּוֹת אֵת עַצְמַן:

**Mishnah 4**: If he does not know how to confess, one tells him, say: "My death shall be atonement for all my sins." Rebbi Jehudah said, if he knows that he was the victim of perjurers, he says: "My death shall be atonement for all my sins except this one.<sup>41</sup>" They told him, if so, everybody would say so to declare themselves innocent<sup>42</sup>.

- 41 For which he is being stoned.
- 42 And to declare the witnesses perjured and the judges bribed or incompetent.

(10 cline 61) **הלכה ד**: וְאָם אֵינוֹ יוֹדֵעַ לְהְתְּוַדּוֹת כוּל'. מַעֲשֶׂה בְאֶחָד שֶׁהָיָה יוֹצֵא לִיהָרֵג. אֶמְרוּ לוֹ. אֱמְוֹר. תְּהֵא מִיתָּתִי כַפָּרָה עַל־כָּל עֲווֹנוֹתֵי חוּץ מִן לוֹ. אֱמוֹר. תְּהֵא מִיתָּתִי כַפָּרָה עַל־כָּל עֲווֹנוֹתֵי חוּץ מִן עֵוֹן זֶה. אִם עָשִׂיתִיו אַל יִמְחוֹל לִי. וּבֵית דִּין יִשְׂרָאֵל יְהֵא נָקִי. וּכְשָׁבָּא דָּבָר אֶצֶל חֲכָמִים זֵלְגוּ עֵיוֹר. אָם עָשִׂיתִיו אַל יִמְחוֹל לִי. וּבֵית דִּין יִשְׂרָאֵל יְהֵא נָקִי. וּכְשָׁבָּא דָּבָר אָצֶל חֲכָמִים זֵלְגוּ עֵיִהם. אֱמִרוּ. לְהָחָזְיִרוֹ אֵי אָבְּשַׁר שֵׁאֵין לְדַבַּר סוֹף. אֶלַר הֵרִי דָּמוֹ תַלוּי בַּצַּוֹר עִדִּים.

**Halakhah 4**: "If he does not know how to confess," etc. <sup>43</sup>"It happened that one was led out to be executed. They told him, say: 'My death shall be atonement for all my sins.' He said, 'my death shall be atonement for all my sins except for this sin; if I committed it, He<sup>44</sup> should never forgive me, but the court of Israel is innocent.' When the case came before the Sages, their tears flowed. They said, it is impossible to reopen the case<sup>45</sup>, since it would never end. But this person's blood hangs on the witnesses' necks."

- 43 Babli 44b, Tosephta 9:5.
- 44 God.
- 45 Since the statement was not

accompanied by any argument or proof of perjury. The Babli version is very difficult at this point.

(fol. 23a) **משנה ה**: רַחוֹק מָבֵּית הַסְּקִילָה אַרְבַּע אַמּוֹת מַבְּשִׁיטִין אֶת בְּגֶדָיו. הָאִישׁ מְכַסִּין אוֹתוֹ מִלְפָנָיו וְהָאִשָּׁה מִלְפָנֶיהָ וּמֵאַחֲרֶיהָ דִּבְרֵי רְבִּי יְהוּדָה. וַחֲכָמִים אוֹמְרִים הָאִישׁ נִסְקֵל עָרוֹם וְאֵין הַאִשָּׁה נִסְקַלֵּת עַרוּמַה:

**Mishnah 5**: At a distance of four cubits from the place of stoning one removes his clothes. One covers a man in front, a woman one covers front and back, the words of Rebbi Jehudah; but the Sages say, a man is stoned naked<sup>46</sup>, but no woman is stoned naked<sup>47</sup>.

46 Except for a loin cloth.

47 She may not be touched by men.

(23c line 16) הלכה ח: אָמֵר רָבִּי אֱלִיעֶזֶר כול'. מְחְלְפָה שִׁיטַת רְבִּי יְהוּדָה. תַּמֶּן אָמַר. אִם הָיָה שְׁעָרָהּ נָאָה לֹא הָיָה סוֹתְרוֹ. וָכָא הוּא אוֹמֵר אָכֵין. הָכָא מִכָּל־מָקוֹם לְמִיתָה אֵזְּלָה. בְּרַם תַּמֶּן שְׁעָרָהּ נָאָה לֹא הָיָה סוֹתְרוֹ. וָכָא הוּא אוֹמֵר אָכֵין. הָכָא מִכְּל־מָקוֹם לְמִיתָה אֵזְלָה. בְּרִם תַּמֶּן שְׁיִבְּרוֹ הָמִיּשְׁ נִסְקֵל עְׁרוֹם וְאֵין הָאשָׁה נִסְקֶלֶת עֲרוּמָה. וָכָא אִינּוּן אֱמְרִין הָכֵין. הָכָא וְאֵהַבְתָּ לְּרֵעַדָּ כְּמִוֹדְּ. בְּרוֹר לוֹ מִיתָה יָפָה. בְּרַם תַּמֵּן נִינְּסְרוּ כַּל־הַנַּשִׁים.

<sup>48</sup>**Halakhah 8**: "Rebbi Eliezer said," etc. The argument of Rebbi Jehudah seems inverted. There, he says: "If her hair was beautiful, he did not uncover it." And here, he says so? Here, anyhow she goes to her death, but there, maybe she will be found to be pure and the young priests would attack her. The argument of the rabbis seems inverted. There<sup>49</sup>, they say: "A man is stoned naked, but no woman is stoned naked." And here<sup>50</sup>, they say so? Here, *you shall love your neighbor as yourself*, choose for him a decorous death. But here, *all women should be taught*.

48 For the rest of this Chapter, Mishnaiot and Halakhot do not fit together in the ms. and *editio princeps*. The quotes at the start refer to the Mishnaiot indicated by the Halakhah; the text has been placed after the Mishnah to which it belongs. The text in

this Halakhah is essentially a copy from *Sotah* 1:5, Notes 226-232.

- 49 This should be "here", showing that the original is in *Sotah*.
- 50 This should be "there".

(fol. 23a) משנה וּ: בֵּית הַסְּקִילָה הָיָה גָבוֹהַ שְׁתֵּי קוֹמוֹת וְאֶחָד מִן הָעֵדִים דּוֹחֲפוֹ עֵל מְתְנָיו. נֶהְפַּדְּ עַל לִבּוֹ הוֹפְכוֹ עַל מָתְנָיו אִם מֵת בָּהּ יָצָא. וְאִם לָאו נוטֵל אֶת הָאֶבֶן וְנוֹתְנָהּ עַל לְבּוֹ. אִם מֵת בָּהּ יָצָא וְאִם לָאו הָעֵד הַשִּׁנִי נוֹטֵל אֶת הָאֶבֶן וְנוֹתְנָהּ עַל לְבּוֹ. אִם מֵת בָּהּ יָצָא וְאִם לָאו רְגִימָתוֹ בָּכָל יִשְׂרָאֵל שַׁנָּאַמֵּר יֵד הַעַדְּים תָּהִיֵּה־בִּוֹ בְרֵאשׁנָה ֹ לַהַמִּיתוֹ וְיֵדְ כָּל-הָעָם בָּאַחַרֹנָה.

**Mishnah 6**: The place of stoning was two man-sizes high; one of the witnesses pushed him at his hips<sup>51</sup>. If he fell on his breast, he turns him around on his back. If he died from this, it is sufficient; otherwise he takes the stone<sup>52</sup> and puts it on his breast. If he died from this, it is sufficient; otherwise the second witness takes the stone and puts it on his breast<sup>53</sup>. If he died from this, it is sufficient; otherwise the stoning is on all of Israel as it is said: *The witnesses' hand shall be first on him to kill him, the hand of the entire people afterwards*<sup>54</sup>.

- 51 As both Talmudim state, *Ex.* 19:13 implies that throwing down is part of stoning.
- 52 According to Tosephta 9:6, a stone

which needed two people to be lifted.

- 53 This sentence is missing in all parallels; it may be a case of dittography.
- 54 Deut. 17:7.

(6 line הלכה ז: כֶּל הַנִּסְקָלִין נִתְלִין דִּבְרִי רְבִּי לִיעָזֶר כוּלֹ'. תַּנֵי. וְכִמְלוֹא קּוֹמָתוֹ שֶׁלְנוֹפֵל הָרֵי חֲמִשֶּׁה. הַבָּא אַתָּ מָר. וְכִמְלוֹא קּוֹמַת הַנּוֹפֵל הֲרֵי חֲמִשֶּׁה. וּבַבּוֹר שֻׁלַנִּיזָקִין אַתָּ מָר. עַד יְבָמְלוֹא קּוֹמֵת הַנּוֹפֵל שְׁלֹא מִדְּעַת. רְבִּי יוֹנְתָן בֶּן חֲלִי רְבִּי אֶבְדַּוּמִי בֶּן בְּעַיְה יְיִפְּיִם רָאִים וֹפֵל מִדְּעַת לַנּוֹפֵל שֶׁלֹא מִדְּעַת. רְבִּי יוֹנְתָן בֶּן חֲלִי רְבִּי אֶבְּדְּוֹמֵי בֶּן בְּרִבִּי יִאשִׁים רְבִּי יֹאשִׁיָּה. אִילִין דְּחַבְּטִין תּוֹרָא בְּחֵיילֵיה אֵין בּו מְשׁוּם רִיסּוּק אִיבְרִים. בְּיוֹמוֹי דְּרָבִי פִינְחָס חַבְּטוּ תּוֹרָא בְּחֵיילֵיה. אֲמֵר לוֹן. בְּחַייֵיכוֹן שָׁרוּנֵיה. שָׁרוּנֵיה וְקוּם וַעֲרַק. אָמָר. בָּרוּךְ שֶׁבָּחַר בַּחֲכָמִים וּבְדִבְרִיהֶם. דְּאֵמְרֵי. אִילֵין דְּחַבְּטִין תּוֹרָא בְּחֵילֵיה אֵין בּו מִשׁוּם רִיפּוּם רִיפוּה אֵין בּו מִשׁוּם רִיפוּה יִיבּיה וְקוֹים חַבְּטוֹי הְּבָּרִיהֶם. דְּאֲמְרֵי. אִילֵין דְּחַבְּטִין תּוֹרָא בְּחֵילֵיה אֵין בּו מִשׁוּם רִיפוּה יִיבְּים רִיבִּים מִּנְחָס חַבְּטוֹי הִּדְבְרִיהֶם. דְּאֲמְרֵי. אִילִין דְּחַבְּטִין תּוֹרָא אִנְּתוֹים.

**Halakhah** 7: "All those stoned are hanged, the words of Rebbi Eliezer," etc. It was stated<sup>55</sup>: "Adding his own height, these are five." Here you say, adding his own height, these are five. But for a pit in matters of damages, you say even ten handbreadths<sup>56</sup>. One cannot compare one who falls consciously, and one who falls accidentally.

Rebbi Jonathan ben Hali, Rebbi Eudaimon the son of Rebbi Tabi's daughter, in the name of Rebbi Josia: Those who throw down an ox with all their might<sup>57</sup> do not cause any of its limbs to break<sup>58</sup>. In the days of Rebbi Phineas they threw down an ox with all their might. He told them, By your

lives, free it. They freed it, it got up and fled. He said, praised be He Who selected the Sages and their pronouncements, for they say, those who throw down an ox with all their might not cause any of its limbs to break.

- 55 In the Babli, 45a, and Tosephta 9:6, the height of the fall is 3 = 2+1 man-sizes. 56 A pit 10 handbreadths deep ( $1\frac{2}{3}$  cubits) already is life-threatening (Mishnah *Bava gamma* 5:7).
- 57 Cattle is slaughtered lying down. To push down an ox for slaughter may need great force; does one have to limit the force for fear of causing injuries to the ox, which would make it unfit as food?
- 58 Babli Hulin 51b.

(23c line 14) וּמְנַיִּין שָׁשָעוּן סְקִילָה. שָׁנֶּאֱמֵר סָקְוֹל יִפָּקֵל`. וּמְנַיִין שֶׁשָעוּן דְּחִייָה. שֶׁנֶּאֱמֵר יָרַה יִיֵּרָה. וּמנַיִין שׁשַעוּן דַּחִיּוֹת. תּלמוּד לוֹמר יִיּרָה.

<sup>59</sup>From where that he needs to be stoned? For it is said<sup>60</sup>, *by stoning he be stoned*. From where that he needs to be pushed? For it is said, *by pushing he be pushed*. <sup>61</sup>From where that he needs two pushings? The verse says, *to be pushed*.

- 59 Babli 45a; Mekhilta dR. Ismael Yitro 3 (p. 212); Mekhilta dR. Simeon ben Johai Yitro p. 141.
- 60 Ex. 19:13.

61 In the parallel sources: From where that is is sufficient if he dies from being pushed? In the opinion of *Pene Moshe*, the second pushing is the turning on his back if he lands on his face.

(fol. 23a) **משנה ז: כֶּ**ל הַנִּסְקָלִין נִתְלִין דִּבְרֵי רְבִּי אֱלִיעֶזֶר וַחֲכָמִים אוֹמְרִים אֵינוֹ נִתְלֶה אֶלָא הַמְּנֵדְף וְהָעוֹבֵד עֲבוֹדָה זָרָה. הָאִישׁ תּוֹלִין אוֹתוֹ פָּנִיו כְּלַפֵּי הָעָם וְהָאִשָּׁה פָּנֶיהָ כְּלַפֵּי הָעֵץ דִּבְרִי רְבִּי לִיעֵזֶר וַחֲכָמִים אוֹמָרִים הַאִישׁ נִתָּלָה וְאֵין הָאִשְּׁה נִתְלֵית.

**Mishnah** 7: Anyone who was stoned is hanged<sup>62</sup>, the words of Rebbi Eliezer. But the Sages say, only the blasphemer and the idolator are hanged. A man is hanged face to the people and a woman face to the pole, the words of Rebbi Eliezer. But the Sages say, a man is hanged<sup>63</sup>, a woman is not hanged.

משנה ח: אָמַר לָהֶן רִבִּי אֱלִיעֶזֶר מַעֲשֶׂה בְשִׁמְעוֹן בֶּן שֶׁטָח שֶׁתַּלָה נָשִׁים בְּאַשְׁקְלוֹן. אָמְרוּ לוֹ שִׁמוֹנִים נַשִּים תַּלָה וְאֵין דָּנִין שָׁנַיִם בִּיוֹם אֵחָד. **Mishnah 8**: Rebbi Eliezer said, it happened that Simeon ben Shetah hanged women in Ascalon. They told him, he hanged eighty women, but one does not try two on the same day<sup>64</sup>.

משנה ט: פֵּיצַד תּוֹלִין אוֹתוֹ. מְשִׁקְעִין אֶת הַקּוֹרָה בָאֶרֶץ וְהָעֵץ יוֹצֵא מִמֶּנּוּ. וּמַקּיף שְׁתֵּי יָדְיוּ
זוֹ עַל גַּבֵּי זוֹ וְתוֹלֶה אוֹתוֹ. רְבִּי יוֹסֵי אוֹמֵר הַקּוֹרָה מֲשָׁה עַל הַכּּתֶל וְתוֹלֶה אוֹתוֹ כְּדֶרֶךְ שְׁהַשַּבְּחִין
עוֹשִׁין. תּוֹלִין וּמַתִּירִין אוֹתוֹ מִיָּד וְאִם לָן עוֹבֵר עָלָיו בְּלֹא תַעֲשֶׂה שְׁנֶּאֲמֵר לְא־תָלִין נִבְלְתוֹ
על־הָעֵׁץ כְּי־קַבָּוֹר תִּקְבְּרֶנוּוֹ בַּיִּוֹם הַהֹּוּא כִּי־קַלְלַת אֱלֹהָים תָּלִיִּי כְּלוֹמֵר מִפְּנֵי מַה זֶה תָּלוּי. מִפְּנֵי
שַׁבֵּרָדְ אָת הַשִּׁם וְנִמֵצְא שִׁם שִׁמִים מתחַלִּלִּי

**Mishnah 9**: How does one hang him? One sinks a stake into the ground, wood is sticking out from there. One binds both hands, one on top of the other, and hangs him. Rebbi Yose says, the beam is leaning on the wall<sup>66</sup>; one hangs him in the way butchers do. One hangs him and takes him down immediately; if he were left overnight, one would transgress a prohibition, as it is said<sup>67</sup>: *Do not leave his corpse on the wood overnight, but certainly bury him on the same day, for a hanged person is blasphemy.* This means, why was he hanged? Because he blasphemed; it turns out that the name of Heaven would be desecrated<sup>68</sup>.

- 62 *Deut.* 21:22 is read as a requirement that the corpse of the criminal be hanged after execution, not as recognizing hanging as a legitimate form of execution.
- 63 Since *Deut*. 21:21 refers to *a man* being executed.
- 64 In addition, he used hanging as a form of execution, which is forbidden.
- 65 By his hands.
- 66 He rejects a form which might resemble a Roman cross. He requires the

corpse to he hung from a horizontal beam like an animal carcass.

- 67 Deut. 21:23.
- 68 This is the rabbis' reason to restrict hanging to the blasphemer and those guilty of related crimes (Mishnah 7, Halakhah 9, *Sifry Deut.* 221). The verse is read following the Roman custom of noting the condemned person's crime on his cross, restricting hanging to crimes having an element of blasphemy.

(23b line 66) **הלכה ה**: רְחוֹק מָבֵּית הַסְּקִילָה אַרְבַּע אַמּוֹת כול'. אָמַר רְבִּי יְהוּדָה בַּר טַבַּאי. אֶרְאֶה בִנְחָמָה אִם לֹא הָרַגְתִּי עֵד זֹוֹמֵם. שֶׁהָיוּ אוֹמְרִים. עַד שְׁיֵּיהָרג. שֶׁנֶּאֲמֵר נֶבֶשׁ תַּחַת נֶבֶשׁ. אֶבְיה בִנְחָמָה אִם לֹא מַעֲלִים עָלֶידְּ כְּאִילוּ שָׁבַּרְתָּ דָּם נָקִי. בְּאוּתָהּ אָמֵר לוֹ שִׁמְעוֹן בֶּן שֶׁטַח. אֶרְאֶה בִנְחָמָה אִם לֹא מַעֲלִים עָלֶידְּ כְּאִילוּ שָׁפַרְתָּ דָּם נָקִי. בְּאוּתָהּ שָׁלֵא מִפִּי שִׁמְעוֹן בֶּן שֶׁטַח.

Halakhah 5: "At a distance of four cubits from the place of stoning," etc. <sup>69</sup>"Rebbi Jehudah ben Tabbai said, may I never see consolation if I did not execute a perjured witness, for they were saying, until he was executed, as it is said, *a life for a life*. Simeon ben Shetah told him, may I never see consolation if it is not held against you that you spilled innocent blood. At that time, he took it upon himself not to teach except what he heard from Simeon ben Shetah."

69 Babli *Makkot* 5b, Hagigah 16b; Tosephta 6:6. The text is badly truncated; following the parallel sources it should read approximately:

Jehudah ben Tabbai said, may I never see consolation if I did not execute a perjured witness, for the Sadducees were saying, a perjured witness is not executed unless the accused was executed, as it is said, a life for a life. Simeon ben Shetah told him, may I never see consolation if it is not held against you that you spilled innocent blood since no perjured witness is executed unless both of them are shown to

<u>be perjured.</u> At that time, he took it upon himself not to teach except what he heard from Simeon ben Shetah.

This is the first of a series of treatments of the Simeon ben Shetah legend (Mishnah 8) before one returns to a discussion of the Mishnah.

If only one of the witnesses is found perjured, neither his testimony nor that of the other witness can be used against the accused since both are testimonies of single witnesses unsupported by a second witness. The case against the accused has to be dismissed: there is no case.

(23b line 71) שְׁמְעוֹן בֶּן שֶׁטֵח הָיוּ יָדָיו חֲמוּמוֹת. אֲתַר סִיעַת לֵיצָנִין אֱמְרֵי. הֲבוּ עֵצָה נִיסְהוֹד עַל בְּרֵיהּ וְנִיקְטְלִינֵיהּ. אֲסְהִידוּ עֲלוֹי. וְנָגְמֵר דִּינוֹ לֵיהָרֵג. מִי נְפַק לְמִיתְקַטְּלָא אֲמְרֵי לִיהּ. מָרִי שִׁיקְרִין אֲנָן. בְּעָא אֲבוֹי מַחְזַרְתֵּיהּ. אֲמַר לֵיהּ. אַבָּא. אִם בִּיקַשְׁתָּה לָבוֹא תְשׁוּעָה עַל יָדָדְּ עֲשֵׂה אוֹתִי כָאֵסְקוֹפָּה.

Simeon ben Shetah's hands were hot<sup>70</sup>. There came a group of scoffers who said, let us take counsel, testify against his son, and kill him. They testified against him. He was sentenced to be executed. When he was taken to be killed, they told him, our Master, we are liars<sup>71</sup>. His father wanted to return him<sup>72</sup>; he told him, my father, if you want that salvation come through you<sup>73</sup>, treat me as a target<sup>74</sup>.

70 He was quick in persecuting persons not conforming to pharisaic standards (cf. H. Graetz, *Geschichte der Juden* 3-1<sup>5</sup>, p. 146).

71 They could confess their perjury with impunity. By Sadducee standards, a false witness in a capital case cannot be punished

as long as the victim was not executed. By pharisaic standards, no self-incrimination is admissible in court.

- 72 To have the conviction overturned, Halakhah 1.
- 73 By strict pharisaic (rabbinical) rules, witnesses cannot change their story once the

phase of testimony was concluded and deliberations started (*Bava mesia*` 1:2 Note 30; *Ševi`it* 10:5 Note 96). By the strict letter of the law, there was no ground for reconsideration.

74 Greek σκοπός, Latin *scopus*, "goal, target" (E. G.).

(23b line 75) **הלכה וּ** בֵּית הַסְּקִילָה הָיָה גָבוֹהַ כול'. מַצְשֶׁה בְּחָסִיד אֶחָד שֶׁהָיָה מְהַלֵּךְ בַּדֶּרֶךְ וְרָאָה שְׁנֵּי בְּנֵי אָדָם נִזְּקָקִין לְכַלְבָּה. אֶמְרִין. נֶן זֶדְעִין דּוּ גַּבְרָא חֲסִידָא אֲזִיל וּמַסְהִיד אֲלָן וּמָרֶן דָּוֹד קְטִיל לָן. אֶלֶא נַיִּקְדִּימֵיהּ וְנִיסְהוֹד אֲלוֹי. אַסְהִידוּ אֲלֵיה. וְנְגְמֵר דִּינוֹ לֵיהָרֵג. הוּא שֶׁדְּוֹד אָמֵר. הַצִּילָה מֵתֶרֶב נַפְשָׁי מִיִּד־בָּׁלֶב יְחִידָתִיּי מֵתֶרֶב. מֵהֶרֶב אוּרְיָּה. מִכֶּלֶב. מִכַּלְבּוֹ שֶׁלְחָסִיד.

ָרְבִּי יוּדָה בֶּן פָּזִי סְלַק לְעִילִיתָא דְבִי מִדְרָשָׁא וְרָאָה שְׁנֵי בְנֵי אָדָם נִזְקַקִין זֶה לָזֶה. אֱמְרוּ לֵיה. רְבִּי. הַב דַּעִתַּדְ דָּאָתַ חַד וָאָנֵן תִּרִי.

**Halakhah 6**: "The place of stoning was two man-sizes high," etc. It happened that a pious man was walking on the road when he saw two people having sex with a bitch. They said, we know that this is a pious man, he will go, testify against us, and our lord David will kill us<sup>75</sup>. Therefore, we shall be quicker than him and testify against him. They testified against him and he was sentenced to be executed. That is what David said<sup>76</sup>, *Rescue my soul from the sword, From the dog my only one! From the sword*, Uriah's sword. *From the dog*, the pious man's dog.

Rebbi Jehudah ben Pazi went to the upper floor of the House of Study and saw two men in homosexual activity. They said to him, Rebbi! Realize that you are one and we are two!

75 Which the king by his police powers 76 *Ps.* 22:21. could do on the information of one witness.

עאית תַּנָּיֵי תַנֵּי. יְהוּדָה בֶּן טַבַּאי נָשִׂיא. אִית תַּנָּיֵי תַנֵּי. שְׁמְעוֹן בֶּן שֶׁטַח נָשִׂיא. מְבּאי נָשְׂיא. מְיּת תַּנָּיֵי תַנֵּי. שְׁמְעוֹן בֶּן שֶׁטַח נָשִּׂיא. מֹבְדָא דַאֲלֶכְסַנְדְּרָיָאה מְסַיֵּיעַ לֵּיה. וַהֲוֹן בְּנֵי יְרוּשָׁלַם כַּוֹתְבִין. מִיְּרוּשָׁלַם הַגְּדוֹלָה לַאֲלֶכְסַנְדְּרָיָאה הַקְּטַנָּה. עַד מְתַי בַּעֲלִי שָׁרוּי בְתוֹכֵךְ וַאֲנִי יוֹשֶּׁבֶת בַּוֹתִי. עַגוּמָה בִּבִיתִי.

## Text of G

מֶאן דָּמַר. יְהוּדָה בֶּן טַבּאי נָשִׂיא. עוֹבְדָא דַאֲלֶכְסַנְדְּרָיָה מְסַיֵּע לֵּיה. וּמָאן דָּמַר. שִׁמְעוֹן בֶּן שָׁטַח נָשִׂיא. עוֹבְדָה דְאַשְּקְלוֹן מְסָיִעָא לֵיה. יְהוּדָה בֶּן טַבַּאי הֲווֹן בְּנֵי יְרוּשָׁלֵם בְּעִיֹן מַמְנִיתֵיהּ נָשְׂיא וְלָא קבּל עֲלוֹי. עֲרָק וַאֲזֶל לַאֲלֶכְסַנְדְּרָיָה. וַהֲוֹוֹן בְּנֵי יְרוּשָׁלֵם כוֹתְבִין. מִיְּרוּשָׁלַם הַגְּדוֹלָה לַאֲלֶכְסַנְדְּרָיָה הַקְּטַנָּה. עַד מְתַי בַּעֲלִי שָׁרוּי בְתוֹכֵךְ וַאֲנִי יוֹשֶׁבֶת עֲגוּמָה בְּבֵיתִי. פָּרְשׁ מִייְתֵי לֵיהּ לֵא אִסְרָטְא. אֲמֵר. דְּכִירָה מֵּרְתָא דְבִייְתָא דִיאוּת קבּלְתוֹן וַחַסִידָה הֲוֹת. אֲמֵר לִיהּ חַד מִן תַּלְיידוֹי. חָדָא עֵינָגְא הֲוֹוֶת שְׁוּנִרה. אֲמֵר לֵיהּ. אִית גַּבָּדְ תַּרְתֵּיי. חָדָא דְּאִיסְתַּכַּלְתְּ בָּהּ וְחָדָא דַּחִשְׁרָתוֹ נְאָקְבִיית נְאָה בְעוֹבְדָהּ. וְאקְפַּד בַּרְיוָאה לָא אֲמְרִית וְאֶלֶּא יָאָה בְעוֹבְדָהּ. וְאקְפַּד עֲלוֹי וַמְית.

Some Tannaïm state: Jehudah ben Tabbai was president; some Tannaïm state, Simeon ben Shetah was president<sup>77</sup>.

<sup>78</sup>What happened in Alexandria supports him who said, Jehudah ben Tabbai was president, since the people from Jerusalem did write: From the great Jerusalem to the small Alexandria: How long still will my husband live in your midst and I am sitting sorrowful in my house?

## Text of G

Tabbai was president; what happened in Ascalon supports him who said, Simeon ben Shetah was president. The people of Jerusalem wanted to appoint Jehudah ben Tabbai as president<sup>80</sup>, but he fled and went to Alexandria. The people from Jerusalem did write: From the great Jerusalem to the small Alexandria: How long still will my husband live in your midst and I am sitting sorrowful in my house? He took leave and started on the road trip<sup>81</sup>. He said, I remember the lady of the house who received us well and was so gracious. One of his students told him, one of her eyes was damaged. He told him, you have sinned twice; first that you looked at her, and second that you suspected me of having looked at her. I did not say that she was beautiful in looks; I only said that she was beautiful in her deeds. He was taking offense and he died<sup>82</sup>.

77 This refers to Mishnah *Hagigah* 2:2 (Babli *Hagigah* 16b) where early disagreements between the presidents of the Supreme Court and their deputies over an

aspect of Temple service are reported. The paragraph shows that this and the following paragraphs are originally from *Hagigah* (77d l. 33). In the Babli, Joshua ben

Perahia everywhere replaces Jehudah ben Tabbai.

The Aramaic of the following texts shows that one deals with popular tales.

78 This is a short excerpt of the text in *Hagigah*; the full text is given in G. But since the introductory sentence makes sense only in *Hagigah*, it may well be that the short reference here is original since the interest of the Halakhah is in the Simeon ben Shetah story, and the Genizah text is an enlargement. Therefore, each text is presented separately.

79 Hagigah 2:2 (77d l. 33), Babli Sotah

47a (in the edition of the Complete Israeli Talmud, p. 301 ff.). The paragraph was eliminated by the censor from the printed editions of the Babli starting with the Basel edition since the Babli named the wayward student ישׁר "Jesus".

80 The information of the Babli, that he fled when king Yannai turned against the Pharisees, is generally accepted as historical.

- 81 In the Babli, he went by ship.
- 82 Jehudah ben Tabbai took offense; the student died.

(23c line 30) ומאן דמר. שמעון בן שטח נשיא. עובדה דאשקלון מסייע ליה. תַרִין תַּלְמִידִין <sup>83</sup>(23c line 30) הַווּ בָאַשָּקלוֹן אূכְלִין כָּחַדָא וְשַׁתִּין כָּחַדָא וְלַעִיין בָּאוּרַייִתָא כְּחַדָא. מִית חַד מִינּוֹן וִלָא אִתִּגְמֵל ָחֶסֶד. מִית בַּר מֵעִיוַן מוּכַּס וּבָטֵילַת כַּל־מִדִינִתַא מִגְמִלִינֵיהּ חֱסֶד. שָׁרִי הַהוּא תַלְמִידָא בִכִי וַאָמֶר. ווַי. דִּילְמָא לִית לָשׁוֹנָאַי יִשְׁרָאָל כָּלוּם. אִיתַחֲמֶיהּ לֵיהּ בְּחַלְמֶיהּ וָאָמֵר. לָא תִיבְזִי בְנֵי ַמַרִידָּ. דָּיוָ עַבַד חַד זָכוּ וַאַזֵּל בֵּיה וָדֵין עַבַד חַד חוֹבָה וַאַזַל בֵּיה. וּמָה חובָה עַבַד. חַס דְּלָא עַבַד חוֹבָה מִן יוֹמוֹי. אֱלָא זִימְנַא חָדַא הָקְדִּים תַּפִילִין שֶׁלְרֹאשׁ לְתָפִילִין שֶׁלְיֵד. וּמַה זְכוּ עֲבַד בַּר מַעִייַן מוּכַּס. חַס לֵיהּ דָּלָא עַבָד וָכוּ מָן יומוי. אֶלֶא וִימְנֵא חַדָא עַבַד אָרְסְטוֹן לְבוּלֶבוֹטַייָא וְלָא אַתוֹן. אַמַר. יֵיתוּן מִיסְכֵּינֵי וְיֵיכָלוּנֵיהּ דְּלַא לִיקַלְקָל. וְאִית דַּמָרִין. הַוָה סַגִּי בְאוֹרְחָא וַהַנָה תחות שיחיה חד עיגול. ונפל ונסתיה חד מסכן ולא מר ליה מידי בגין דלא מסמקא אפוי. וַחַמָּא הַהוּא תלמידא גו גנּנון גו פּרדיסין גו מבּוּעין דמיא. וַחַמּא לבַר מַעייַן מוּכַּס קַייַם עַל גֵּיף נַהַרָא. בָּעֵי מַמְטֵי מַיַּא וָלַא מַטֵי. וַחַמַּא לִמְרַיָם בַּת עַלֵי בָצַלִים תַּלִייָא בִּחִיטֵי בִּיזַייָא. וְאִית דַּמָרִין. תַּרְעַת גָּהִינַּם קבִיעַא גַּו אוּדְנַהּ. אֲמֵר לוֹן. [לַמַה. אֲמִרין לֵיהּ. בָּגִין דַהַוַת צַיִּימָא וּמְפַרְסִייָהּ לִמְגִי[רְ]תָהּ. וְאִית דָּמִרִין. דַּהַוַת צֵייִמַא חַד יוֹם וּמִקַזַּה לַהּ תִּרֵי. אֲמֵר לוֹן. $^{
m G}$  עַד אָימַת כַּדִין. אַמֶּרִי לִיהַ. עַד דְּיֵתָי שָׁמְעוֹן בַּן שֲׁטֵח נַסְבִּין לַהַ מָן גַּוֹא אוּדְנַהּ וְיהַבִּין לַהּ גַּו אוּדְנֵיה. אָמַר לוֹן. וּמַה הוּא סוּרְחָנֵיה. אַמָּרִי לֵיה. דְּנָדַר עַל נַפַשִׁיה וַאַמַר. אִי אִתעַבִיד נִשִּׂייַא קָטַלִי לְכָל־חָרַשִׁייַא. וְהֵיידַן עָבִיד לֵיהּ נַשִּׂיא וְלַא קָטַלוּן. אֵלָּא תוּמִנִין נָשִׁים בִּמְעָרַת אַשְּקְלוֹן מְחַבָּלון עַלְמַא. זִיל וַמַר לֵיהּ. אֲמַר לוֹן, גַבָרָא רַבָּא הוּא וְלֵית הוּא מְהֵימְנָתִי. אֲמָרֵי לֵיהּ. עִינְוֹןן הוא סגי ומהימנתיד. ואין לית מהימנתיד אפיק עיניד ויבא גוא ידד. אפיק עיניה ויהב גַּו יֵדִיהּ. אַמָרוּ. חַזַּרָת וָאַשְּׁתַּווַת לַחַבַּיַרְתַהּ. אַזַל וַמַר לֵיהּ. בַּעַא מִיעַבַד סֵימַנֵיהּ קוֹמוֹי אֲמַר לֵיהּ. לֵית אַת צָרִידָּ. אַנַא יִדַע דַּתָּ גַּבָרָא חֱסִידַא. אַף עַל פִּי כֵן בִּלִיבִּי חַשְׁבֵית בִּפוּמִי לָא אַמְרֵית. וַהֲוָה יום סגריר. נטל תמנין גוברין בחירין לבושין מאנין נקיין ונסב עמון תַמַנִּין קִידְרִין חַדְתִּין.

אֲמֵר לוֹן. כֵּד נָא צְפַר לַבְּשִׁין מָנֵיכוֹן. וְכַד נָא צְפַר תִּנְיִינָנוּת עוּלּוּ. כֵּיוָן דְּאָעַל לִמְעָרַת אַשְׁקְלוֹן אֲנָא. כֵּיוָן דְּכָנַס. חָדָא אֲמְרָה מַה דָאֲמְרָה וּמֵייתֵי חַמְּרָא מֵּמְרָה מָה דָאֲמְרָה וּמֵייתֵי חַמְרָא מְמְרָה מָה דָאֲמְרָה וּמֵייתֵי חַמְרָא אֲמָר תִּבְשִׁילָה. חָדָא אֲמְרָה מַה דָאֲמְרָה וּמֵייתֵי חַמְרָא אֲמְרוּן לֵיהּ. מָה אִיּוֹת] בָּדְּ עֲבַד. אֲמֵר לוֹן. אִי בִּי עֲבִידְנָא צְפַר תְּרֵין זִימְנִין וּמְעַיֵיל לְהָכָא תּוּמְנִין בְּשִׁיתִי חָדִיא בְּמִי לְוֹן. אֶמְרוּן לֵיהּ. לוֹן גָן בְּעִייָן. כֵּיוָן דִּצְפַר לְבָשׁוּ מִנִין בְּעִייָן בְּשִּבְר תִּנְיִינִּוּ עָלוּ כּוּלְהוּ בְּחָדָא. רְמֵז לוֹן. כָּל־חַד מִינְּכוֹן וִטּוֹל חָדָא וִיטַלְטְלֶינָה מִמְין נְקִא מֵצְלַח מֵי דוּ עַבְדָּה. וַהְנָה אֲמֶר לְהַהִיא דְאַיִיתְת פִּיתָה. אֵיִיתִי לִּצְלִיבָא. וְלָא מַתְייָא. וְהוּא אֲמֵר. אַיִּתִי לִּבְלִיבָא. וְלָא מַתְייָא. וְהוּא אֲמֵר. אַיִּתִי לִּבְלִיבָא. בֵּיוֹ עְבָדְ לְכוּלְהִי, הַיְינִוֹ דְּתָבִּינָן. שְׁמִים נְשִׁים בִּיוֹם אָחָד. אֵלְא שַׁתְיִיא. וְהוּא אֲמֵר. אַיִּתִי לִּצְלִיבָא. כֵּין שְׁנִים בִּיוֹם אָחָד. אֵלְא שַׁתְיָּע, בִּיוֹ שְׁנִים בִּיוֹם אָחָד. אֵלְא שַׁתְיִיא. וְהוּא אֲמַר. אַיִּתְר. וְאִין דְּנִין שׁנִים בִּיוֹם אָחָד. אֵלְא שַׁתְיִיא בִּיְכָר. לְּכִין בִּיִים בִּיוֹם אָחָד. אֵיִימְתִי לִּצְלִיבָא. אַיִיתְר. וְנִין שְׁנִים בִּיוֹם אָחָד. אֵלְא שַׁתְּיָע. בְּיִלְה לָבוּן בִּין שְׁנִים בִּיוֹם אָחָד. אֵלְא שִׁרְבָּי בְּיִרְ בָּרְרָה לָבְיִין בְּיִילְ בְּיִלְ בָּנִין שְׁנִים בִּיוֹם אָחָד. אֵלְא שִׁרְּנִיל בְּיִבְּי לַבְּיִין שְׁנִים בִּיוֹם אָחָר. אַלְּיבָּר לַבְּיִים בְּיִין בְּנִין בְּיִין בְּיִין בְּיִין בְּיִים בְּיִים בְּחָב בִּין בִּין בִּין בְּיִר בִּין בִּין בִּין בִּין בִּיִין בְּיִים בְּיִין בְּיִין בְּיִין בִּיִין בְּיִין בְּנִין בְּיִין בְּיִין בְּיִין בְּיִיִּהְיִים בְּיִים בְּיִבְּיִין בְּיִים בְּיִים בְּיִים בְּיִיִיְיִים בְּיִים בִּיִים בִּיִים בְּיִים בְּיִים בְּיִים בְּיִייִים בְּיִים בְּיִיִים בִּיִּיִּים בְּיִים בְּיִים בְּיִים בְּיִ

What happened in Ascalon supports him who said, Simeon ben Shetah was president. Two students were in Ascalon. They are together, drank together, and studied Torah together. One of them died, and nobody attended his funeral. The son of Ma'van<sup>84</sup> the publican died; the entire city stopped working to attend his funeral. The other student started crying and said woe, do the haters of Israel<sup>85</sup> have no hope? It was shown to him in his dream and said, do not denigrate your Master's children. This one did one good deed and died with it, the other one committed one sin and died with it.86. What sin did he commit? Far be it that he committed a sin, but once he put on his head phylacteries before his arm phylacteries<sup>87</sup>. What good deed did the son of publican Ma'yan do? Far be it that he committed a good deed, but once he prepared a breakfast for the city council but they did not show up. He said, let the poor come and eat it, so it should not go to waste. Some say, he was walking in the street, having a loaf under his shoulder. It fell down<sup>88</sup> and a poor person picked it up. He did not say anything in order not to embarrass him. This student saw gardens and water sources. He saw the son of Ma'yan the publican standing on the river bank trying in vain to reach the water. He also saw Miriam, Onion-leaf's daughter, hanging on her breast nipples; but some say, the door of Hell was fixed in her ear. He asked, [why? They told him, because she fasted and made herself famous among her neighbors. Some say, she fasted one day and was dissolute two days. He asked them]<sup>G</sup> for how long? They told him, when Simeon ben Shetah comes, we shall remove it from her ear and put is in his ear. He asked them, what is his misdeed? They told him, because he made a personal vow that if he were elected president, he would kill all sorcerers. But now he was made president and he did not kill them. In fact, there are eighty women in the cave of Ascalon who hurt the world; go and tell him! He told them, he is an important personality, he will not believe me. They told him, he is very meek and will believe you. In case that he will not believe you, take out one of your eyes and put it in your hand. He took out one of his eyes and put it in his hand. They said, return it; it was even with the other. He went and told him. He wanted to perform his miracle before him, but he told him, you do not need to. I know that you are a pious person. Even though I intended so in my thoughts, I never spoke it with my mouth<sup>91</sup>. It was a day of rainstorms. He took eighty select men in clean garments and took with them eighty amphoras<sup>92</sup>. He told them, when I whistle once, put on your garments. When I whistle for the second time, come. When he came to the cave of Ascalon, he said אוים, אוים, אוים, open for me. I am one of yours. When he entered, one said what she said and produced bread. One said what she said and produced a dish. One said what she said and produced wine. They asked him, what can you do? He told them, when I whistle twice, I shall bring here eighty select men in dry garments for your pleasure and entertainment. They told him, we desire them. When he whistled, they put on their garments; when he whistled for the second time, they all entered together. He made them a sign for each one to grab one of them and lift her from the earth<sup>94</sup>. Then they did not succeed in what they were trying to do. He told the one who brought bread, bring bread! She did not succeed. He said, take her to be crucified<sup>95</sup>. Bring a dish! She did not succeed. He said, take her to be crucified. Bring wine! She did not succeed. He said, take her to be crucified. This he did to all of them. That is what we have stated: "Simeon ben Shetah hanged eighty women in Ascalon, but one does not try two on the same day." But the hour needed it<sup>96</sup>.

83 Single letters added in brackets are added from *Hagigah* (Note 77) for correct spelling. The text, including the addition from G, is a slight reformulation of the text in *Hagigah*.

- 84 "The source", a symbolic name to contrast with the punishment of his son by eternal thirst.
- 85 I. e., the Jews. It is common that bad things should be said of your enemies, not of

yourself.

86 It is a general answer to the question צדיק ורע לו רשע וטוב לו "why do the just suffer and the wicked enjoy their lives?" that the wicked enjoy the rewards for their few good deeds and the just are punished for their few sins in this world, to create a clean slate for reward and punishment in the World to Come.

87 Ex. 13:9,16 require that the sign (*tefillin*, phylacteries) carried by the faithful be on the arm before being put on the head. The repetition emphasizes the importance of this feature.

88 And he would not have eaten it afterwards.

89 In the Future World.

90 Fasting without repentance is sinful (*Nedarim* 9:1 Note 25.)

91 He never made a vow valid in the eyes of the earthly court; he understood that the Heavenly Court uses other yardsticks for pious people. Since *Deut*. 23:22 declares an unfulfilled vow to fill the vower with sin; the fear of accidental, undeclared vows underlies a number of Jewish rituals.

92 I. e., he took 80 fresh garments in 80 amphoras to protect them from the rain.

93 The meaning of these words is unknown. Neither Rapoport's ἄγιον, ἄγιον (holy, holy) nor Levy's ὁμοία, ὁμοία (equals, equals), nor Dalmann's ὑή or Jastrow's εὕαν (hallo!) make any sense in the context. But compare Greek εὐοῖ, Latin euhoe, euoe, evoe, shout of joy at the festivities of Dionysos-Bacchus, possibly intended for emphasis on the idolatrous aspects of sorcery (E. G.). If the witches spoke Phoenician or Hebrew, the expression could be part of a Semitic oath formula from the root γιαν like ὑμωτοῦ God".

94 Their witchcraft was an expression of chthonic powers which were only active while they were in connection with the earth. This in itself is proof of forbidden sorcery.

95 Which is not a form of execution sanctioned by the Torah.

96 He acted under the king's police powers, disregarding all judicial rules.

(23c line 69) תַּנֵּי. רְבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אוֹמֵר. זֶה חוֹמֶר בִּמְחַלֵּל מִבּמְגַדֵּף וְזֶה זֶה חוֹמֶר בִּמְנַדֵּף מִבְּמְחַלֵּל. בִּמְגַדֵּף כְּתִיב לְאדתָלִין נִבְלָתוֹ עַל־הָעֵץ. וּבִמְחַלֵּל כְּתִיב וַתִּקַּח רְצְפָּה בת־אַנָּה אֶת־הַשַּׁק וַתַּטֵּהוּ עַל הַצוּר מִתְּחִילַת קָצִיר עֵד נִתַּדְּ־מַיִם עֲלַיהֶם. מְלַמֵּד שָׁהִיוּ תְלוּיִין מִי"ו בְּנִיסָן עַד י"ז בְּמַרהָשָׁנָן.

<sup>97</sup>It was stated: Rebbi Eliezer ben Jacob said, this is worse for the desecrator than for the blasphemer and worse for the blasphemer than the desecrator. About the blasphemer it is written to not leave his corpse on the gallows overnight. But about the desecrator it is written Rispa bat Aya took sackcloth and spread it on the rock from the start of harvest until water

was poured on them. This teaches that they were hanging from the sixteenth of Nisan to the seventeenth of Marheshwan.

97 Here starts the discussion of the duty to see to the immediate burial of a corpse, and the difficulty of reconciling this biblical duty with king David's conduct in the matter of the Gibeonites and king Saul's sons (2S. 21). The argument in the following text is a shortened and partially elliptic rewriting of *Qiddušin* 4:1. The commentary for the full text of *Qiddušin* 4:1 (Notes 46-85) may

serve here also. Other parallels are Babli *Yebamot* 78b-79a, *Num. rabba* 8(4), *Midrash Samuel* 28(5).

98 The person who desecrates the Name of God; he committed the one sin which in Judaism can only be atoned for by death (Babli *Yoma* 87a).

99 2S. 20:10.

(23c line 74) כתיב ויתּנֹם יהוֹשׁע בּיּוֹם ההוֹא חוֹטבי עצים ושׁוֹאבי מים לעדה. ניחא לעדַה. וּלְמִזְבַּחַ יִי. אֱלָּא שַׁתּּלָייָן יְהוּשָׁעַ בריפן $^{100}$ . אַמַר. אַנִי [לא] מַרְחִיקָן וְלֹא מְקָרְבָּן. אֱלָּא מִי שַׁעַתִּיד לִבְנוֹת בֶּית הַבְּחִירָה דָּאֲת<sup>101</sup> דַּעָתּוֹ לְקֵרֶב יִקְרֵב וְאֵת דַּעָתּוֹ לַרְחֵק יְרֵחֶק. וּבָא דַוִד וָרִיחַקּן. וְהַגָּבָעוֹנִים לֹא מִבְּנֵי יִשְׂרָאֵל הַׁמַּה. וְלַמֵּה רִיחַקּן. עַל שֶׁם וַיִּהֵי רַעַב בְּימֵּי דַוְד שַׁלְשׁ שַׁנִּים וגו'. אַמַר דַּוִד. בַּעוֹן ג' דברים גשמים נעצרין. עבודה זרה וגילוי עריות ושפיכות דַמִים. עבודה זַרָה דְּכָתִיב פֶּן־יִפָּתַּה לְבַבָּכֶם וְסָמִיד לֵיהּ וְעַצֵר אֶת־הַשַּׁמַׂיָם. גִּילוּי עַרְיוֹת דְּכָתִיב וַיִּמַנְעִוּ רְבִיבִים וּמַלְקוֹשׁ לֹא הָיָה וּמֶּצֵח אָשָׁה זוֹנָה ֹהָיָה לֶדְ. שְׁפִיכוּת דָּמִים שְׁנֵאֲמַר כִּי הַדַּם הִוּא יַחַנְיִף אַת־הָאָרֵץ. וְיֵשׁ אוֹמָרִים. אַף פּוֹסְקֵי צְדַקָה בַּרַבִּים וְאֵינֵן נוֹתְנִין. דְּכָתִיב נְשִׂיאֵים וֻרוּחַ וְגֵשֵׁם אָיִין אֵישׁ מִתְהַלֶּל בְּמַתַּת־שַׁקָר: בַּדָק דַּוָד בְּכַל־דָּרַכַיו וָלֹא מַצַא אֶחַד מֶהֶן. הְתְחִיל שׁוֹאֵל בָּאוּרִים וְתוּמִים. הַדָּא הוּא דָכָתִיב וַיִּבַקָּשׁ דַּוָד אָת־פַּנֵי יִי. אַמֵּר רְבִּי לַעַזַר. כְּתִיב בַּקּשָׁוּ יִי בָּל־עַנְוֵי אָרֶץ אֲשֵׁר מִשְׁפַּטִוֹ פַּעַלוּ וגו'. וַיִּאמֵר יִי עַל שַׁאוּל וְעַל בֵּית הַדַּמִּים עַל־אֲשֶׁר־הָמִית אָת־הַגָּבְעוֹנִים: עַל שַׁאוּל. שַׁלֹא עַשִּׁיתָם עָמוֹ חַסֶד. וְעַל בֵּית הַדַּמִּים עַל־אַשֶּׁר־הָמִית אֶת־הַגִּבְעוֹנִים: שָׁלַח דָּוִד וּקְרָאָן. אָמֵר לָהֶם. מַה לַכֶם וּלְבֵית שָׁאוּל. אֱמְרוּ לוֹ. עַל יְדֵי שֶׁהַמְית ממנו שבעה אנשים שני חוטבי עצים ושני שואבי מים וסופר וחזן ושמש. אמר לון. מה תון בְּעוּן. אֲמָרוּ לֵיהּ. יָתַּן ־לַנוּ שָבָעָה אֲנַשִׁים . . . וְהוֹקַעַנוּם לֵיִי בָּגַבְעוֹן. אַמַר לוֹן. וּמָה הַנַייַה יֶשׁ לְכוֹן אָין אָינוּן מִתְקַטְלִין. סְבוּ לְכוֹן כָּסֶף וּדָהַב. אֲמְרוּ לֵיה. אֵין־ לַנוּ כֵּסֶף וְזָהָב` עִם־שַּׁאִוּל ועם־ביתו. אמר. דילמא בהתין אילין מן אילין. הוה נסיב כל־חד וחד מינון ומפייס ליה קומי נָפָשֶׁיה וָהוּא לַא מִקָבֶּל עַלוֹי. הַדָא הוּא דָכְתִיב אֱין־[לַנוּ] כֵּסֵף וָזַהַבֹּ. אֱין לִי כְתִיב. בָּאוֹתָהּ שַּעַה אַמֵּר דַּוָד. שַׁלֹשׁ מַתַּנוֹת טובוֹת נַתַן הַקָּדוֹשׁ לִישְׂרָאֵל. בּוֹייִשַׁנִין וְרַחֲמַנִין וְגוֹמְלֵי חֲסַדִים. בּוֹייִשַנִין דְּכָתִיב לָבַעֲבוּר תַּהְיָה יִרְאַתוֹ עַל־פָּנַיכֶם וגו'. רַחַמְנִין דְּכָתִיב וְנַתַן־לְדַּ רַחַמִים וְרַחַמְדַּ וְהַרְבֶּּדָ. גוֹמָלֵי חֵסָדִים דָּכָתִיב וְשָׁמֵר יִי אֱלֹהֵידְ לַדְּ אֱת־הַבְּּרִית וְאֵת־הַחֵּסֶד. וְאֵילוּ אֵין בָּהֶן אַחַת ֶמֶהֶן וָרִיחֲקָן. וְהַגָּבְעוֹנִים לָא מִבָּנֵי יִשְׂרָאֱל הֶמֶּה. וְאַף עֶזְרָא בָא וְרִיחֲקָן. וְהַנְּתִילִים הָיִוּ יוֹשְׁבִים בָּעוֹפֶל וְצִיחָא וְגִישְׁפָּא מִן הַגָּבְעוֹנִים. וְאף לְעָתִיד הַקָּדוֹשׁ בָּרוּדְּ הוּא מְרַחֲקָן. דְּכְתִיב וְהֶעוֹבֵד הַעִיר זַעֲבָדּוֹהוּ מִכִּל שִׁבְטִי יִשׂרִאלּ: יִאבִידוּהוּ מכּל־שׁבטִי ישׂרִאל.

וַלָּאמֶר הַמֶּלֶדְ אֲנִי אֶתֵּן: וַיִּקָּח הַמֶּׁלֶדְ אֶת־שְׁנֵי בְּנֵי רִצְפֶּה. וּלְמִיכַל בַּת־שָׁאוּל לְא־הָיָה לָהְ

וֹנְלֶד. וְתִימֵר אָכֵן. אֱמוֹר מֵעַתָּה. בְּנֵי מֵרֵב הְיוּ וְגִידַּלְתָּם מִיכַל וְנְקְרְאוּ עֵל שְׁמָה. וַיִּיּנְנָה לָא־הָיָה לָהְ

בְּיַדְ הַגְּבְעוֹנִים וַיּוֹקִיעוּם בָּהָר לְבְנֵי יִי וַיִּפְּלִי שְׁבַעְתָּם מִיכַל וְנְקְרְאוּ עֵל שְׁמָה. וַיִּיּנְנֵם הַמְּלֶבְּ מְּכִי הַמִּוְבָּח שְׁנִּתְּפַלֵּל עָלָיו דָּוִד וּקְלָטוֹ הַמִּזְבֵּח. אָמֵר לָהֶן. הֲבִייִן לְפְנֵי הַמּוְבָּח מְּלְטוֹ הֲבִיי הוּא שֶׁלוֹ. מִפְנֵי מְפִיבוֹשֶׁת שֶׁהָיהְ נְדְוֹל בְּתּוֹיָה וְהָעֲבִירוֹ לְפְנֵי הַמּוְבָּח וְּלְבָּי הִיּמְבָּה וְהָעֶבִירוֹ לְפְנֵי הַמִּזְבָּח שְׁרְיִם עְּלִיוֹ לְצְאֵי גִּמֹר עָלֶי שֶׁהִיּקוֹבָּח הִיּמְוֹ בְּבִיּוֹ אֵיְבְרִים עֶּלְיוֹן לְצָאֵל גּוֹמֵר עָלֶי שֶׁהִסְּפִים הַקּּדוֹשׁ בָּרוּוֹ הוּא עִם דְּיִרְ הִיּמְים בְּצֵעִיׁ הַבְּיִלְ הָשְׁרִים. וַתְּלֵּח וְצְבָּהְ הִיּמְה הִיּמְתוּ בִּיתִי קְצִירֹ בְּמָר רְבִּי הוֹשְׁעְיָה. שְׁהָיִיה וְנִישְׁת בְּבָּבְּה הִּמְתוֹ בְּנִים הָּאָר רְבִּי הוֹשְׁעְיָה. שְׁהְיִּלְיתְ הְצְּיִים מְבִילְ הְבִּיִם בְּלְיוֹ הִיּאִים הָבְּיִים בְּבִיים בְּלְיתוֹ מִי"ו בְּנִים בְּתִּה וְנִישְׁתִּ בְּיִים בְּבִיים בְּלְיתוֹ מִי"ו בְּנִים בְּבִיים בְּבִיים הְנִייִם בְּבִיים בְּלְנִיוֹ הְיִבְּים בְּבִיים לְּבָּיוֹ בְּבְּיִים אֲלִיים הְנָּיִיִם לְּבָּיִים לְּנִייִם הְצִייִם לְּבִין וְשְׁבִין אוֹמְרִים אֲרִיים בּנִייְם לְּשִׁים לְּמִים לְּבִין הִּבְּעִים אָּנְיִים בְּנִיים הְבָּיים לְּבְיִים לְּנִייִם בְּיִים בְּיִים לְּעִיים לְּבָּים לְּיִבְים לְּלִים שְׁבִים הָּבְּיִים שְּבִיים לְבִין הִיבִּים לִּא בְּנִים הְבָּיִים בְּבִיים בְּבִיים בְּבִייִים בְּבִיים לְבִיים בְּבִיים לְּבִיבְים לְּבִיים לְנִים לְינִים לְּבִים בְּבְיִים בְּבִיים בְּנִיים בְּנִיים בְּבִיים לְנִים בְּבִים לְבְּיִבְים לְּינִים לִּיבְּים הְבְּיִים בְּבִיים בְּרִים בְּבִיים לְנִים לְּיוּם בְּיבְּבְים בְּבְיים בְּבִיים בְּבְיים בְּבִיים בְּבְיוֹ בְּבְיִים בְּבִים בְּבְיִים בְּבִיים בְּבְיים בְּבִים בְּבְּבְיים בְּבְיים בְּבְיוֹי בְּבְיים בְּבְּבְיים בְּבְּים בְּבְיוֹי בְּיוֹים בְּיוֹים בְּבִיים בְּבְיִים בְּבְ

It is written<sup>102</sup>: At that moment Joshua dedicated them as hewers of wood and drawers of water for the congregation. One understands "for the congregation." But "for the Eternal's altar"? But Joshua kept them in limbo. He said, I shall [neither]<sup>103</sup> exclude nor include them. But he who sometime in the future will build the Temple, if he wants to include he may include, if he wants to exclude he may exclude. David came and excluded them as it is said 104: But the Gibeonites are not part of the Children of Israel. Why did he exclude them? Because there was a famine in David's time, three years year after year. David said, for three sins the rains are locked away: Foreign worship, incest and adultery, and murder. Foreign worship, as it is written<sup>105</sup>: Beware, lest you be seduced and next to it, He locks the sky up. Incest and adultery, as it is written 106 Rain-showers were withheld, there was no late rain. for you had the forehead of a whoring woman. Murder, as it is written 107: Because blood will distort the Land. Some say, also those who publicly promise money for welfare but do not pay, as it is written 108: Clouds and wind but no rain means the man who boasts with lying gifts. David checked on all

his ways and did not find any of them. He turned to ask the Urim and Tummim. That is what is written<sup>104</sup>: David asked before the Eternal. Rebbi Eleazar said, it is written<sup>109</sup>: Ask the Eternal, all the meek of the Land, who execute His Law, etc. 104The Eternal said, because of Saul and the House of blood-guilt, for he had killed the Gibeonites. Because of Saul, whom you did not grant the last favor, and because of the House of blood-guilt, for he had killed the Gibeonites. David sent and called them. He asked them, what is between you and the House of Saul? They told him, because he killed seven of our men, two hewers of wood, two drawers of water, a scribe, a religious leader, and a beadle. He asked them, what do you want now? They said to him, May there be given to us seven men . . . and we shall hang them before the Eternal in Gibeon<sup>110</sup>. He said to them, what use is it to you that they be killed? Take silver and gold for yourselves! But they answered, there is no silver or gold for us from Saul and his house<sup>111</sup>. He said, maybe they are afraid one of the other; he dealt which each of them separately, trying to mollify him by himself, but nobody accepted it. That is what is written, there is no silver or gold for us, it is written for me. At this moment, David said that the Holy One gave three good gifts to Israel: They are decent, merciful, and charitable. Decent, for it is written<sup>112</sup>: that His fear be on your faces. Merciful, for it is written<sup>113</sup>: He gave vou mercy, had mercy on you and increased you. Charitable, for it is written<sup>114</sup>: The Eternal, your God, kept for you covenant and charity. But these, nothing of this is found in them; he excluded them: But the Gibeonites are not of the Children of Israel<sup>104</sup>. And Ezra also excluded them, as it is said:115 And the dedicated ones dwelt in the Ophel; Ziha and Gishpa were of the dedicated ones. Also in the future, the Holy One, praise to Him, will exclude them as it is written<sup>116</sup>: The city worker will cultivate it, from all tribes of Israel. He will eliminate them from all tribes of Israel.

Ayah<sup>118</sup>. Michal, Saul's daughter, did not have a child<sup>119</sup>, and you say so? Say now that they were sons of Merab but Michal raised them, so they were named after her. The king gave them into the hand of the Gibeonites who hanged them on the mountain before the Eternal<sup>120</sup>. All seven is written

defective of one letter. That refers to Mephiboshet, for whom David prayed and whom the altar received. He told them, I let them pass by the altar and anyone whom the altar receives will be his, because of Mephiboshet who was great in Torah. He let him pass by the altar, which received him. Rebbi Avin said, I shall call to the Most High God, to the Power Who has the ultimate decision over me<sup>121</sup>. For the Holy One, praise to Him, agreed with David. They were killed on the day of harvest ...at the start of the barley harvest 120. Rispah bat Ayah took a garment and laid it out on the rock<sup>122</sup>. What means on the rock? Rebbi Hoshaia said, she was reciting: The rock, perfect is His action<sup>123</sup>. Rebbi Abba bar Zamina in the name of Rebbi Hoshaia: Sanctification of the Name is greater than desecration of the Name. Referring to sanctification of the Name it is written: Do not leave his corpse overnight<sup>67</sup>. But referring to desecration of the Name it is written that they were left hanging until water was poured on them<sup>120</sup>. This teaches that they were hanging from the sixteenth of Nisan to the seventeenth of Marheshwan. The passers-by were saying: How did these people sin that the rules of justice were changed for them? They were answered: Because these had attacked cursed proselytes. Is that not an argument de minore ad majus? Since even for those who did not convert for the sake of Heaven, the Eternal avenged their blood; if one would convert for the sake of Heaven not so much more? Many converts were converted at that time; that is what is written<sup>124</sup>: Solomon counted all proselytes . . . and appointed from them 70'000 carriers, etc.

100 Reading with the *Qiddušin* text: בדופן. 112 Ex. 20:20. 101 Reading with the *Oiddušin* text; ואת. 113 Deut. 13:18, 114 Deut. 7:12. 102 Jos. 9:27. 115 Neh. 3:26, 11:21. 103 Added from the *Qiddušin* text. 116 Ez. 48:19. 104 2S. 21:1-2. 105 Deut. 11:16-17. 117 Several passages in this paragraph are truncated; refer to the Oiddušin text. 106 Jer. 3:2-3. 118 2S. 21:8. 107 Num. 35:33. 119 2S. 6:23. 108 Prov. 25:14. 120 2S. 21:9. 109 Zeph. 2:3. 121 Ps. 57:3. 110 *2S.* 21:6. 122 2S. 21:10. 111 2S. 21:4.

123 Deut. 32:4.

124 2Chr. 2:16-17.

(fol. 23a) **משנה י**יּ אָמַר רַבִּי מֵאִיר בִּזְמֵן שֶׁאָדָם מִצְטַעֵר שְׁכִינָה מָה הַלְּשׁוֹן אוֹמֶרְת. כַּבְּיָכוֹל קַלַנִי מֵרֹאשִׁי קַלַנִי מִזְּרוֹעִי. אִם כָּדְ אָמֵר הַכָּתוּב מִצְטַעֵר אֲנִי עַל דָּמָן שֶׁל רְשְׁעִים קַל וָחֹמֶּר עַל דָּמָן שֵׁל צַדִּיקִים שַׁנִּשְׁפַּדְ.

**Mishnah 10**: Rebbi Meïr said: When a human suffers, how does the Divine presence<sup>125</sup> express Itself? If it could be said<sup>126</sup>, my head is light, my arm is light<sup>127</sup>. If Scripture says so, I am suffering about the blood of evildoers, so much more if blood of the just is spilled.

125 The *Šekhinah* is God's Presence among men, *Ex.* 29:46.

126 The usual expression to justify an anthropomorphism. We know that human

behavior cannot be attributed to the *Šekhinah*, but if it could, one could say . . . 127 This translation is tentative; see the Halakhah.

(23d line 50) **הלכה י:** אָמַר רַבִּי מֵאִיר כול'. אֲנֶן תַּנִּינֶן. קַלֵּינִי. אִית תַּנָיֵי תַנֵּי. קַל אָנִי. מָאן דַּמַר קַלֵּינִי. לֵית הוא אֶלֶּא קָלִיל. מַה דָמַר. קַל אָנִי. לֵית הוּא אֶלָא נְטִיל. מַתִנִיתָא דְלָא כָרבִי מֵאִיר דָּאַמַר. אַף הַמְנֵדֶף עוֹבֵר בָּלֹא תַעֲשֶׂה.

**Halakhah 10**: "Rebbi Meïr said," etc. We have stated קליני. Some Tannaïm state קליני uses only an expression of lightness. He who says קל אָנִי uses a language of load.

The Mishnah does not follow Rebbi Meïr because he said, also for the blasphemer one violates a prohibition<sup>129</sup>.

128 It seems that one should follow R. David Fraenckel and switch the references. This also would follow Talmudic style: readings AB are discussed as BA: "He who says קל אָני (I am light) uses an expression of lightness. He who says קליני I am not light) uses a language of load."

The Babli, 46b, only discusses the second alternative, or a possibility of

deriving the expression from the root קלל "to curse."

129 It is a question of interpretation of *Deut*. 21:23: *Do not leave his corpse on the gallows overnight* (a prohibition), *but burying you shall bury him on the same day* (a positive commandment). It is agreed that the positive commandment applies to all burials (Mishnah 11). The question is the domain of applicability of the prohibition.

In Mishnah 9, the rabbis hold that only people attacking the essence of the faith are hanged. The question remains what their position is about witnesses who falsely accuse somebody of blasphemy. It may be that *Sifry Deut.* 221, which excludes the perjured witnesses from being hanged,

represents R. Meïr's position, which is not documented elsewhere. Then the sentence should be read: *Only for the blasphemer does one violate the prohibition* . . ., since only concerning the blasphemer there is a duty to hang his corpse.

(fol. 23a) **משנה יא:** וְלֹא זוֹ בִלְבַד אֶלָּא כָּל הַמֵּלִין אֶת מֵתוֹ עוֹבֵר בְּלֹא תַעֲשֶׂה. הֱלִינוּ לִכְבוֹדוֹ לְהָבִיא לוֹ אָרוֹן וְתַכְּרִיכִין אֵינוֹ עוֹבֵר עָלָיו בְּלֹא תַעֲשֶׂה. וְלֹא הָיוּ קוֹבְרִין אוֹתוֹ בְּקבְרוֹת אֲבוֹתֵיהֶן. אַלָּא שִׁנִי קברוֹת הַיוּ מִתוּקָנִין לָבֵית דִּין אַחַד לַנָּסְקלִין וְלַנְשׂרַבִּין וְאָחַד לַנָּהַרְגִין וְלַנְּשׁרַבִּין וְאָחַד לַנְּהַרָּגִין וְלַנְּשֹׁרָבִין

**Mishnah 11**: Not only this, but anybody who leaves his dead<sup>130</sup> overnight violates a prohibition. If he left him overnight for his honor, to provide him with a coffin and shrouds<sup>131</sup>, he does not violate a prohibition in his regard. They did not bury them<sup>132</sup> in their family graves, but two graves<sup>133</sup> were prepared, one for those stoned or burned, the other for those beheaded or strangled<sup>134</sup>.

- 130 Any deceased whose burial is his personal responsibility.
- 131 These are examples rather than an exhaustive list of reasons for a delayed funeral.
- 132 People executed by a court verdict.
- 133 In all printed Babli editions בתי קברות "cemetaries". This reading has no parallel

in Babli mss. (*Diqduqe Soferim* 36a Note 5). Maimonides's autograph Mishnah text has קבורות, read יקבורות "burial sites". This seems to be the best reading.

134 The sins of those executed by the two cruel methods are incomparably worse than those of persons executed by the two swift methods.

(23d line 53) **הלכה יא:** וְלֹא זוֹ בִלְבַד כול'. תַּנֵּי. הַמַּעְבִיר אָרוֹן מִפְּקוֹם לְמָקוֹם אֵין בּוֹ מִשֹּׁוּם לִיקּוּט עֲצְמוֹת. אָמֵר רְבִּי אָחָא. הָדָא דְתֵימֵר בַּאֲרוֹן שַׁיִישׁ. אֲבָל בַּאֲרוֹן עֵץ גֵשׁ בּוֹ מִשׁוּם לִיקּוּט עֲצְמוֹת. אָמֵר רְבִּי יוֹסֵי. אֲפִילוּ בַּאֲרוֹן עֵץ אֵין בּוֹ מִשׁוּם לִיקּוּט עֲצְמוֹת. אַמֵר רְבִּי חַנִּיי. והוּא שֶׁשָּׁמֵע לְמָחָר. אֲבָל בּוֹ בַיּוֹם יֵשׁ שְׁמוּעָה לְלִיקוּט עֲצְמוֹת. תַּנֵי נִיקוֹמֵכֵּי אָמֵר רְבִּי חַנִּיי. והוּא שֶׁשָּׁמֵע לְמָחָר. אֲבָל בּוֹ בַיּוֹם יֵשׁ שְׁמוּעָה לְלִיקוּט עֲצְמוֹת. תַּנֵי נִיקוֹמֵכֵּי קוֹמֵי רְבִּי זְעִירָא. אֵין שִׁעוּר לְלִיקוּט עֲצָמוֹת. רְבִּי מָנִי הוֹרֵי לְרְבִּי לָא דְכַפְּרָא לִקְרוֹעַ וּלְהַתְאַבֵּל בְּרָבִי אָחָא וְלֹא לִישַׁמוֹת כְּרְבִּי יוֹסֵי.

תַּנֵּי. לִיקוּטֵי עֲצָמוֹת כָּשְׁמוּעָן. אֵי זֶהוּ לִיקוּט עֲצָמוֹת. הַמְלַקֵט עֶצֶם עֶצֶם מְשֶׁיתְאַכֵּל הַבָּשָׂר. תַּנֵּי. לִיקוּט עֲצָמוֹת אֵין אוֹמְרִים עֲלֵיהֶן קֵינִים וָנֶהִי וְלֹא בִּרְכַת אֲבַלִים וְלֹא תַּנְחוּמֵי אֲבַלִים. אֵילוּ הֵן בִּרְכַת אֲבִילִים. שָׁאוֹמְרִים בְּבֵית הַכְּנֶסֶת. אֵילוּ הֵן תָּנְחוּמֵי אֲבִילִים. שֶׁהֵן אוֹמְרִים בַּשׁוּרָה. תַּנֵּי. אָבָל אוֹמִרִים עֵלִיהֵן דְּבָרִים. מָה הֵן דְּבַרִים. רַבָּנִן דְּקִיסְרִין אַמְרִין. קִילּוּסִין.

**Halakhah 11**: "Not only this," etc. It was stated: <sup>135</sup>If somebody transports a coffin from one place to the other, the rules of collecting bones do not apply<sup>136</sup>. Rebbi Aha said, this means in a marble<sup>137</sup> coffin. But in a wooden coffin, the rules of collecting bones do apply. Rebbi Yose said, even for a wooden coffin the rules of collecting bones do not apply. What is "collecting bones" <sup>138</sup>?

Rebbi Haggai said, only if he heard it the next day. But on the same day notice must be taken of collecting bones<sup>139</sup>. Nikomachos stated before Rebbi Ze'ira: Collecting bones has no [minimal] amount<sup>140</sup>. Rebbi Mani instructed Rebbi La from Kufra<sup>141</sup> to tear his garment and mourn following Rebbi Aha<sup>142</sup>, not to pollute himself following Rebbi Yose<sup>143</sup>.

It was stated: Collecting bones, following the information<sup>144</sup>. What is collecting bones? One collects every single bone after the flesh has rotted away<sup>138</sup>.

It was stated: When collecting bones one does not recite lamentations and wailing, nor the benediction of mourners, nor consolation of mourners. The benediction of mourners, what is said in the synagogue. Consolation of mourners, what is said in the row<sup>145</sup>. It was stated: But one spoke words on the occasion. What are words? The rabbis of Caesarea said, eulogies<sup>146</sup>.

135 The Halakhah really belongs to the next Mishnah, which refers to collecting bones. The text as it stands here is missing a few lines which in part make it incomprehensible. The origin is in *Mašqin* (*Mo'ed qatan*) 1:5 (80d ll. 1-14); it also is found in *Pesahim* 8:7 (36b ll. 22-37).

136 This refers to Mishnah *Mo'ed qatan* 1:3: "R. Meïr says, a person may collect his parents' bones on a semi-holiday because it makes him happy; R. Yose says, it is an

occasion of mourning. Halakhah 12 (*Mo'ed qatan* 1:5) determines that the day of collecting the bones (transferring them from burial in the ground to an ossuary to be stored in a cave) is a day of mourning (prohibited one a semi-holiday) but the day following is a holiday since the person is assured that his parents were freed from punishment in the world of souls. [Only extremely vicious souls are punished in eternity, cf. Chapter 10. For all other

evildoers, the punishment in hell is for 12 months or until the flesh has disappeared from the bones, whichever comes sooner. For this reason, a mourner may not recite the prayer for the dead (customary since the last millennium) for more than 11 months; if he did recite it in the 12th month he would declare his parent an evildoer, in itself a sin.]

137 In the parallels: stone.

138 The missing answer, found in the parallels, is: One transports them in an ἐπικάρσιον ("cloth hanging down", used for striped cloth) from place to place.

139 The text to which this remark belongs again is missing. It starts with the sentence of Note 144.

In case of a death, the relatives near the deceased have to see to his burial and start the mourning rites immediately. Those farther away have to start when they are informed. There is a difference in the rules between "recent information" (within 30 days of the death) or "distant information" (after 30 days). The same is true for collecting the bones. Not only the person actually collecting the bones has to observe the rites of mourning, but all his close relatives who in theory also could have collected the bones. But since the day

following already is a day of joy (Note 136), only information which reaches the relative on the day itself forces the recipient to observe mourning.

140 Mourning while collecting the bones is required even for a single bone. In the parallels, this is the answer to the question: Is there a minimal amount required when collecting bones?

141 In the parallels: R. Mana instructed R. Hillel from Kifra.

142 Transporting a wooden coffin is subject to all rules of mourning.

143 A Cohen is not permitted to transport a wooden coffin, even if it is for one of the close relatives for whom he is obligated to pollute himself.

144 Cf. Note 139.

145 After burial, the participants in the funeral form two rows; the mourners walk in between while the participants recite formulas of consolation; cf. *Berakhot* 3:2, Note 121.

146 Praises of the deceased. According to H. L. Fleischer, this word קילוס, which also exists in Syriac, and a related verb in Arabic are derived from Greek  $\kappa\alpha\lambda\tilde{\omega}\varsigma!$  "beautiful, excellent."

(fol. 23b) **משנה יב**: נִתְעַבֶּל הַבָּשָּׁר הָיוּ מְלַקְּטִין אֶת הָעֲצֶמוֹת וְקוֹבְרִין אוֹתָן בִּמְקוֹמָן. וְהַקְּרוֹבִין בָּאִין וְשׁוֹאֲלִין אֶת שְׁלוֹם הָעַדִים וְאֶת שְׁלוֹם הַדַּיָּנֵין כְּלוֹמַר דְּעוּ שָׁאֵין בְּלִבֵּינוּ עֲלֵיכֶם שְׁדִּין אֱמֶת דַּנְתֵּם. וְלֹא הָיוּ מִתְאַבְּלִין אֲבָל אוֹנִנִין שֵׁאֵין אֵנִינָה אֵלֶא בַלֵב:

**Mishnah 12:** If the flesh has rotted away, one collects the bones and buries them at their place<sup>146</sup>. The relatives come<sup>147</sup> and greet the witnesses and judges, implying that "we hold no grudge against you because you delivered a true judgment." They did not mourn but were in deep sorrow<sup>148</sup>, since deep sorrow is only in the mind.

146 The bones of the person executed are exhumed from the court's burial site and reburied in the family grave or cave.

147 Immediately after the execution.

148 The day of execution itself, when the deep mourner is barred from all religious acts (*Deut*. 26:14). Mourning rites only start after burial.

(23 line 65) **הלכה יב:** נְתְעַכֶּל הַבָּשָּׁר כול'. תַּנֵּי. בָּרְאשׁוֹנָה הָיוּ מְלַקְטִין אֶת הָעֲצָמוֹת וְקוֹבְרִין אוֹתָן בְּאֲרָזִים. אוֹתוֹ הַיּוֹם מִתְאַבֵּל אוֹתָן בְּאֲרָזִים. אוֹתוֹ הַיּוֹם מִתְאַבֵּל וּלְפַקָּטִין אוֹתָן וְקוֹבְרִין אוֹתָן בַּאֲרָזִים. אוֹתוֹ הַיּוֹם מִתְאַבֵּל וּלְפַתָּר הָנָה שָׁמֵחַ. לוֹמֵר שַׁצַנִּיחוּהוּ אֲבוֹתַיו מָן הַדִּין.

**Halakhah 12**: "If the flesh has rotted away," etc. <sup>149</sup>It was stated: In earlier times, they were collecting the bones after burying them in ditches<sup>150</sup>. When the flesh had rotted away, they collected them and buried them in cedar wood. On the day itself he was mourning, the day after he was happy<sup>151</sup>, implying that his parents were at rest<sup>152</sup> from judgment.

149 The parallel is in *Mašqin* (*Mo`ed qatan*) 1:5 (80c l. 74). The subject is a common person, not a criminal.

150 The translation is tentative; the word appears only in this *baraita* and *Ps.* 140:11.

151 Cf. Note 136. In the Babli, *Mo'ed qatan* 8a, the quote appears in a different context.

152 Reading נינוחו with the parallel text.

(23d line 68) וְלֹא עוֹד אֶלֶּא הָייּ קוֹבְרין אוֹתָן בִּפְנֵי עַצְמָן. הַגִּסְקֵלון בַּנִּשְׂרְפִין וְהַנֶּהֶרְגִּין בַּנֶּחֲנְקִין. הוּא שֶׁדָּוִד אוֹמֵר אַל־תָּאֱסוֹף עִם־חַשָּאַים נַפְשֵׁי. הַנִּסְקָלון וְהַנִּשְׂרָפִין. וְעִם־אַנְשֵׁי דָמֵים חַיֵּיֵּ. הַנָּהַרְגִין וְהַנָּחַנְקִין.

<sup>153</sup>Not only this, but they were buried separately, those stoned with the burned, those beheaded with the strangled. This as what David said<sup>154</sup>, *Do not* 

collect my soul with sinners, those stoned or burned; nor my life with men of blood guilt, those beheaded or strangled.

153 This refers to the end of Mishnah 11. 154 Ps. 26:9.

(23d line 71) רְבִּי אַבְּהוּ מֶטְתֵּיהּ אוֹנֵס. אֲזַל לֵיהּ חַד מִינוֹק. עָלוּן רְבִּי יוֹנָה וְרְבִּי יוֹסֵי מִי חֲמִי לֵיהּ אַפִּין. מֵאֵימָתֵיהּ עָלִיה לָא אֶמְרוּ לֵיהּ מִילֶּא דְאוֹרִייָא. אֲמֵר לוֹן. מֵשְׁנְּחִין רַבָּנִן מֵימֵר מִילֶּא דְאוֹרַייָא. אֱמְרוּ לַיִּה. אַשְׁנְחוּ לַיִּה אָם רְשׁוּת שֶׁלְמִשְׁן שֶׁיֵשׁ בּוֹ כָזָב וְשְׁקֶר וּגְנֵיבוּת דְּאוֹרֵייָא. אֱמְרוּ לַיִה. אַשְׁנָח שָרְוּ אֲמָר לוֹן. מָה אִם רְשׁוּת שֶׁלְמִשְׁן שֶׁיֵּשׁ בּוֹ כָזָב וְשְׁקֶּר וּגְנֵיבוּת דַּעַת וּמִשׁוֹא פָנִים וּמִקּח שׁוֹחַד וְהַיּוֹם עוֹדֶנּוּ וּמְחֶר אֵינֶנּוּ נָאֱמֵר בָּהּ הַקְּרוֹבִין בָּאִין וְשׁוֹאֲלִין שְׁלוֹם הַדִּינִן וְהָעֵדִים לוֹמֵר שֶׁלְמַלְן שְׁמִין בְּהּ הַשְּדִין אֱמֶת דַּנְתָּבֶּם. רְשׁוּת שֶׁלְמַעְלֵן שְׁאֵין בָּהּ לֹא כָזָב וְלֹא שָׁקֹר וְלֹא לְּמָבוֹן וְלֹא מָשֵּח שׁוֹחַד וְהוּא חֵי וְקִייָם לְעוֹלְם לֹּצְ לֹא כָּנָים וְלֹא שֶׁמֶר וְלָא מְשִׁוֹ וְלָתְים לְעוֹלְם לֹי עִלְינוּ מִידַּת הַדִּין. וְאוֹמֵר וְנַתַּן־לְךָּ לֹלְנִי עוֹלְמִים. עוֹלְמִים לְּמָבְ לְצָלְינוּ מִידָּת הַדִּין. וְאוֹמֵר וְנַתַן־לְךָּ לִעְלִיה עוֹלְמִים. עוֹלְמִים. עוֹלְמִיך נִּשְׁבָּע לִשְׁבָּית וְלָבֶּיה וְלַשְׁבָּי לִשְׁבְּתִיף וְרְחֵמָּך וְהָרְבָּים וְלִא בָּמָה וְכָּמָּה וְכָמָּה וְנָתַן־לְּתִים לְּנִבְּים בְּאֹע לִשְׁבִּי נִעְשָּבְּע לְשָׁבְּיב וּלְשְׁבְּע לִנְשְׁבְּיב וּנְשְׁבְּע לִשְׁבְּבִיל עְלְינוּ מְיִבְּים בְּהַבְּים בְּבִּע עָּבְבִים וְלַשְׁבְּע לִשְׁבְּבִיל עְלְינוּ מִוֹלְם בְּישׁר וִלְשְבָּע לְשָׁבְּע לִשְּבִּע לְּבָבּים בְּבִּע שְׁר נִשְׁבָּע לַשְבָּב עוֹלְבְחֵיף בְּיִשְׁר נִשְׁבָּע לַשְבָּע לְצָבְבוּים בְּחִים בּנִים בְּיִבּים בְּהִישְׁר בִּישְׁבְּי בִּעְשְׁר נִשְׁבָּים בְּיִבּים בְּיִים בְּיִבּים בְּיִים בְּיִבּים בְּיִבּים בְּבִּים בְּבִים בְּישׁים בִּישְׁר בְּשְׁבָּב לְּבְּבְּישׁיִים בּיִים בְּישׁבְים בּיִּבּים בְּבִּישׁים בְּיִבּים בְּיִם בְּבִּים בְּיִים בְּיִם בְּיִבּים בְּיִבּים בְּבִישְׁרִים בְּיִבּים בְּבִּישׁים בְּיִבּים בְּבִים בְּיִבּים בְּיִבְים בְּבִּים בְּיִבּים בְּבִּים בְּבְּיִים בְּיִבְיִים בּיִים בְּיִים בְּיִבְּיִים בְּעִים בְּיִים בְּיִים בְּעִבְּים בְּיִבְים בְּיִים בְּיִים בְּיִבְּים בְּיִבְים

An accident happened to Rebbi Abbahu; he lost a baby. Rebbi Jonah and Rebbi Yose ascended<sup>155</sup> to visit him. Out of respect for him,<sup>156</sup> they did not speak to him words of Torah. He told them, would the rabbis think saying a word of Torah? They answered, think of it, our teacher. He said to them: If about a terrestrial authority, where one finds lies, and untruth, and misleading statements, and favoritism, and bribery, and they are here one day and gone the next, it was said: "the relatives come and greet the judges and witnesses, implying that we hold no grudge against you because you delivered a true judgment," the Heavenly authority, before which there are no lies, no untruth, no misleading statements, no favoritism, and no bribery, and He exists forever in all worlds, so much more are we obligated to accept His judgment. And it is said<sup>113</sup>, *May He give you mercy, have mercy on you, and make you increase as He has sworn to your ancestors*.

155 They came from Tiberias below sea level to Caesarea Philippi in the foothills of the Golan Heights to offer their condolences.

156 The great man of the generation of their teachers.