

ארבע מיתות פרק שביעי

(fol. 24a) **משנה א:** ארבע מיתות נמסרו לבית דין סקילה שרפה הרג וחנק. רבי שמעון אומר שרפה סקילה חנק והרג. זו מצות הנסקליו:

Mishnah 1: Four kinds of execution was the court empowered to impose: Stoning, burning, decapitation, and strangling. Rabbi Simeon says: Burning, stoning, strangling, and decapitation¹. The preceding was prescribed for stoning.

1 They differ in the evaluation of which condemned, starting with the worst and type of execution inflicts more pain on the ending with the easiest.

(24b line 9) **הלכה א:** ארבע מיתות נמסרו לבית דין כול. ולרשות לא ניתן אלא דין הרג בלבד. סקילה מניין. וסקלקלם באבנים ומתו: שריפה. שנאמר באש ישרפו אותו ואתהו. הרג. נאמר כאן נקימה ונאמר להלן והבאתי עליכם חרב נקמת נקם-ברית. מה נקימה האמורה להלן חרב. אף נקימה האמורה כאן חרב. חנק. לית משכח ליה. אמרת. כל-מיתה האמורה בתורה סתם אין אותה רשאי להחמיר עליה אלא להקל עליה ותלוי אותה בחנק.

Halakhah 1: “Four kinds of execution was the court empowered to impose,” etc. But to the government² only decapitation was given.

From where stoning? *You shall stone them with stones that they die*³. Burning, for it is written, *in fire you shall burn him and them*⁴. Avenging is written here⁵, and there it is written: *I shall bring over you a sword which avenges the vengeance of the Covenant*⁶. Since avenging mentioned there is by the sword, also avenging mentioned here is by the sword. Strangling? You do not find it⁷. You say that for any death penalty mentioned in the Torah with no particular indication, you are not empowered to make it more stringent, but only to make it less so; they assigned this to strangling.

2 The Roman Imperial government. When Caracalla extended Roman citizenship to all free inhabitants of the empire, he thereby abolished crucifixion (except for slaves).

3 Deut. 17:5.

4 Lev. 20:14.

5 Ex. 21:20. The slave slain by his master shall be avenged. Babli 52b; the

Babli text in *Mekhilta dR. Ismael* p. 273, dR. *Simeon bar Iohai* p. 175.

6 *Lev.* 26:25.

7 It is not mentioned anywhere in biblical literature as a recognized form of execution. The Babli's discussion, 52b, is inconclusive.

(24b line 15) רבי שמעון אומר. שריפה חמורה מסקילה. ורבנין מרין. סקילה חמורה משריפה. רבי שמעון אומר. חנק חמורה מהרג. ורבנין מרין. הרג חמור מחנק. רבי שמעון דרש. כל-שם בת כהן בשריפה. ורבנין מרין. כל-שם ארוסה בסקילה. רבי שמעון דרש. מה בת כהן שהחמירה תורה בארוסה שתהא בשריפה היקילה בנשואה שתהא בסקילה. בת ישראל שהיקילה תורה בארוסה שתהא בסקילה אינו דין שנקל עליה בנשואה שתהא בהריגה. ורבנין דרשין. מה אם בת ישראל שהחמירה התורה בארוסה שתהא בסקילה היקילה בנשואה שתהא בשריפה. בת כהן שהיקילה התורה בארוסה שתהא בשריפה אינו דין שנקל בנשואה שתהא בחניקה.

Rebbi Simeon says, burning is worse than stoning, but the rabbis teach that stoning is worse than burning. Rebbi Simeon says, strangulation is worse than decapitation; but the rabbis teach that decapitation is worse than strangulation¹.

Rebbi Simeon explained that any reference to "Cohen's daughter" implies burning, but the rabbis teach that any reference to "preliminarily married" implies stoning⁸.

Rebbi Simeon explained: The Torah was stringent with a Cohen's daughter and ordered that as preliminarily married she be burned, but was lenient with the definitively married one that she be stoned⁹. The Torah was lenient with the preliminarily married daughter of an Israel and ordered that she be stoned; it is logical that we be lenient with the definitively married one that she be decapitated¹⁰. But the rabbis explain, since the Torah was stringent with the preliminarily married daughter of an Israel and ordered that she be stoned, it was lenient with her in her definitively married status to be burned¹¹. The Torah was lenient with the daughter of a Cohen in her preliminarily married status and ordered that she be burned; it is logical that we be lenient with her in her definitively married status that she be strangled¹².

8 Adultery by a preliminarily married virgin is punishable by stoning (*Deut.* 22:24), by a definitively married woman by

"death" (*Lev.* 20:10), which by the preceding argument means the least painful of the four kinds of execution. *Lev.* 21:9

prescribes death by burning for the whoring daughter of a Cohen. The status (unmarried, preliminarily or definitively married) of the Cohen's daughter is not spelled out. Since sexual activity of an unmarried woman is nowhere in the Bible classified as a capital crime [*Sifra Emor Perek 1*(15)], it is assumed that the Cohen's daughter mentioned in the verse cannot be unmarried (virgin or widowed). The problem remains whether *Lev. 21:9* refers to a preliminarily or definitively married woman.

For R. Simeon, who holds that burning is more painful than stoning, *Lev. 21:9* refers to any adulterous daughter of a Cohen, irrespective of the status of her marriage (*Babli 50a*). For the rabbis who hold that stoning is more painful than burning, *Lev. 21:9* cannot refer to a preliminarily married maiden since then it would treat a Cohen's daughter more leniently than an Israel's, which contradicts the entire tenor of *Lev. 21:1-9*.

The formulation of the rabbis' position is not quite correct since *Deut. 22:24* applies only to a preliminarily married maiden (between the ages of 12 and 12 years 6 months; cf. *Yebamot 1:3*, Notes 159-160). In the text following, "preliminarily

married" means "preliminarily married maiden"; "definitively married" means "definitively married or adult preliminarily married".

9 This statement contradicts the assertion in the previous paragraph that R. Simeon applies *Lev. 21:9* to any married daughter of a Cohen; it also contradicts both the principles that (1) penalties must be spelled out in Scripture, cannot be inferred by hermeneutical rules, and (2) in any argument *de minore ad majus* only the data of the rules which are compared can be used; only identical terms can be transferred. Both objections again lead to the conclusion that R. Simeon cannot differentiate between a preliminarily and a definitively married daughter of a Cohen.

10 This is no logical argument at all but a clear reference to biblical verses; cf. Note 8. The only inference is that for R. Simeon the standard method of execution must be beheading.

11 A clear scribal error; it must be "strangled" (Note 8).

12 This proves that at the end of the preceding sentence one has to read "strangled".

רַבִּי אֶבְרָהָם בְּשֵׁם רַבִּי יוֹסִי בֶן חֲנִינָה. כָּל-מִיתָה שֶׁהִיא לְמִטָּה מִמִּיתַת אָבִיהָ בְּשָׂרֶיהָ. כְּשֶׁהִיא אֶצֶל אָבִיהָ עִם אָבִיהָ בְּשָׂרֶיהָ וְעִם חֲמִיהָ בְּסָקִילָה. אֶת-אָבִיהָ הִיא מַחֲלִילָת בְּאֵשׁ תִּשְׂרֹף: רַבִּי לֵיעָזָר אוֹמֵר. עִם אָבִיהָ בְּשָׂרֶיהָ עִם חֲמִיהָ בְּסָקִילָה. הִיא בְּשָׂרֶיהָ וְאִין בּוֹעֵלָה בְּשָׂרֶיהָ. הִיא בְּשָׂרֶיהָ וְאִין זֹמְמִיהָ בְּשָׂרֶיהָ. כִּיּוֹצֵא בָהֶם בְּשָׂרֶיהָ הִיא וְהִן בְּשָׂרֶיהָ. כִּיּוֹצֵא בָהֶן בְּסָקִילָה. כִּיּוֹצֵא בָהֶן בְּחֶזֶק הֵן בְּשָׂרֶיהָ וְהוּא בְּחֶזֶק.

Rebbi Abbahu in the name of Rebbi Yose ben Hanina: Anyone who is executed less cruelly than her father's death is by burning¹³. As long as she is with her father, with her father she is burned, with her father-in-law stoned.

*With her father she is desecrating, in fire she should be burned*¹⁴. Rabbi Eliezer says, with her father she is burned, with her father-in-law stoned¹⁵. She by burning, her paramour not by burning¹⁶. She by burning, her perjured witnesses not by burning. Similarly by burning, she and they by burning. Similarly by stoning, she and they by stoning. Similarly by strangulation, they by burning but he by strangulation¹⁷.

13 The discussion follows the rabbis, for whom stoning is more severe than burning. The statement is a little more explicit in the Babli, 51a.

A definitively married Israel woman who commits adultery is strangled, except that if she commit incest with her father both are burned (*Lev.* 20:14). As a preliminarily married maiden she would be stoned. Therefore, it is clear that for the rabbis the daughter of a Cohen is burned only if either she commits incest with her father or adultery when definitively married.

14 *Lev.* 21:9, reading אֶת as “with”. The quote with the following two sentences is a *baraita*, *Sifra Emor Pereq* 1(19); *Tosephta* 14:17.

15 *Lev.* 20:12. From *Lev.* 20:27: *they shall be put to death, by a stone they shall be stoned, their blood be on them*, it is inferred that any expression “their blood be on them” means execution by stoning. Babli 54a.

16 The singular used in *Lev.* 21:9 implies that only she is executed by burning; her paramour is punished, like any adulterer with a married woman, by strangulation (Babli 51a).

17 The last three sentences are repeated as last sentences of this Tractate, *Halakhah* 11:8; *Tosephta* 14:17. “They” are perjured witnesses who falsely accuse her. If they accuse her of adultery as a definitively married woman, then the perjured witnesses are strangled, the prescribed punishment of the paramour. If they accuse her of incest with her father, they are burned, the prescribed punishment of her father. If they accuse her of adultery as preliminarily married maiden, they are stoned, the prescribed punishment both of her and her paramour.

The last sentence cannot stand as it appears here. In Chapter 11, one reads קִינָה וְהוּא בְּחִנּוּק הִיא וְהוּא בְּחִנּוּק “similarly by strangulation, she and they by strangulation.” In the *Tosephta* קִינָה וְהוּא בְּחִנּוּק הִיא וְהוּא בְּחִנּוּק “similarly by strangulation, he is burned and they by strangulation.” One sees that none of the scribes understood what he was writing. One may read in Chapter 11 “*he* and they by strangulation,” or in the *Tosephta* “*she* is burned and they strangled”. In the text here, one has to read: “*she* by burning but he (or *they*) by strangulation.”

עֲבֹדָה זָרָה הִיא בְּסָקִילָה. יֵצְאוּ לִידֹן בְּסָקִילָה שְׂבָמִיתוֹת בְּשָׂרֶיהָ. לֹא דִינָהּ שְׂאֵת מוֹצִיאָהּ לִידֹן (24b line 32) רַבִּי אֶבְרָהָם בֶּן יוֹסִי בֶן חֲנִינָה. רַבִּינּוּ דְרִשְׁיוּ. אֲנָשֵׁי עִיר הַנִּדְחָת בְּכָל עוֹבְדֵי

בַּקֵּלָה שְׁבִמִיתוֹת בְּשָׂרִיפָה אֶלָּא שְׂאֵת מוֹצִיאָן לְדוֹן בַּקֵּלָה שְׁבִמִיתוֹת בְּחִנִּיקָה. רַבִּי שְׁמַעוֹן דָּרֵשׁ. נָבִיא הַשֹּׁקֵר בְּכָל עוֹבְדֵי עֲבֹדָה זָרָה הֵיוּ בְּשָׂרִיפָה. יֵצְאוּ לִידוֹן בַּקֵּלָה שְׁבִמִיתוֹת בְּסָקִילָה. לֹא דִיּוֹד שְׂאֵת מוֹצִיאָן לִידוֹן בַּקֵּלָה שְׁבִמִיתוֹת בְּסָקִילָה אֶלָּא שְׂאֵת רוֹצֵה לְהוֹצִיאָן לְדוֹן בַּקֵּלָה שְׁבִמִיתוֹת בְּהָרִיקָה.

רַבִּי שְׁמוּאֵל בַּר סוֹסְרִטָאִי בְּשֵׁם רַבִּי אֲבָהוּ מִחֶלֶף. רַבִּנּוּן דָּרֵשִׁין. נָבִיא הַשֹּׁקֵר בְּכָל עוֹבְדֵי עֲבֹדָה זָרָה הֵיוּ בְּסָקִילָה. יֵצְא לִידוֹן בַּקֵּלָה שְׁבִמִיתוֹת בְּשָׂרִיפָה. לֹא דִיּוֹד שְׂאֵת מוֹצִיאָן בְּשָׂרִיפָה אֶלָּא שְׂאֵת מוֹצִיאָן לִידוֹן בַּקֵּלָה שְׁבִמִיתוֹת בְּחִנִּיקָה.

רַבִּי שְׁמַעוֹן דָּרֵשׁ. אֲנָשִׁי עִיר הַנִּדְחָת בְּכָל עוֹבְדֵי עֲבֹדָה זָרָה הֵיוּ בְּשָׂרִיפָה. יֵצְאוּ לִידוֹן בַּקֵּלָה שְׁבִמִיתוֹת בְּסָקִילָה. לֹא דִיּוֹד אֶלָּא שְׂאֵת מוֹצִיאָן לִידוֹן בַּקֵּלָה שְׁבִמִיתוֹת בְּהָרִיקָה.

Rebbi Abbahu in the name of Rebbi Yose ben Hanina: The rabbis explain that the inhabitants of a seduced city¹⁸ should have been included in the category of idolaters, by stoning. They were treated to a less painful way of execution; that should be by burning¹⁹. It is not enough that you decree for them an easier death by burning, but should you have them judged by the easiest way, by strangulation²⁰? Rebbi Simeon explained: The false prophet²¹ should have been included in the category of idolaters, by burning²². He was treated to a less painful way of execution, which should be by stoning. It is not enough that you decree for them an easier death by stoning, but you have him judged by the easiest way, by beheading²³.

Rebbi Samuel ben Sosartai in the name of Rebbi Abbahu switches the arguments. The rabbis explained: The rabbis explain that the false prophet should have been included in the category of idolaters, by stoning. He was treated to a less painful way of execution, [this should have been] by burning. It is not enough that you decree burning for them, but you have him judged by the easiest way, by strangulation²⁴. Rebbi Simeon explained: The inhabitants of a seduced city should have been included in the category of idolaters, by burning. They were treated to a less painful way of execution; that should be by stoning²². This is not enough for you but you have them judged by the easiest way, by beheading²⁵.

18 A city which by vote of city council and population decides to become pagan. Its inhabitants have to be killed by the sword

(Deut. 13:13-19). Individual apostates to paganism have to be stoned (Deut. 17:5).

19 Just one degree less than stoning.

20 This is the rabbis' argument to prove that beheading is worse than strangulation. If the punishment of the inhabitants of the seduced city were the easiest way of execution, the verse simply should have decreed the unspecified death penalty. Since beheading was specified, it must be worse than the unspecified death penalty.

The reason behind the argument is R. Ismael's tenth hermeneutical principle [*Sifra Wayyiqra Pereq 1(2)*], that special treatment for a crime already treated in general always expresses a leniency, not greater strictness.

21 *Deut.* 13:2-6. He is described as a missionary for paganism; his sentence is "death" which means strangulation for R. Simeon.

22 This makes no sense since it contradicts *Deut.* 17:5. The first two sentences of the argument attributed to R. Simeon are simply taken from the rabbis'

argument with stoning and burning switched, even though the argument is irrelevant.

23 Since the rabbis must agree that the false prophet be executed in the least painful way, they agree that once a punishment is reduced, it may be reduced to the lowest level; the rabbis' argument in Note 20 is contradicted. The mention of death by the sword in *Deut.* 13:16 may be an example of the third hermeneutical rule, "a general principle exemplified once".

24 This adapts for the rabbis the argument ascribed to R. Simeon in the preceding paragraph.

25 In this version, the arguments of both parties are completely parallel; each one is consistent within its own system. Both systems are compatible with the biblical verses.

משנה ב: (fol. 24a) מִצּוֹת הַנִּשְׁרָפִין הֵיוּ מִשְׁקָעִין אוֹתוֹ בְּזָבֵל עַד אֲרֻכּוֹבוֹתָיו וְנוֹתְנִין סוּדָרִין קָשָׁה לְתוֹךְ הַרְקָה וְכוּרָף עַל צִנְאוֹרוֹ. זֶה מוֹשֵׁף אֶצְלוֹ וְזֶה מוֹשֵׁף אֶצְלוֹ עַד שֶׁהוּא פּוֹתֵחַ אֶת פִּי וּמַדְלִיק אֶת הַפִּתְיִלָּה וְזוֹרְקָה לְתוֹךְ פִּי וְיִוְרְדָת לְתוֹךְ מַעֲיו וְחוֹמֶרֶת אֶת בְּנֵי מַעֲיו. רַבִּי יְהוֹנָדָה אוֹמֵר אִם הוּא אִם מִת בְּיָדָם לֹא הָיוּ מִקְיָמִין בּוֹ מִצּוֹת שְׂרָפָה אֶלָּא פּוֹתְחִין אֶת פִּי בְּצַבֵּת שְׁלֵא בְּטוֹבָתוֹ וּמַדְלִיק אֶת הַפִּתְיִלָּה וְזוֹרְקָה לְתוֹךְ פִּי וְיִוְרְדָת לְתוֹךְ מַעֲיו וְחוֹמֶרֶת אֶת בְּנֵי מַעֲיו. אָמַר רַבִּי אֱלֵעָזָר בֶּן צְדוֹק מַעֲשֶׂה בְּבֵת כֹּהֵן שֶׁנִּזְנְתָה וְהַקִּיפּוּהָ חֲבִילֵי זְמוּרוֹת וּשְׂרָפּוּהָ. אָמְרוּ לוֹ מִפְּנֵי שְׁלֵא הָיָה בֵּית דִּין שֶׁבְּאוֹתָהּ שָׁעָה בָּקִי:

Mishnah 2: The order of burning: One makes him sink into manure up to his knees²⁶, puts a stiff cloth into soft ones and winds them around his throat. One person draws in his direction, the other draws in his direction until he opens his mouth²⁷. Then one lights a wick²⁸ and throws it into his mouth that it enters his innards and chars his intestines. Rabbi Jehudah says, in that case, if he would die in their hands they would not have fulfilled the duty of

burning²⁹; one opens his mouth forcefully with tongs, lights a wire and throws it into his mouth that it enters his innards and chars his intestines. Rabbi Eleazar ben Sadoq said, it happened that a Cohen's daughter whored; they surrounded her with firewood and burned her. They told him, because the court at that time was incompetent³⁰.

26 To make the condemned lose partial consciousness from the methane gas coming from the manure.

27 The two witnesses stand to either side of the condemned and choke him to force him to open his mouth. The coarse cloth is the one which chokes; the soft cloth is to shield the skin from injury. The entire procedure is modelled on the death of Nadab and Abihu (*Lev. 10:1-6*) which is called "burning" (v. 6) but whose bodies were not

injured externally (v. 5), and similarly the deaths of the 250 followers of Korah (*Num. 16:35*); Babli 52a.

28 Not really a wick but either liquid metal (Babli 52a) or burning oil.

29 By refusing to open his mouth, the condemned could force his executioners to choke him to death, which is considered the least painful kind of execution.

30 Not incompetent but Sadducee (or in any case anti-Pharisee).

הלכה ב: מצינת הנשרפין כול'. ויתן קנשה בפני עצמו. אמר. שלא ימות. שכן מצינו שבשערה שסתם חזקיהו את מוצא מימי גיחון העליון במנים דקים סתמן.

Halakhah 2: "The order of burning," etc. Why does one not use the hard cloth alone? One said, that he should not die³¹; as we find that when Hezekias closed the waters of the upper Gihon spring³², he stopped it with soft clothing.

31 To avoid strangling him.

32 2Chr. 32:2,4.

הביתא (24b line 47) רבי קריספא בשם רבי יוחנן. בפיתילה שלבעץ היא מתניתא. מהו בפיתילה שלבעץ. רבניו דקיסריא אמרו. אבר וקסיטריאון מעורבין. אמר רבי יוסי בירבי בון. אתיא כמאן דמר. מדליק את הפיתילה וזורקה לתוך פיו. ברם כמאן דמר. יורדת לתוך מעיו וחומרת את בני מעיו. בפיתילה שלנפט היא מתניתא.

³³Rebbi Crispus in the name of Rebbi Johanan: The Mishnah speaks of a *ba'as*³⁴ wire. What is a *ba'as* wire? The rabbis of Caesarea say, a mixture of lead and tin³⁵. Rebbi Yose ben Rebbi Abun said, this follows him who said, "one lights a wire and throws it into his mouth." But for him, who says, "it enters his innards and chars his intestines," the Mishnah speaks of a wick of Naphtha³⁶.

33 From here to the middle of Halakhah 5 there exists a (frequently lacunary) Genizah text (G) in pure Galilean spelling (L. Ginzberg, *Yerushalmi Fragments*, pp. 258-259).

34 Usually, בעץ is translated as “tin.” But since the pure metal appears in the text under its Greek name, the Hebrew word

(and its Aramaic counterpart אַבְצָא) denote the commercial product, a lead-tin alloy.

35 Greek αασσίτερος, ὁ, “tin”. In G: וקסיטיר.

36 The Babli, 52a, only recognizes a wire of lead.

(24b line 52) תִּנִּי. קוֹדֵם לְאַרְבָּעִים שָׁנָה עַד שֶׁלֹּא חָרַב הַבֵּית נִיטְלוּ דִּינֵי נִפְשוֹת מִיִּשְׂרָאֵל. בִּימֵי רַבִּי שְׁמַעוֹן בֶּן יוֹחִי נִיטְלוּ דִּינֵי מְמוֹנוֹת מִיִּשְׂרָאֵל. אָמַר רַבִּי שְׁמַעוֹן בֶּן יוֹחִי. בְּרִידָה רַחֲמָנָא דְלֵי נָא חֲכִים מִידוֹן.

³⁷It was stated: Forty years before the Temple was destroyed, criminal jurisdiction was removed from Israel, and in the days of Simeon ben Iohai civil jurisdiction was removed from Israel. Rabbi Simeon ben Iohai said, praised be the Merciful, for I am not wise enough to judge.

37 Halakhah 1:1, Notes 31-35.

(24b line 54) אָמַר רַבִּי לְעֶזְרָא בִּירְבִּי צְדוֹק. תִּינוּק הָיִיתִי וְרוֹכֵב עַל כְּתִיפּוֹ דְאַבָּא. וְרָאִיתִי בֵּית כֹּהֵן שְׂאִינָת וְהַקִּיפּוּהָ חֲבִילֵי זְמוּרוֹת וּשְׁרָפוּהָ. אָמְרוּ לוֹ. תִּינוּק הָיִיתָ וְאַיִן עֲדוּת לְתִינוּק. כִּד חֲמָא הָא מִילְתָּא לֹא הָוָה פְּחוּת מִבֶּן עֶשְׂרִי שָׁנִין. כִּד הָוָה מְהֻלָּךְ עִם רַבִּי לֹא הָוָה פְּחוּת מִן תַּלְתֵּין שָׁנִין. דְּלֵית אוֹרְחָא דְגִבְרָא רַבָּא מְהֻלָּךְ עִם בַּר נֶשׁ פְּחוּת מִן תַּלְתֵּין שָׁנִין. וְתִנִּי כֵן. אָמַר רַבִּי. מַעֲשֵׂה שְׁהִיִּיתִי אֲנִי בָּא וְרַבִּי אֶלְעָזָר בִּירְבִּי צְדוֹק מִבֵּית שִׁירִין וְאַכְלֵנוּ תַּאֲנִים וְעֲנָבִים עָרָא חוּץ לַסּוּכָה.

“Rebbi Eleazar ben Rebbi Sadoq said, I was a child riding on my father’s shoulder when I saw the daughter of a Cohen who had whored; they surrounded her with firewood and burned her. They told him, you were a child; a child cannot testify.”³⁸ When he saw this, he³⁹ was no less than ten years old. When he walked with Rebbi, he must have been no less than thirty years old since it is not fitting for a great personality to be accompanied by anybody less than thirty years of age. As we have stated: “Rebbi said, I was coming from bet Sirin with Rebbi Eleazar ben Rebbi Sadoq when we ate figs and grapes outside the tabernacle⁴⁰.”

38 Babli 52b, Tosephta 9:11.

39 This is rather old for a child riding on his father's shoulder. Probably it means "older than 5 years." [More than 150 years separate the burning reported by R. Eleazar

ben R. Sadoq I from R. Eleazar ben R. Sadoq II accompanying Rabbi.]

40 On Tabernacles, only full meals have to be eaten in the *sukkah*; snacks may be eaten outside.

(fol. 24a) **משנה ג:** מצות הנֶהֱרָגִין. הָיוּ מְתִיזִין אֶת רֹאשׁוֹ בְּסִיף כְּדָרֵךְ שֶׁהַמְּלָכוֹת עוֹשֶׂה. רַבִּי יְהוּדָה אֹמֵר, נִיּוּל הוּא זֶה אֶלָּא מֵנִיחַ אֶת רֹאשׁוֹ עַל הַסֵּדֶן וְקוֹצֵץ בְּקוֹפֵץ. אָמְרוּ לוֹ אֵין מִיתָה מְנוּלָת מָוֹ.

Mishnah 3: The order of beheading. They were chopping off his head with a sword just as the [Roman] government does. Rabbi Jehudah says, this is ugliness but one puts his head on the block and cuts it with a butcher knife. They told him, there is no death uglier than this.

(24b line 62) **הלכה ג:** מצות הנֶהֱרָגִין כול. מוֹדָה רַבִּי יְהוּדָה שֶׁאֵין מִיתָה מְנוּלָת מָוֹ. אֶלָּא שֶׁאֲמָרָה תוֹרָה וּבִחְקוֹתֵיהֶם לֹא תִלְכוּ: אָמַר רַבִּי יוֹחָנָן. וְתֵי כֹן. וְרִצַּח הָרוּצָח. בְּמָה שֶׁרִצַּח. יָכוֹל אִם הָרָגוּ בְּסִיף יִהְיֶה בְּסִיף. בְּמִשְׁקֵל יִהְיֶה בְּמִשְׁקֵל. נֶאֱמַר כָּאֵן נִקְיָמָה וְנֶאֱמַר לְהִלֹךְ וְהַבֵּאתִי עֲלֵיכֶם חֶרֶב נִקְמָת נֶקֶם-בְּרִית. מִה נִקְיָמָה שֶׁנֶּאֱמָרָה לְהִלֹךְ בְּחֶרֶב. אִף נִקְיָמָה שֶׁנֶּאֱמָרָה כָּאֵן מִיתָה בְּחֶרֶב. יָכוֹל וְטָלִינוּ מִבֵּין הָאֲגָפִיִּים. נֶאֱמַר כָּאֵן וּבִעֲרַת הָרָע מִקֶּרְבֶּךָ: וְנֶאֱמַר לְהִלֹךְ וְאֵתָה תִּבְעֶר הַדָּם הַנֶּזְקִי מִקֶּרְבֶּךָ. הַבְּעָרָה הַבְּעָרָה. עֲרִיפָה עֲרִיפָה. מִה הַבְּעָרָה שֶׁנֶּאֱמָרָה לְהִלֹךְ מוֹל הָעוֹרֶף אִף כָּאֵן מוֹל הָעוֹרֶף. מִה עֲרִיפָה שֶׁנֶּאֱמָרָה לְהִלֹךְ הַתִּזָּת הָרָאשׁ אִף כָּאֵן הַתִּזָּת הָרָאשׁ.

Halakhah 3: "The order of beheading," etc. ⁴¹"Rebbi Jehudah agrees that there is no death uglier than this but the Torah said⁴², *in their statutes you shall not walk*." Rabbi Johanan said, also it was stated thus: *One shall murder the murderer*⁴³, the way he murdered. I could think that if he killed with a sword, one should kill him with a sword, with a rod one should kill him with a rod? Avenging is written here⁵, and there it is written: *I shall bring over you a sword which avenges the vengeance of the Covenant*⁶. Since avenging mentioned there is by the sword, also avenging mentioned here is by the sword. I could think that he⁴⁴ should kill him between the arms? It is said here⁴⁵, *you shall eliminate the evil from your midst*, and it is said there⁴⁶, *you shall eliminate the innocent blood from your midst*. Elimination, elimination;

breaking the neck, breaking the neck⁴⁷. Since elimination here is at the neck, also there it is at the neck. Since breaking the neck there implies chopping off the head, also here chopping off the head.

41 Babli 52b; Tosephta 9:11.

42 Lev. 18:3.

43 Num. 35:30: *Any homicide; following witnesses one shall murder the murderer.*

44 The avenger.

45 Deut. 19:19. Since this refers to perjured witnesses, it includes all kinds of death penalties.

46 Deut. 21:9.

47 By the doctrine of invariability of

lexemes the meaning of “elimination” must be the same in Deut. 19:19 and Deut. 21:9. That of “breaking the neck” in Deut. 21:4 is defined by “neck” in Lev. 5:8. Since elimination in Deut. 21 is by breaking the neck, Deut. 19:19 also must refer to the neck. Since strangulation is not mentioned in the Pentateuch, the only method of execution to which this may refer is beheading.

משנה ד: מִצֹּת הַנִּחְנָקִין הָיוּ מְשַׁקְעִין אוֹתוֹ בְּזָבֵל עַד אֶרְכּוֹבוֹתָיו. וְנוֹתְנִין סִידְרֵין קִשָּׁה לְתוֹךְ הַרְקָה וְכוּרֶךְ עַל צְנֹאָרוֹ. זֶה מוֹשֵׁךְ אֶצְלוֹ וְזֶה מוֹשֵׁךְ אֶצְלוֹ עַד שֶׁנִּפְשׁוּ יוֹצֵאָהּ:

Mishnah 4: The order of the strangled: One makes him sink into manure up to his knees²⁶, puts a stiff cloth into soft ones and winds them around his throat. One person draws in his direction, the other one draws in his direction until he expires.

הלכה ד: מִצֹּת הַנִּחְנָקִין כֹּל. חֲנֹק לִית מִשְׁפָּחָה. אֶמְרָתָה. הָרִי זֶה מִיתָה בְּתוֹרָה. כָּל־מִיתָה שֶׁנִּצְאָמְרָה בְּתוֹרָה סֵתָם אֵין אֵת רִשָּׁאִי לְמוֹשָׁכָה לְהַחֲמִיר עָלֶיהָ אֶלָּא לְהַקֵּל עָלֶיהָ. דְּבָרֵי רַבִּי יֵאֻשִׁיָּהּ. אָמַר לוֹ רַבִּי יוֹנָתָן. לֹא מִפְּנֵי שֶׁהִיא קֹלָה אֶלָּא שֶׁנִּצְאָמְרָה סֵתָם. כָּל־מִיתָה שֶׁנִּצְאָמְרָה סֵתָם אִי אֵתָהּ רִשָּׁאִי לְהַחֲמִיר עָלֶיהָ אֶלָּא לְהַקֵּל עָלֶיהָ. תָּלוּ אוֹתָהּ בַּחֲנֹק.

Halakhah 4: “The order of the strangled,” etc. Strangling? You do not find it⁷. This refers to death penalty in the Torah. For any death penalty mentioned in the Torah with no particular indication, you are not empowered to try to make it more stringent, only to make it less so, the words of Rabbi Josia. Rabbi Jonathan said to him, not because it is the least painful, but because it is mentioned in the Torah with no specific indication. For any death penalty mentioned in the Torah with no particular indication, you are not

empowered to try to make it more stringent but only to make it less so; they ascribed this to strangling.

48 Babli 52b.

49 He agrees with R. Simeon that beheading is the least painful.

50 This seems to be a *non sequitur*. The text is confirmed by the Genizah fragment; this forbids emendations. In the Babli (*loc. cit.*), Rabbi Jonathan is quoted as stating that “because it is mentioned in the Torah with no particular indication, it is strangling.” This statement is omitted by R. Hananel in

his commentary to the Babli.

Probably the text should be interpreted as follows. An unspecified death penalty cannot be one of the three specified ones, otherwise the exact method of execution would have been mentioned. Therefore, one must rely on tradition to specify the method which, however, has to approximate the least painful of the specified ones in severity.

24c line 3) אַמְרֵת. סִדֵּר חֲנֹק כִּדְּ הָיָא. זֶה מוֹשֵׁף אֶצְלוֹ וְזֶה מוֹשֵׁף אֶצְלוֹ. כִּהְנָא בְּעָא קוּימֵי רַב. תִּמְן אֶת מַר. זֶה מוֹשֵׁף הִילָךְ וְזֶה מוֹשֵׁף הִילָךְ. וְכָא אֶת מַר. זֶה מוֹשֵׁף אֶצְלוֹ וְזֶה מוֹשֵׁף אֶצְלוֹ. אִמַּר לִיה. תִּמְן זֶה מִלְפָּנֵי וְזֶה מִלְאַחֲרֵי. בְּרַם הָכָא דִּין מִן דִּין סִיטְרָא וְדִין מִן דִּין סִיטְרָא.

You said, the order of strangling is the following: “One person draws in his direction, the other one draws in his direction.” Cahana asked before Rav: There⁵¹, you say, “one draws in *one* direction, the other draws in *one* direction.” But here, you say, “one draws in *his* direction, the other draws in *his* direction.”⁵² He told him, there one is in front, the other in the back. But here, one is on one side, the other one is on the other side.

51 Mishnah *Zavim* 3:2. The sufferer from gonorrhea causes impurity to everything he sits on and everything which is moved either by his force or on which he sits (*Lev.* 15:10). For example, a sufferer from gonorrhea and a pure person sit in the same boat but do not touch at all. The moment the boat moves, the pure person and his garments become impure. This impurity is known as מְדַרְס “caused by] stepping upon.” The Mishnah

refers to two persons, one suffering from gonorrhea and one pure, who together are splicing the same rope, working at different ends. Since each of them moves the rope in his direction, the pure person and his garments become impure the moment the impure person moves the rope while the pure one is holding it.

52 Why the change in language?

(fol. 24a) **משנה ה'**: אילו הו' הנסקלין. הבא על האם ועל אשת אב ועל הפלה ועל הזכר ועל הבתמה והאשה המביאה עליה את הבתמה והמגדף והעובד עבודה זרה והנותן מזרעו למלוך ובעל אוב וידעוני והמחלל את השבת והמקלל אביו ואמו והבא על נערה המאורסה והמסית והמדיח והמכשף וכן סורר ומורה.

Mishnah 5: The following are stoned: A male having sexual relations with the mother, or the father's wife⁵³, or the daughter-in-law, or a male, or an animal; or a female bringing an animal onto herself⁵⁴. Also the blasphemer⁵⁵, the worshipper of idols⁵⁶, he who gives one of his descendants to the Moloch⁵⁷, and the necromancer, and the medium⁵⁸. Also one who desecrates the Sabbath⁵⁹, or who curses father or mother⁶⁰, or who has sexual relations with a preliminarily married maiden⁸, or who leads astray⁶¹, or who seduces⁶², or the sorcerer⁶³, or the deviant and rebellious son⁶⁴.

53 Even if she is not his mother, *Lev.* 20:11. One infers from *Lev.* 20:27 that *their blood be on them* means that the punishment is stoning (Halakhah 9).

54 *Lev.* 20:12,13,15,16.

55 *Lev.* 24:23. It is a capital crime only if the Divine Name (which today is unknown) was used in the blasphemy.

56 *Deut.* 17:5.

57 *Lev.* 20:2.

58 *Lev.* 20:27. The necromancer is the person who raises the spirits of the dead; cf.

1*S.* 28. The medium is one who incorporates a spirit which predicts the future, speaking from the medium's body, not his mouth.

59 *Num.* 15:36.

60 *Lev.* 20:9.

61 The missionary for another faith who addresses individuals in private; *Deut.* 13:11, cf. Mishnah 16.

62 He acts in public; Halakhah 16.

63 Halakhah 19.

64 *Deut.* 21:21.

(24c line 7) **הלכה ה'**: אילו הו' הנסקלין כול'. לכן צריכה בהעלם אחד. אבל בשני העלימות. שכן אפילו באשה אחת בא עליה וחזר ובא עליה בהעלם אחד. חייב על כל-אחת ואחת. רבי שמעון בריה דרבי הלל בן פזי בעא קומי רבי הלל בן פזי. מתינתא באשה אחת שיש לה שמות הרבה. אבל אם היו נשים הרבה והעלימות הרבה בהעלם אחד הוא. אמר ליה. לכן צריכה בהעלם אחד. דאיתפלגון. הוא בהעלם אחד והיא בהמשכה העלימות. רבי יוחנן אמר. הוא מביא קרבן אחד והיא מביאה ה' קרבנות. רבי שמעון בן לקיש אמר. כשם שאינו מביא [אלא]⁶ קרבן אחד כך אינה מביאה אלא קרבן אחד. שלא תאמר. יעשו נשים הרבה והעלימות הרבה בהעלם אחד אינו חייב אלא אחת. לפום כך צרד מימר. חייב על כל-אחת ואחת.

Halakhah 5: “The following are stoned,” etc. ⁶⁵It is necessary in one forgetting⁶⁶, but in two forgettings? Since even for one woman, if he had relations with her several times in one forgetting, he is liable for each one⁶⁷.

Rebbi Simeon ben Rebbi Hillel ben Pazi asked before Rebbi Hillel ben Pazi: The Mishnah refers to one woman who is forbidden under many names⁶⁵. But if there were many women, or many forgettings, is that in one forgetting⁶⁸? He told him, it is necessary to state for one forgetting, since they disagreed: He acts in one forgetting but she in five forgettings. Rebbi Johanan said, he brings one sacrifice but she brings five sacrifices⁶⁹. Rebbi Simeon ben Laqish said, since he brings [only]⁷⁰ one sacrifice, she brings only one sacrifice; lest you say that many women, or many forgettings, be treated as one forgetting. Therefore, it is necessary to say⁷¹, he is liable for each one.

⁶⁵ This Halakhah refers more to Mishnah *Keritut* 1:1 (for which no Yerushalmi exists) than to the present Mishnah which rather serves as a header for the following Mishnaïot (6-19) which take up all cases mentioned in the Mishnah. Since the rules of evidence essentially guarantee that nobody can be executed, it is asserted, and shown in detail in the following Halakhot, that a criminal who escapes the earthly court is condemned by the Heavenly court to extirpation. If a sin punishable by extirpation was committed inadvertently, it can be atoned for by a purification sacrifice. (No sin committed intentionally can be atoned for by a sacrifice.) *Keritut* 1:1 contains a list of 36 sins punishable by extirpation, including those mentioned in the Mishnah here. That the number 36 is mentioned in the Mishnah is interpreted to mean that for each category a separate sacrifice is needed. For example, a person who inadvertently sleeps with a woman who is his mother married to his father has to

bring two sacrifices, one for sleeping with his mother and one for his father's wife.

⁶⁶ It is emphasized repeatedly (*Lev.* 4:13, 5:2,3) that an inadvertent sin, for which atonement by a sacrifice is possible, must involve an element of forgetting, either of the law which forbids the action, or of the identity of the person with whom the forbidden act was committed; this includes ignorance of the law or identity of the person. It is clear that a sacrifice is possible only if the person realizes the criminality of his act, i. e., he came to know the law or the identity. If then he forgets the information again, a new situation is created which is not a continuation of the previous one. This is a major topic of Tractate *Ševu'ot*.

It seems that הַעֲלִימוֹת, הָעֵלֶם are Babylonisms in the text; G writes עֵלֶם, עֲלִמוֹת, יַעֲלִמוֹת.

⁶⁷ It seems impossible to make sense of this sentence. The most probable emendation is to read “two forgettings”, see the preceding Note.

68 If in ignorance of the law, he slept with many menstruating women, or with several of his sisters, does this trigger the obligation of one or of several sacrifices? Similarly, if he repeatedly inadvertently slept with the same forbidden woman but in the intervals had realized the criminal character of his deed, does this trigger the obligation of one or of several sacrifices?

69 In the Babli, *Keritot* 15a, this is a tannaïtic statement. The dissenting opinion is not mentioned there.

70 The word is missing in the Leiden ms., in G only the last α is clearly readable but the reconstruction of the word is quite certain.

71 In the missing Halakhah to *Keritot* 1:1, it is stated that the number of possible cases is stated to stress that each sin represents a different obligation, following R. Johanan. In both questions of Note 68 the answer is that several sacrifices are required.

24c line 7) אָמַר רַבִּי בִּזְוִי בֶר חֵיטָּה. תִּנִּי רַבִּי שְׁמַאֵל בֶּן. לֹא תִנְחָשׁוּ וְלֹא תַעֲוִנְנֻה וְהָלֹא הִנֵּחִישׁ וְהַעֲיִינוּ בְּכֹל הָיוּ וְנִצְאוּ מִן הַכֹּל לְחֻלּוֹק עַל הַכֹּל. כָּל בְּהִיבָרָת וּפְרָט בְּהִיבָרָת. מִיִּלְתִּיהָ דְרַבִּי יוֹחָנָן אָמַר. כָּל וּפְרָט הוּא. דָּמַר רַבִּי אֲבָהוּ בְּשֵׁם רַבִּי יוֹחָנָן. כִּי כָל־אִשָּׁר יַעֲשֶׂה מִכָּל הַתּוֹעֲבוֹת הָאֵלֶּה וְנִכְרַתִּי וְגו'. וְהָלֹא אֲחוֹתוֹ בְּכֹל הָיִיתָ וְנִצְאָתָ מִן הַכֹּל לְחֻלּוֹק עַל הַכֹּל. הַתִּיב רַבִּי לְעֶזְרָה. וְהַתִּיב עֲרוֹת אֲחוֹת אִמָּךְ וְעֲרוֹת אֲחוֹת אָבִיךָ לֹא תִגְלֶה. אָמַר לִיה. לְצוּרָךְ יֵצֵאת לִידוֹן בְּעֶרְוָה. וְהַתִּיב וְאִישׁ אִשָּׁר־יִשְׁכַּב אֶת־אִשָּׁה דָּוָה וְגִלְתָּה אֶת־עֲרוֹתֶיהָ אֶת־מִקְוָהּ הַעֲרָה וְהָיָה גִילְתָּה אֶת־מִקְוָהּ דְּמִיָּה. אָמַר לִיה. לְצוּרָךְ יֵצֵאת לִידוֹן בְּעֶרְוָה. שְׁלֹא תֹאמַר. הוּאִיל וְאִין חִיבִין עָלֶיהָ אֲלָא מִשּׁוּם טוּמְאָתָ עֲרִיבָה לֹא נַעֲשֶׂה בָּהּ אֶת־הַמַּעֲרָה כְּגוּמַר. לְפִיּוֹם כֹּן צְרִיךְ מִימַר. [חִיבִיב עַל כָּל־אַחַת וְאַחַת]. וְהַתִּיב וְאִישׁ אִשָּׁר יִשְׁכַּב אֶת־דֹּדֵתוֹ עֲרוֹת דֹּדוֹ גִּלְתָּה. אָמַר לִיה. לְצוּרָךְ יֵצֵאת לִידוֹן בְּעֶרְוָה. דָּאִמַר רַבִּי יוֹדִן. כָּל־אַתֵּר דְּתִימַר עֲרִירִים יְהִי הוּוֹן בְּלֹא וּלְדָ. וְכָל־אַתֵּר דְּתִימַר עֲרִירִים מְוֹתוֹ קוֹבְרִין אֶת בְּנֵיהוֹן.

⁷²Rebbi Abun bar Hiyya said^{73,74}: Rebbi Ismael stated so: *You shall not divine nor cast spells*⁷⁵. Were not divination and spellbinding included in the general class but were mentioned separately to be treated differently from the general case? In general by extirpation, the separate cases for extirpation⁷⁶. A statement of Rebbi Johanan says, it is a case of general case and detail⁷⁷, as Rebbi Abbahu said in the name of Rebbi Johanan, *for anybody who would perform any of these abominations will be extirpated*⁷⁸, etc. Was not his sister included in the general class⁷⁹? Rebbi Eleazar objected: Was it not written, *the nakedness of your mother's sister and your father's sister you shall not uncover*⁸⁰? He told him, it was stated separately for a reason, to judge it by touching⁸¹. But is it not written⁸²: *A man who would lie with an unwell*

woman, who uncovered her nakedness, he touched her source, and she uncovered the source of her blood? He told him, it was stated separately for a reason, to judge it by touching. That you should not say, since one is guilty about her already by the impurity of touching, we should not treat the one who touched equal to the one who had full intercourse. Therefore, it was necessary to say it⁸³. But is it not written⁸⁴: *A man who would sleep with his aunt uncovered his uncle's nakedness*? He told him, it was stated separately for a reason, to judge it by destruction⁸⁵, as Rebbi Yudan said, at all places where *they will be destroyed* is mentioned, they will be childless; where *they shall die destroyed* is mentioned, they shall bury their children.

72 This paragraph and the following almost to the end of the Halakhah have a slightly more complete parallel in *Šabbat* 7:2 (9c l.62-9d l.59).

73 In *Šabbat*, there is here a sentence connecting the text to the preceding discussion, not applicable here. This shows that the text here is not a mechanical copy of the text in *Šabbat*.

74 One of R. Ismael's hermeneutical principles is that "a detail which was singled out from a general class was singled out not for itself but as an example for the entire class." In *Šabbat*, R. Abun bar Hiyya is reported here to have stated that according to R. Ismael this holds only for a single detail, not for two or more. (As a statement of R. Johanan see below, Notes 95 ff.).

75 *Lev.* 19:26. Divination is an attempt to predict the future by magical means; spellbinding is practical witchcraft. Both are particular examples of the prohibition of witchcraft (*Ex.* 22:17), but no penalty is indicated.

76 To use witchcraft is a capital crime as indicated in the Mishnah; in the absence of witnesses there is an automatic Divine

verdict of extirpation. But the special cases of divination and spellbinding only trigger a verdict of extirpation; they are not cases for the human court. This illustrates R. Ismael's principle. In *Sifra Qedošim Pereq* 6(2), R. Ismael and R. Aqiba identify divination and spellbinding as examples of make-believe witchcraft which according to Mishnah 19 is not punishable by the human court. Automatically, these are separate examples of sins which require a purification sacrifice if done without criminal intent. A person who unintentionally acts as sorcerer, divinator, and spellbinder has to bring three sacrifices.

77 The wording might be slightly misleading. There is a hermeneutical principle (#5 on R. Ismael's list) which states that a general expression followed by particulars only refers to the particulars. This presupposes that both general expression and details are in the same paragraph. For example, *Lev.* 1:2 describes sacrificial animals as *animals, cattle, sheep, or goats*. In the context, "animals" means "cattle, sheep, and goats". In the discussion here, the details are mentioned in paragraphs

other than the one describing the general category. Then one has to find a reason why the details have to be mentioned separately.

78 *Lev. 18:29*. This verse decrees a general verdict of extirpation on any violation of sexual taboos spelled out in *Lev. 18*, whether or not they are criminally punishable.

79 The sister is forbidden in *Lev. 18:9* but in the chapter about penalties, *Lev. 20:17*, the punishment is reserved for Heaven.

80 A misquote from *Lev. 18:7,8*. It seems that in G the verses were quoted correctly. It is incorrect also in *Šabbat*. It seems from the context that the text in G is a learned scribe's correction of the original which, however, did not refer to *Lev. 18:7,8* but to *Lev. 20:19*: *The nakedness of your mother's sister and your father's sister you shall not uncover, for his close relative he touched, their sin they have to carry*. Cf. Babli *Yebamot* 54a.

81 *Lev. 20:19* makes two statements: The punishment is reserved for Heaven and the sin is committed the moment the genitals of the parties touch, without any penetration.

Mishnah Yebamot 6:2 extends the equivalence of touching and penetration to all sexual offenses.

82 *Lev. 20:18*. The implications are the same as for v. 19.

83 In G and *Šabbat*: "Therefore, it was necessary to say that he is liable for each one," cf. Note 71. It is possible to justify the addition by noting that *Lev. 18:29* decrees separate extirpation and, therefore, separate sacrifices for unintentional sin, for each separate category of incest.

84 *Lev. 20:20*.

85 In *Šabbat* there is a reference here to *Lev. 20:21*. This also is missing in G, showing that the text here is secondary to that in *Šabbat*, since *Lev. 20:20* says *they shall die destroyed* whereas v. 21 notes *they shall be destroyed*. The difference is explained in the following statement by R. Yudan. The Babli (*Yebamot* 55a) applies both statements to both verses.

86 The Amora. His counterpart in the Babli is the third generation Amora Rabba (Rav Abba bar Nahmani).

(24c line 33) אָמַר רַבִּי יוֹסִי. דִּוְדָתוֹ לְצוֹרֶךְ יָצְאָתָּ. לְמַעַט אֶת אִשְׁתּוֹ אָחִיו מֵאִמּוֹ. מִה טַעֲמָא. נֶאֱמַר כָּאֵן דִּוְדָתוֹ וְנֶאֱמַר לְהֵלֵן אִי-דִּוְדוֹ אִוּ בֶן-דִּוְדוֹ וְנֶאֱלָפָּ. מִה דִּוְדוֹ שְׁנֶאֱמַר לְהֵלֵן בְּאִחִי אָבִיו מֵאִבִּי הַכְּתוּב מְדַבֵּר. אִף דִּוְדָתוֹ שְׁנֶאֱמַרָּה כָּאֵן בְּאִשְׁתּוֹ אָחִי אָבִיו מֵאִבִּי הַכְּתוּב מְדַבֵּר. אִף אִשְׁתּוֹ אָחִיו לִמְדָּה מְדוּדָתוֹ. מִה דִּוְדָתוֹ שְׁנֶאֱמַרָּה לְהֵלֵן בְּאִשְׁתּוֹ אָחִי אָבִיו מֵאִבִּי הַכְּתוּב מְדַבֵּר. אִף אִשְׁתּוֹ אָחִיו שְׁנֶאֱמַרָּה כָּאֵן בְּאִשְׁתּוֹ אָחִיו מֵאִבִּי הַכְּתוּב מְדַבֵּר. עַד כְּדוֹן כְּרַבִּי עֲקִיבָה. כְּרַבִּי יִשְׁמַעֲלָל. תִּנִּי רַבִּי יִשְׁמַעֲלָל. נֶאֱמַר כָּאֵן אִשְׁתּוֹ אָחִיו וְנֶאֱמַר לְהֵלֵן וְאִישׁ אֲשֶׁר יִקַּח אֶת-אִשְׁתּוֹ אָחִיו נָדָה הוּא. מִה נִידָה יֵשׁ לָהּ הֵיטֵר אַחֵר אִיסוּרָה. אִף אִשְׁתּוֹ אָחִיו [מֵאִבּוֹ] יֵשׁ לָהּ הֵיטֵר [לְאַחֵר אִיסוּרָה]. יָצְאָתָּ אִשְׁתּוֹ אָחִיו מֵאִמּוֹ שְׂאִין לָהּ הֵיטֵר אַחֵר אִיסוּרָה.

Rebbi Yose said, it was necessary that *his aunt* be mentioned separately, to exclude his mother's brother's wife⁸⁷. What is the reason? It is said here *his aunt*, and it is said there⁸⁸, *either his uncle or his uncle's son shall free*

him. Since by *his uncle* mentioned there, the verse understands his father's paternal brother, also by *his aunt* mentioned here, the verse speaks of his father's paternal brother's wife. Also *his brother's wife*⁸⁹ can be inferred⁹⁰ from *his aunt*. Since by *his aunt* mentioned there, the verse speaks of his father's paternal brother's wife, also by *his brother's wife* mentioned here, the verse speaks of his paternal brother's wife. So far following Rabbi Aqiba. Following Rabbi Ismael? Rabbi Ismael stated: It is said here *his brother's wife* and it is said there⁹¹, *a man who would take his brother's wife, she is niddah*⁹². Since a menstruating woman will be permitted after being forbidden, also his [paternal] brother's wife may be permitted [after being forbidden.⁹³] This excludes his maternal brother's wife, who cannot be permitted after being forbidden⁹⁴.

87 From punishment by loss of children (rejected in the Babli, *Yebamot* 55a).

88 *Lev.* 25:49. Since the subject of the entire Chapter is inheritance, it is understood that only the male line is addressed.

89 Who is forbidden in *Lev.* 18:16.

90 The reading of G and *Šabbat*, למידה, seems preferable.

91 *Lev.* 20:21, the penalty clause referring to the prohibition formulated in *Lev.* 18:16.

92 In biblical Hebrew, the meaning of the root נדד is the same as Arabic نَدَد "to separate, to disperse". This applies both to the menstruating woman (*Lev.* 18:19), who is forbidden relations with her husband, and to the person excommunicated (מְנַדֵּה) who is

separated from the community. In rabbinic Hebrew, the word נדה is used exclusively for the menstruating woman; this is the reference made here, even though the argument is equally valid for the excommunicated person. (Babli *Yebamot* 54b.)

93 The words in brackets are added from G and *Šabbat*. The menstruating woman is permitted after her purification; the brother's wife *may be* permitted, viz., if the brother dies childless. In the latter case, "brother" means paternal brother (*Yebamot* 1:1, Note 45).

94 But for whom no punishment is spelled out.

וְהָא רַבִּי יוֹחָנָן מִקְשִׁי לָהּ מִן תִּיתִי לִיהּ. רַבִּי אֲבָהוּ בָּשֶׁם רַבִּי לְעֹזֵר בָּשֶׁם רַבִּי הוֹשְׁעָנָה. שְׁנֵי לְאוּיִן וְכֵרֶת אֶחָד לְאוּיִן חוֹלְקִין אֶת הַהֶכְרֶת. מֵה טַעַם. עַל-בֶּשֶׁר אָדָם לֹא יִישָׁדּוּ יִבְמַתְכֶּנְתּוּ לֹא תַעֲשֶׂוּ כְמוֹהוּ. וְכֵתוּב אִישׁ אֲשֶׁר יִרְכָח כְּמוֹהוּ וְאֲשֶׁר יִתֵּן מִמֶּנּוּ עַל-זָרָה וְנִכְרָת מֵעַמּוּי. הָרִי כֹאן שְׁנֵי לְאוּיִן וְכֵרֶת אֶחָד. לְאוּיִן חוֹלְקִין אֶת הַהֶכְרֶת. וְעוֹד מִן הַדָּא. שְׁמוּאֵל בַּר אֲבָא בְּעָא קוּמִי רַבִּי זְעוּרָה. וְיִצְאֻי שְׁלָמִים וַיַּחֲלְקוּ עַל כָּל-הַקָּדָשִׁים בְּטוּמְאָה. אָמַר לִיהּ (24c line 44)

לְצוּרֵךְ יִצְאָהּ. לְמַעַט קִדְּשֵׁי בֶדֶק הַבַּיִת [לְמַעֲיֵלָה]⁹⁵ שֶׁאֵין חֲיִינִין עָלֶיהָ מְשֹׁם פִּיגוּל וְנוֹתֵר וְטָמֵא. וְלֹא מִתְּנִיתָא הִיא. קִדְּשֵׁי הַמִּזְבֵּחַ מִצְטָרְפִין זֶה עִם זֶה לְמַעֲיֵלָה וְחֲיִיבִין עָלֶיהָ מְשֹׁם פִּיגוּל נוֹתֵר וְטָמֵא. מִה שֶׁאֵין כּוֹן בְּקִדְּשֵׁי בֶדֶק הַבַּיִת מִכֵּין שֶׁאֵינָן מִצְטָרְפִין (אֵינָן) חוֹלְקִין. אָמַר רַבִּי חֲנִינָה. וְכֵן הִיא צְרִיכָה לֵיהּ. וַיַּחֲלֹקוּ וְלֹא יִצְטָרְפוּ.

But Rabbi Johanan himself had a problem: from where does one prove it⁹⁵? Rabbi Abbahu in the name of Rabbi Eleazar in the name of Rabbi Hoshai: Two prohibitions and one extirpation, the prohibitions split the extirpation⁹⁶. For example⁹⁷, *it should not be used to be rubbed on anybody's skin and in its proportions you shall not imitate it*, and it is written, *a person who would compound similarly, or who would put it on a stranger, will be extirpated from his people*, that is two prohibitions and one extirpation. The prohibitions split the extirpation⁹⁸. Also from the following: Samuel bar Abba asked before Rabbi Ze'ura, should not well-being sacrifices, being treated separately, split all *sancta* regarding impurity⁹⁹? He told him, it was necessary that they be treated separately, to eliminate *sancta* destined for the upkeep of the Temple [regarding larceny]¹⁰⁰, lest one be liable for them because of mushiness¹⁰¹, leftovers¹⁰², and impurity. But is that not a Mishnah? "All *sancta* destined for the altar combine with one another with respect to liability for mushiness, leftovers, and impurity¹⁰³," in contrast to *sancta* destined for the upkeep of the Temple¹⁰⁴. Since they do not combine, they do (not)¹⁰⁵ split¹⁰⁶. Rabbi Hanina¹⁰⁷ said, what he really questioned, should they not split but combine¹⁰⁸?

95 This refers to the paragraph before the last, where R. Johanan explained that the sister had a special role in the list of incest prohibitions, to deduce that from the different levels of punishment the blanket decree of extirpation really represents separate decrees for each kind of infraction. In *Šabbat*, the name is Ismael; this may be the correct attribution, cf. Note 124.

96 This answers R. Johanan's question. It is rather frequent to find verses containing multiple prohibitions covered by one mention of extirpation where the context

makes it clear that each single infraction triggers extirpation.

97 Ex. 30:32,33 regarding the holy oil. Only v. 33 is discussed.

98 A person who inadvertently compounds aromatic oil in the same composition as holy oil and uses it on people has to bring two sacrifices. The argument is repeated in Halakhah 9:1 (end of fol. 26d) and accepted in the Babli, *Makkot* 14b.

99 Impurity of well-being sacrifices, the only ones available to lay people, is treated

at length in *Lev.* 7:11-27. Impurity of sacrifices available to priests is treated in *Lev.* 22:1-16. One should assume that a priest who inadvertently eats a combination of impure well-being and other sacrifices has to bring separate purification sacrifices; but this is not the case.

100 The text in brackets is found in G and in *Šabbat*. While misuse of all kinds of sacrifices is also larceny, it is punishable only if the monetary value of the misuse is at least one *perutah*. Misuse of one half *perutah*'s worth of Temple donations and one half *perutah*'s worth of sacrifices is not punishable.

101 Sacrificing with the intent of eating of the sacrificial meat out of its time and place.

102 Eating of sacrificial meat after its allotted time.

103 This shows that well-being and other sacrifices are equal in the hand of the Cohen.

104 Mishnah *Me'ilah* 4:1. The categories of mushiness, leftovers, and impurity do not

apply to monetary gifts to the Temple. Anything donated to the Temple which is not a sacrifice or a temple vessel is sold by the Temple treasurer and thereby reverts to fully profane status.

105 The word is not in G and *Šabbat*; it should be deleted.

106 Somebody committing simultaneous larceny involving gifts to the Temple and sacrifices has to atone separately for the two offenses.

107 G reads: *Hinena*, preferable for chronological reasons.

108 The question remains unanswered why the rules for well-being are no different from those for other sacrifices even for Cohanim. In *Šabbat*, R. Hanina's statement is an assertion that the rules *are* different for well-being and other sacrifices. This would agree with the Babli, *Me'ilah* 15a, that in fact well-being and purification offerings do not combine; the contrary statement of the Mishnah is classified as a rabbinic stringency.

(24c line 55) כָּלֵל בַּעֲשֵׂה וּפְרֵט בְּלֹא תַעֲשֶׂה. מִילְתִּיהָ דְרַבִּי לֵעֲזֹר אֲמַרְהָ. כָּלֵל וּפְרֵט הוּא. רַבִּי לֵעֲזֹר אָמַר. לֹקֵקוֹ עַל יְדֵי חֲרִישָׁה בְּשִׁבְעִיעִית. רַבִּי יוֹחָנָן אָמַר. אֵין לֹקֵקוֹ עַל יְדֵי חֲרִישָׁה בְּשִׁבְעִיעִית. מֵה טַעֲמָא דְרַבִּי לֵעֲזֹר. וְשִׁבְעִיתָהּ הָאֲרָץ שִׁבְתָּ לִּי כָּלֵל. שְׂדֵד' לֹא תִזְדַּע וְכִרְמֶנָּה לֹא תִזְמֹר פֶּרֶט. הִזְדַּע וְהִזְמֹר בְּכָלֵל הִי. וְלֵמָּה נִצָּא. לְהַקִּישׁ אֲלֵיהֶם. אֲלֵא מֵה הִזְדַּע וְהִזְמֹר מִיִּיחָדִין שֶׁהוּ עֲבֻדָּה בְּאֶרֶץ וּבְאֵילָן. מֵה עֲבֹד לֵה רַבִּי יוֹחָנָן. שְׁנֵי דְבָרִים הֵן. וְשְׁנֵי דְבָרִים שְׂאֵצְאוּ מִן הַכָּלֵל חוֹלְקִין. עַל דַּעֲתִיהָ דְרַבִּי אֶלְעָזָר אֵין חוֹלְקִין. וְאֵית לֵיהּ. לְחַלּוֹק אֵין חוֹלְקִין הָא לְלַמֵּד מִלְמָדִין. עַל דַּעֲתִיהָ דְרַבִּי יוֹחָנָן אֵין מִלְמָדִין. שְׁנֵיא הִיא שְׂכָלֵל בַּעֲשֵׂה וּפְרֵט בְּלֹא תַעֲשֶׂה. וְאֵין עֲשֶׂה מִלְמָד עַל לֹא תַעֲשֶׂה וְאֵין לֹא תַעֲשֶׂה מִלְמָד עַל עֲשֶׂה. עַל דַּעֲתִיהָ דְרַבִּי לֵעֲזֹר עֲשֶׂה מִלְמָד עַל לֹא תַעֲשֶׂה אֲבָל לֹא תַעֲשֶׂה אֵינוֹ מִלְמָד עַל עֲשֶׂה. עַל דַּעֲתִיהָ דְרַבִּי יוֹחָנָן נִיחָא מוֹתֵר לַחֲפוּר בֵּה בּוֹרוֹת שִׁיחִין וּמַעְרוֹת. עַל דַּעֲתִיהָ דְרַבִּי לֵעֲזֹר מֵהוּ לַחֲפוּר בֵּה בּוֹרוֹת שִׁיחִין וּמַעְרוֹת. כִּשְׁם שְׂאֵין מִלְמָדִין לַעֲנִין אִיסוּר כִּד

לַעֲנִיךָ הֵיטֵר לֹא יִלְמְדוּ. אָמַר רַבִּי בָּא קִרְתַּגְינָא. טַעֲמָא דְרַבִּי יוֹחָנָן נֶשֶׁשׁ שְׁנִימַל תִּזְרַע שְׂדֵדָה לֹא בְשָׁבִיעִית וְנֶשֶׁשׁ שְׁנִימַל תִּזְמַר כְּרַמָּךְ לֹא בְשָׁבִיעִית. כָּל־ לֹא תַעֲשֶׂה שֶׁהוּא בֹא מִכֶּחַ עֲשֶׂה עֲשֶׂה הוּא וְעוֹבֵר בַּעֲשֶׂה. רַבִּי יִרְמְיָה אָמַר. עוֹבֵר בַּעֲשֶׂה. רַבִּי יוֹסִי אָמַר. אֶפְיָלוּ בַּעֲשֶׂה אֵין בּוֹ. וְהִכְתִּיב מֶלֶא וְשָׁבִיעִית הָאֶרֶץ שָׁבֵת לֵי. לַעֲנִיךָ לֹא תַעֲשֶׂה שָׁבּוּ.

יְהִי לֹקֵחַ עַל הַתּוֹסֵף. רַבִּי יוֹחָנָן פִּתֵּר מִתְּנִיתָא יָכוֹל יְהִי לֹקֵחַ עַל יְדֵי חֲרָשָׁה בְשָׁבִיעִית. הֲרִי רַבִּי לְעֹזֵר פִּתֵּר מִתְּנִיתָא יָכוֹל יְהִי לֹקֵחַ עַל אִיסוּר שְׁנֵי פְרָקִים הֲרֵאשׁוֹנִים. אֵית תַּנְי תַּנְי נֶשֶׁשׁ שְׁנִימַל תִּזְרַע שְׂדֵדָה וְנֶשֶׁשׁ שְׁנִימַל תִּזְמַר כְּרַמָּךְ. וְאֵית תַּנְי תַּנְי שְׂדֵדָה לֹא תִזְרַע וְגו'. מֵאן דְּמַר נֶשֶׁשׁ שְׁנִימַל מְסִיעַ לְרַבִּי יוֹחָנָן. וּמֵאן דְּמַר שְׂדֵדָה לֹא תִזְרַע מְסִיעַ לְרַבִּי לְעֹזֵר.

מִתְּנִיתָא מְסִיעַ לְרַבִּי לְעֹזֵר. הַשְּׁמַר בְּלֹא תַעֲשֶׂה. פֶּן לֹא תַעֲשֶׂה. וְכַתּוּב שֵׁם תַּעֲלֶה עוֹלוֹתֶיךָ וְשֵׁם תַּעֲשֶׂה. שֵׁם תַּעֲלֶה אוֹ הַעֲלִיָּה. וְשֵׁם תַּעֲשֶׂה אוֹ הַשְּׁחִיטָה וְזִרְקָה. מָה הַעֲלִיָּה שֶׁהִיא בַּעֲשֶׂה הֲרִי הִיא בְּלֹא תַעֲשֶׂה. אִף שְׁחִיטָה וְזִרְקָה שֶׁהִיא בַּעֲשֶׂה יְהִי בְּלֹא תַעֲשֶׂה. בְּגִין דְּכַתִּיב שֵׁם תַּעֲלֶה וְשֵׁם תַּעֲשֶׂה. הָא אֵילּוּ לֹא כְּתִב שֵׁם תַּעֲלֶה וְשֵׁם תַּעֲשֶׂה אֵין עֲשֶׂה מְלֻמַּד עַל לֹא תַעֲשֶׂה וְאֵין לֹא תַעֲשֶׂה מְלֻמַּד עַל עֲשֶׂה. מָה עָבַד לֵה רַבִּי יוֹחָנָן. שְׁלֹא תֹאמַר כְּמָה דְּתִימַר גְּבִי שָׁבֵת חִפְר חֲרָץ נֶעַץ אֵינוֹ חִיב אֲלָא אַחַת. וְדִכְוֹנָתָה שְׁחַט וְהַעֲלָה לֹא יְהִי חִיב אֲלָא אַחַת. לְפִימָה כֶּךָ צָרָה מִימַר. חִיב עַל־כָּל אַחַת וְאַחַת.

If He stated a general principle as a positive commandment but the detail as a prohibition¹⁰⁹, the word of Rabbi Eleazar is that this is a general principle followed by a detail¹¹⁰. ¹¹¹Rebbi Eleazar said, one whips for ploughing in the Sabbatical year. Rebbi Johanan said, one does not whip for ploughing in the Sabbatical year. What is Rebbi Eleazar's reason? *The Land shall keep a Sabbath for the Eternal*¹¹², a general principle. *Your field you shall not sow, your vineyard you shall not prune*¹¹³, detail. The sower and the pruner were included in the general case; why were they mentioned separately? To include with them; since the sower and the pruner are particular in that they perform work on the ground or on a tree, I have only what is work on the ground or on a tree. How does Rebbi Johanan treat this? They are two different things, and two different details for one general principle do divide. In Rebbi Eleazar's opinion they do not divide¹¹⁴. But he holds that because they do not divide, they are for making inferences. In Rebbi Johanan's opinion, they are not for making inferences. There is a difference here because He stated a general principle as a positive commandment but the detail as prohibitions. No positive commandment allows inferences for a prohibition and no prohibition allows inferences for a positive commandment.

In Rabbi Eleazar's opinion a positive commandment allows inferences for a prohibition but no prohibition allows inferences for a positive commandment. In Rabbi Johanan's opinion it is obvious that one may dig cisterns, ditches, and caves during it. In Rabbi Eleazar's opinion, may one dig cisterns, ditches, and caves during it? Just as one cannot make inferences for prohibitions, so one should not be able to make inferences for permissions¹¹⁵. Rabbi Abba from Carthage said, Rabbi Johanan's reason is *six years you shall sow your field*, not in the Sabbatical; *and six years you shall prune your vineyard*¹¹⁶, not in the Sabbatical. Any prohibition inferred from a positive commandment is a positive commandment; one violates a positive commandment¹¹⁷. Rabbi Jeremiah said, one violates a positive commandment. Rabbi Yose said, there is not even a positive commandment. But is it not written that *the Land shall rest as a repose for the Eternal*? That is for the prohibition implied by it¹¹⁸.

¹¹⁹[I could think that] they should be giving lashes for the addition. Rabbi Johanan explains the *baraita*: I could think that one gives lashes for ploughing during the Sabbatical year, but Rabbi Eleazar explains the *baraita*: I could think that one gives lashes for the first two terms¹²⁰. Some Tanna'im state: *Six years you shall sow your field, and six years you shall prune your vineyard*; but some Tanna'im state: *Your field you shall not sow*, etc. He who says *six years* supports Rabbi Johanan; he who says *your field you shall not sow* supports Rabbi Eleazar.

A *baraita* supports¹²¹ Rabbi Eleazar: *Be on guard*, a prohibition. *Lest*, a prohibition. And it is written¹²²: *There, you shall offer your elevation offerings and there you shall make. There, you shall offer*, that is the offering; *and there you shall make*, that is slaughtering and sprinkling. Just as offering is a positive commandment and a prohibition, so slaughtering and sprinkling which are positive commandments should be covered by a prohibition. Because it is written *there you shall offer, and there you shall make*. Therefore, if *there you shall offer, and there you shall make* were not written, no positive commandment would allow inferences for a prohibition and no prohibition would allow inferences for a positive commandment. How does Rabbi Johanan handle this? That you should not say as you say referring to the Sabbath: If one dug a hole, made a ditch, or dug to put in a pole, he is

guilty only of one offense¹²³. Similarly, if he slaughtered and offered, he should be guilty only of one offense; therefore, it was necessary to say, he is liable for every single action¹²⁴.

109 The vocalization and, consequently, the interpretation of כלל and פרט as verbs rather than nouns, is from G. Here ends the Genizah fragment.

110 If a pentateuchal verse partially is an exhortation to action and partially a prohibition, it nevertheless forms a logical unit.

111 From here to the end of the Halakhah there also is a parallel in *Kilaim* 8:1, Notes 20-36 (Babli *Mo'ed qatan* 3a). The text in *Kilaim* practically is identical with that in *Šabbat*; the text here is slightly abbreviated. The punishment for violating a biblical prohibition for which no penalty is specified is by flogging. The problem is that ploughing is not specifically mentioned in *Lev.* 25.

112 *Lev.* 25:3.

113 *Lev.* 25:4.

114 To require separate atonement if performed inadvertently.

115 For R. Johanan, if ploughing is not sanctionable, digging for other than agricultural purposes certainly is permitted. But for R. Eleazar digging is work on the ground (in the language of his argument) but not in the field (as forbidden in the verse.)

116 *Lev.* 25:3.

117 As such it is not sanctionable; cf. *Halakhah* 5:3, Note 73.

118 He takes R. Eleazar literally at his word. If *Lev.* 25:3-4 represents a general principle followed by a detail (even if the principle is a positive commandment and the detail a

prohibition) then by R. Ismael's hermeneutical rule אין בכלל אלא מה שבפרט "general principle followed by detail: the general principle only applies to the detail", nothing not mentioned in the verse is prohibited.

119 This paragraph is slightly shortened from *Kilaim* and *Šabbat*, explained in *Kilaim* 8:1, Notes 26-28. As the other sources show, the first sentence is a rhetorical question from a *baraita* referring to rabbinic additions to Sabbatical prohibitions. The words in brackets represent the introductory formula יכול added from the parallel sources, "I could think that . . ." which has to be disproved. Since this formula is central to the understanding of the paragraph, one has an additional indication of the secondary character of the text here.

120 The prohibition of agricultural work after the harvest of the preceding year, different for work on the ground or on trees.

121 In both parallels: *disagrees with*. The latter is the correct version as explained at length in *Kilaim* 8:1 Note 29 and refers to *Sifry Deut.* 70-71. The example refers to sacrificing outside the Temple district (or another holy place designated by God) and is missing in *Kilaim*. The statement itself is found in the Babli, *Zebahim* 106a.

122 *Deut.* 12:13-14: Be on guard, and do not offer your elevation sacrifices at any place which you see. Only at the place which the Eternal will choose . . . there you

7:2). Different actions all of which are classified under the same category are considered one and the same violation of the Sabbath. The activities quoted here are all derivatives of ploughing (Babli *Šabbat* 73b).

124 In the Babli, *Zebahim* 107b, according to one opinion this is R. Ismael's position.

1 זעירא | זעירא חייא | זעירא חייא 2 זומר | זומר 3 זעורה | זעירא (twice)
זומר | הזומר דיילמא | זשמה נוטע | ד' הנוטע 4 ויצאת | יצאת 6 זעורה | זעירא

125 This paragraph is from *Kilaim* (7) 8:1, Notes 33-36.

(fol. 24a) **משנה ו**: הָבָא עַל הָאֵם חַיִּיב עָלֶיהָ מְשׁוּם אִם וּמְשׁוּם אִשֶּׁת אָב. רַבִּי יְהוּדָה אוֹמֵר אֵינוֹ חַיִּיב אֶלָּא מְשׁוּם הָאֵם בַּלְבָּד.

Mishnah 6: A person having sexual relations with the mother is guilty because of mother and because of father's wife¹²⁶. Rabbi Jehudah say, he is guilty only because of mother¹²⁷.

משנה ז: הָבָא עַל אִשְׁתּוֹ אָב חַיִּיב עָלֶיהָ מְשֻׁם אִשְׁתּוֹ אָב וּמְשֻׁם אִשְׁתּוֹ אִישׁ בֵּין בְּחַיֵּי אָבִיו בֵּין לְאַחֵר מִיַּת אָבִיו בֵּין מִן הָאִירוּסִין בֵּין מִן הַנִּשְׁוּאִין.

Mishnah 7: A person having sexual relations with the father's wife is guilty because of father's wife and because of married woman, whether during his father's lifetime or after his father's death¹²⁸, whether preliminarily married or definitively married.

126 If he committed the incest in ignorance either of the person or the law, he owes two purification sacrifices.

127 He holds that *Lev. 18:7* only forbids the mother; *18:8* only forbids the step-mother.

128 But if the widowed stepmother is not remarried, he is not guilty for sleeping with

an otherwise married woman. Similarly, a man sleeping with his daughter-in-law (*Halakhah 8*) is not guilty of adultery with a married woman if at the moment of the crime she was not married to anybody. Neither the prohibition of the stepmother nor that of the daughter-in-law are removed by divorce and remarriage to a third party.

(24d line 21) **הַלָּכָה ו:** הָבָא עַל הָאִם כּוּל'. **הַלָּכָה ז:** הָבָא עַל אִשְׁתּוֹ אָב כּוּל'. אֲזִיְהָרָה לְבָא עַל הָאִם מְנִיין. עֲרוֹת אִמָּךְ לֹא תִגְלֶהָ. כָּרַת מְנִיין. כִּי כָל-אִשָּׁר יַעֲשֶׂה מִכָּל הַתּוֹעֲבוֹת הָאֵלֶּה וְנִכְרְתוּ הַנִּפְשׁוֹת הָעוֹשׂוֹת מִקְרֹב עִמָּם: אֲזִיְהָרָה לְבָא עַל אִשְׁתּוֹ אָב מְנִיין. עֲרוֹת אִשְׁתְּ-אָבִיךָ לֹא תִגְלֶהָ. כָּרַת מְנִיין. כִּי כָל-אִשָּׁר יַעֲשֶׂה וְגו'. עוֹנֵשׁ מְנִיין. וְאִישׁ אִשָּׁר לִשְׁכַּב אֶת-אִשְׁתּוֹ אָבִיו עֲרוֹת אָבִיו גָּלָה מוֹת-יוֹמָתוֹ וְגו'.

Halakhah 6: "A person having sexual relations with the mother," etc.

Halakhah 7: "A person having sexual relations with the father's wife," etc. From where the warning¹²⁹ for a person having sexual relations with the mother? *Your mother's nakedness you shall not uncover.*¹³⁰ From where extirpation? *For anybody who would commit any of these abominations, the guilty persons will be extirpated from their people*¹³¹.

From where the warning for a person having sexual relations with the father's wife? *Your father's wife's nakedness you shall not uncover.*¹³² From where extirpation? *For anybody who would commit,*¹³¹ etc. Punishment from where? *A man who would sleep with his father's wife, his father's nakedness he uncovered; they shall be put to death,*¹³³ etc.

129 A prohibition the penalty for which is not spelled out carries a penalty of flogging (*Deut.* 25:21). For any more serious infraction the pentateuchal style requires that separate verses must spell out (1) the prohibition, (2) the penalty to be imposed by the court, (3) the penalty imposed by Heaven in case the crime was not observed by two blameless adult male witnesses and, therefore, no court case was possible. In case of sexual crimes this would mean that the witnesses have to see the sex act. For a civil case, such as a husband wishing to divorce his wife because of her adultery,

without paying her *ketubah*, it is enough for witnesses to testify to her going to a room with another man, locking the door, and extinguishing the lights. But this is not enough for a criminal conviction.

130 *Lev.* 18:7.

131 *Lev.* 18:29.

132 *Lev.* 18:8

133 *Lev.* 20:11. Even R. Jehudah will agree that this verse also refers to the mother. The verse ends: *their blood be on them*. In the next Halakhah it will be determined that this expression implies stoning; cf. Babli 54a.

הָבָא עַל כְּלָתוֹ חַיִּב עָלֶיהָ מְשֻׁם כְּלָתוֹ וּמְשֻׁם אִשָּׁת אִישׁ בֶּן בְּרִי בְּנֵי בֵּן
לְאַחֵר מִיִּתְּתָהּ בְּנֵי בֵּן מִן הָאִירִיסִין בֶּן מִן הַנִּשְׁוִיאִין.

Mishnah 8: A person having sexual relations with his daughter-in-law is guilty because of his daughter-in-law and because of a married woman, whether during his son's lifetime or after his son's death¹²⁸, whether preliminarily married or definitively married.

הָבָא עַל כְּלָתוֹ כּוֹל. אֲזַהְרָה לְבֹא עַל כְּלָתוֹ מְנִיין. עֲרִית כְּלָתָהּ לֹא
תִּגְלֶה. כָּרַת מְנִיין. כִּי כָל-אִישׁ אֲשֶׁר יַעֲשֶׂה מִכָּל הַתּוֹעֵבוֹת הָאֵלֶּה וְנִכְרְתוֹ. עוֹנֵשׁ מְנִיין. וְאִישׁ
אֲשֶׁר יִשְׁכַּב אֶת-כְּלָתוֹ וְגו'.

Halakhah 8: From where the warning¹²⁹ for a person having sexual relations with his daughter-in-law? *Your daughter-in-law's nakedness you shall not uncover*.¹³⁴ From where extirpation? *For any man who would commit any of these abominations will be extirpated*,^{131,135} etc. Punishment from where? *A man who would sleep with his daughter-in-law*¹³⁶ etc.

134 *Lev.* 18:15.

136 *Lev.* 20:12.

135 The verse is slightly misquoted.

(24d line 30) תַּנִּיתָהּ הִכָּא תַּנִּיתָהּ בְּכָרִיתוֹת. נִיחָא בְּכָרִיתוֹת. שְׁהוּא מִבֵּיא קָרְבָּן וְחוֹזֵר וּמִבֵּיא קָרְבָּן. אֵית לָךְ מִימַר בְּסִנְהֶדְרִין. שְׁהוּא נִסְקֵל וְחוֹזֵר וְנִסְקֵל. אָמַר רַבִּי יִידֵן אָבִי דְרַבִּי מִתְנִיָּה. לְהַתְרִיָּה אֵיתְאָמְרַת. שָׂאֵם הִתְרוּ בּוּ מִשּׁוּם אִשְׁתְּ אָב לֹקָה. מִשּׁוּם אִם לֹקָה. וְיִתְרוּ בּוּ מִשּׁוּם אִשְׁתְּ אִישׁ. אָמַר רַבִּי אֲבוּן. תִּיפְתָּר בְּכַנּוּיָהּ.

We have it stated here, we have it stated in *Keritot*¹³⁷. One understands in *Keritot*¹³⁸ that he brings one sacrifice and then has to bring a second. What can you say in *Sanhedrin*¹³⁹? That he is stoned and then stoned again? Rabbi Yudan, Rabbi Mattaniah's father, said: explain it for warnings¹⁴⁰. For if they warned him because of the father's wife, he is hit,¹⁴¹ because of the mother, he is hit. Could they not also warn him because of a married woman? Rabbi Abun said, explain it if she was unmarried¹²⁸.

137 The multiple transgressions committed by one act mentioned in the last three Mishnaot are also implied by Mishnah *Keritot* 1:1.

138 If the sin was committed inadvertently, one act may require multiple sacrifices for atonement.

139 A person can be executed only once.

140 Since a person can only be convicted if he was warned in appropriate fashion (Halakhah 5:1), he will be convicted for the single transgression about which he had been warned.

141 As the commentaries point out, one cannot translate לוקה by "being flogged", since one refers to capital crimes.

(24d line 34) תַּפְּסֵן תַּנִּינֵן. רַבִּי יְהוּדָה אוֹמֵר. אִם לֹא הָיְתָה אִמּוֹ רְאוּיָה לְאָבִיו אֵינוּ חַיִּב אֶלָּא אַחַת. הֵא אִם הָיְתָה אִמּוֹ רְאוּיָה לְאָבִיו חַיִּב שְׁתֵּים. רַבִּי אֲבָהוּ בְּשֵׁם רַבִּי יוֹחָנָן. לֹא שְׁנִיָּא. בֵּין שְׁהָיְתָה אִמּוֹ רְאוּיָה לְאָבִיו בֵּין שְׁאִין אִמּוֹ רְאוּיָה לְאָבִיו אֵינוּ חַיִּב אֶלָּא אַחַת. טַעְמִיָּה דְרַבִּי יוֹחָנָן. אִמָּךְ הִיא. מִשּׁוּם אִמּוֹ אֲתָה מְחַיִּבּוּ. עָרָה אֶת כָּל־הַפְּרָשָׁה לָאֵם. רַבִּי בּוּן בֵּר חִיָּה בְּעָא קוּמִי רַבִּי זְעִירָא. מָה רָאָה רַבִּי יוֹחָנָן לְתַפּוּשׁ אֶת הָאֵם וּלְהַנִּיחַ אֶת אִשְׁתְּ הָאָב. אָמַר לֵיהּ. דְּהוּא סָבַר כְּרַבִּי יִשְׁמַעְאֵל. דְּרַבִּי יִשְׁמַעְאֵל דָּרַשׁ. עֲרוֹת אִשְׁתְּ־אָבִיד. בְּזָכוֹר הַכְּתִיב מִדְּבַר. וְאִין אָבִיו בְּכָל־ל הַזָּכוֹר. אֶלָּא לְחַיִּבּוּ שְׁתֵּים. דְּתַנִּי. הִבָּא עַל אָבִיו חַיִּב עָלָיו שְׁתֵּים. וְנִיתְנִי. שְׁלֹשִׁים וְשֶׁבַע כְּרִיתוֹת בְּתוֹרָה. רַבִּי מִנָּא אָמַר. כָּל־שֵׁם זָכוֹר אֶחָד. עֲרוֹת אִשְׁתְּ־אָבִיד בְּאִשְׁתְּ אָב הַכְּתִיב מִדְּבַר. עֲרוֹת אִמָּךְ זֶה אִמּוֹ שְׁהִיא אִשְׁתְּ אָבִיו. אִמּוֹ שְׁאִינָה אִשְׁתְּ אָבִיו מִנִּיין. אִמָּךְ לְוֹא לֹא תִגְלֶה עֲרוֹתָהּ: מָה עָבַד לָהּ רַבִּי יִשְׁמַעְאֵל. פֶּתַר לָהּ לְאַחַר מִיתָהּ. וְלִית לֵיהּ לְרַבִּי עֲקִיבָה כּוּן עֲרוֹת אָבִיד הִיא: לֹא שְׁנִיָּא בֵּין בְּחַיָּהּ בֵּין לְאַחַר מִיתָהּ. רַבִּי עֲקִיבָה דָּרַשׁ. עֲרוֹת אִשְׁתְּ־אָבִיד. בְּאִשְׁתְּ אָב הַכְּתִיב מִדְּבַר. עֲרוֹת אִמָּךְ זֶה אִמּוֹ שְׁהִיא אִשְׁתְּ אָבִיו. אִמּוֹ שְׁאִינָה אִשְׁתְּ אָבִיו מִנִּיין. אִמָּךְ לְוֹא לֹא תִגְלֶה עֲרוֹתָהּ: מָה עָבַד לָהּ רַבִּי יִשְׁמַעְאֵל. פֶּתַר לָהּ לְאַחַר מִיתָהּ. וְלִית לֵיהּ לְרַבִּי עֲקִיבָה כּוּן עֲרוֹת אָבִיד עֲרוֹת אִמָּךְ. מָה אָבִיד כָּל־שְׁהוּא אָבִיד בֵּין לְעוֹשׂ בֵּין לְאַזְהָרָה. אִף אִמָּךְ

כל־שהיא אמד בין לעונש בין לאזהרה. לא מסתברה דדריש אהן קרינה. אלא רבי יודה דלית ליה אמו שהיא אשת אביו צריך מידרוש ערנת אביד וערנת אמד. מה אביד כל־שהוא אביד בין לעונש בין לאזהרה. אף אמד כל־שהיא אמד בין לעונש בין לאזהרה. אמר רבי זעירה. הך אמרה. למידין מגזירה שנה אפילו מופנה מצד אחר. אמר ליה רבי יודן. לית דא פשיטא על דרבי עקיבה. דרבי עקיבה אמר. גזירה שנה אף על פי שאינה מופנה.

¹⁴²There, we have stated¹⁴³: Rabbi Jehudah says, if his mother was not fit for his father, he is liable only for one [sacrifice]. Therefore, if his mother was fit for his father, he is liable for two. Rabbi Abbahu in the name of Rabbi Johanan: There is no difference. Whether his mother was fit for his father or unfit for his father, he is liable only once. The reason of Rabbi Johanan¹⁴⁴: *Your mother is she*, you find him guilty because of his mother; this directs the entire chapter towards his mother¹⁴⁵. Rabbi Abun bar Hiyya asked before Rabbi Ze'ira: What caused Rabbi Johanan¹⁴⁴ to concentrate on the mother and to leave the father's wife aside? He told him, for he argues with Rabbi Ismael, as Rabbi Ismael explained: *Your father's wife's nakedness*¹⁴⁶; the verse refers to the male. Is not his father included in the category of the male¹⁴⁷? Only to make him liable twice, as we have stated: A person having sexual relations with his father is doubly liable about him¹⁴⁸. Then should we not state "thirty-seven extirpations in the Torah"¹⁴⁹? Rabbi Mana said, all denotations of males are one.

¹⁵⁰*Your father's wife's nakedness*; the verse refers to the father's wife. *Your mother's nakedness*, that is his mother who is his father's wife. From where his mother who is not his father's wife? *Your mother is she; do not uncover her nakedness*. How does Rabbi Ismael treat this? He explains it to apply after [the father's] death¹⁵¹. Does Rabbi Aqiba not explain *she is your father's nakedness*¹⁵²? There is no difference whether during lifetime or after death. Rabbi Aqiba explains: *Your father's wife's nakedness*¹⁴⁶, the verse refers to the father's wife. *Your mother's nakedness*, that is his mother who is his father's wife. From where his mother who is not his father's wife? *Your mother is she; do not uncover her nakedness*. How does Rabbi Ismael treat this? He explains it to apply after [the father's] death¹⁵³. Does not Rabbi Aqiba treat *your father's nakedness, your mother's nakedness*¹⁵⁴? Since *your father* refers to your father in any capacity¹⁵⁵ both for punishment¹⁵⁶ and

warning, so also *your mother* refers to one's mother in any capacity both for punishment and warning. Is it not reasonable to explain that verse except following Rabbi Jehudah who because he does not accept "his mother who is his father's wife"¹⁵⁷ must explain that *your father's nakedness, your mother's nakedness* refers to your father in any capacity both for punishment and warning, so also *your mother* refers to your mother in any capacity both for punishment and warning. Rabbi Ze'ira said, this implies that one infers from parallel language¹⁵⁸ even if it is free only from one side¹⁵⁹. Rabbi Yudan said to him¹⁶⁰, this is obvious for Rabbi Aqiba since Rabbi Aqiba infers from parallel language even if it is not free¹⁶¹.

142 These two paragraphs are partially corrupt. In a few places, the required corrections are obvious; other passages are not so simple. The text was treated at length by M. Assis *לפירוש של סוגיא אחת בירושלמי* Sinai 99(1986) pp. 110-127. The parallel in the Babli is 53a-54a.

143 In the Yerushalmi תמן תנין always introduces a Mishnah quote. Already J. N. Epstein in *מבוא לנוסח המשנה* p. 150 has noted that one should read תמן תנין "there (in Babylonia) one states." The Babylonian *baraita* is quoted in the Babli, 53a.

144 It seems that one has to read "R. Jehudah" since R. Johanan opposes the conclusion of the argument.

145 This is only the end of an argument which can be reconstructed from *Sifra Qedošim Pereq* 9(12). Lev. 18:7 reads: *Your father's nakedness and your mother's nakedness you shall not uncover; she is your mother, do not uncover her nakedness*. The unusual wordiness of the verse has to be explained. Later in the paragraph there is disagreement whether *your father's nakedness* refers to homosexual relations or

describes a woman other than the mother who had sexual relations with the father. R. Jehudah opts for the first alternative. The mother then is singled out; she is equally forbidden whether she is or ever was his father's wife or not, just as the father is forbidden whether he ever was married to his mother or not. This excludes any possibility to charge relations with her as father's wife as a separate crime.

146 Obviously one has to read *your father's nakedness* (v. 7) instead of a quote from v.8.

147 Since homosexual intercourse also is a capital crime.

148 Babli 54a; Tosaphot s. v. הבא.

149 Mishnah *Keritot* 1:1 lists 36 separate cases of extirpation; homosexual acts with the father are not listed.

150 This text is repeated later as R. Aqiba's opinion. Since R. Ismael was quoted as opposing this interpretation, it is not his opinion. The text is dittography from the following.

151 Why is the mother mentioned twice, once in parallel with the father and once separately?

152 *Lev.* 18:8, referring to the stepmother.

153 Dittography from above.

154 M. Assis here sees a lacuna referring to the earlier statement that the mother remains equally forbidden whether or not the father is alive. This is not a necessary inference.

155 Whether married, seducer, rapist or paying for sexual services.

156 Punishment is spelled out in *Lev.* 20:11, warning in 18:7.

157 He rejects the interpretation that the first mention of *your mother* in v. 7 refers to the father's wife, the second mention to a mother not married to his father.

158 גזירה שוה "equal cut" is the transfer of rules from one law to another if identical language was used. The majority opinion accepts inferences from "equal cut" only if (a) there exists a tradition that the words in question were written for this purpose and

(b) no other inferences are drawn from the expressions in question (*Babli Niddah* 22b). Property (b) is meant if an expression is called "free". The equal cut here is the use of *your father's nakedness* both in v.7 and v.8. As we have seen, in v.7 the expression clearly is not "free".

159 M. Assis rightly points out that it is not free even in v.8 since the expression is used to forbid the stepmother after the father's death.

160 As M. Assis points out, the statement also is quoted in *Yoma* 8:3 (45a l. 48) where R. Yudan's statement is an independent remark. Since R. Yudan lived a generation after R. Ze'ira, the *Yoma* version has to be accepted.

161 This statement is unknown to Babylonian sources; the statement of the Babylonian R. Ze'ira is found in the *Babli, Šabbat* 64a, *Niddah* 22b.

24d line 60) רבי ירמיה בעי. הבא על אמו מהו שיהא חייב משום אשת איש. תא חמי. אילו בא אחר עליה חייב משום אשת איש בנה לא כל-שכן. התיב רבי יוסי. הרי חורגה הרי הוא חייב עליה משום אשת איש. ובנה אינו חייב עליה משום אשת איש. דתני. אף בשאך כל-העריות כן. חמותו ואשת איש את תופשו משום חמותו. כלאו ואשת איש את תופשו משום פלתו. אחותו ואשת איש את תופשו משום אחותו. מבריו מן החמורה ומקנתו בקלה לית זכיל. דתני. הבא על אחותו חייב עליה משום אחותו ומשום בת אשת אביו. רבי יוסי בירבי יודה אומר. הבא על אחותו אינו חייב עליה אלא משום שם אחד בלבד. וכן הבא על פלתו. רבי ירמיה רבי אבהו בשם רבי יוחנן. אתניא דרבי יוסי בירבי יודה בשיטת רבי יודה אביו. כמה דרבי יודה תופש שם ראשון. כן רבי יוסי בירבי יודה תופש שם ראשון. חזר רבי ירמיה רבי אבהו בשם רבי יוחנן. לית לרבי יוסי בירבי יודה בשיטת רבי יודה אביו. תמן אמו בלא אשת אביו חייב. אשת אביו בלא אמו חייב. ברם הכא מצינו בת אשת אביו בלא אחותו הוא מותר בה.

Rebbi Jeremiah asked: Is a person having sexual relations with his mother guilty [of adultery] with her as a married woman¹⁶²? Come and see: if a third

person had sexual relations with her, would he not be guilty [of adultery] with her as a married woman? Her son not so much more? Rabbi Yose objected: is not her stepson guilty [of adultery] with her as a married woman, but her son is not guilty [of adultery] with her as a married woman¹⁶³? As we have stated:¹⁶⁴ Also with all other cases of incest and adultery the situation is the same. His mother-in-law as a married woman, you catch him because of his mother-in-law¹⁶⁵. His daughter-in-law as a married woman, you catch him because of his daughter-in-law¹⁶⁶. His sister as a married woman, do you catch him because of his sister? You smuggle him away from the serious crime and strike him for the easier one¹⁶⁷; this you cannot do as we have stated: A person having sexual relations with his sister is liable because of her as his sister and as a daughter of his father's wife¹⁶⁸. Rabbi Yose ben Rabbi Jehudah says, a person having sexual relations with his sister¹⁶⁹ is only liable because of her as his sister; the same is true for his daughter-in-law. Rabbi Jeremiah, Rabbi Abbahu in the name of Rabbi Johanan: Rabbi Yose ben Rabbi Jehudah follows the argument of his father Rabbi Jehudah. Just as Rabbi Jehudah accepts the description mentioned first, so Rabbi Yose ben Rabbi Jehudah accepts the description mentioned first. Rabbi Jeremiah, Rabbi Abbahu in the name of Rabbi Johanan turned around: Rabbi Yose ben Rabbi Jehudah does not follow the argument of his father Rabbi Jehudah. There he is liable because of his mother, who is not his father's wife; he is liable because of his father's wife who is not his mother. But here we find that he is permitted his father's wife's daughter, who is not his sister¹⁷⁰.

162 This is a question only for R. Jehudah; for the majority it already was answered positively, Note 128.

163 To make sense of this objection, one has to read אִשָּׁת אָב "the father's wife" instead of אִשָּׁת אִישׁ "a married woman". R. Jehudah in the Mishnah explicitly declares the prohibition of the father's wife inapplicable to the mother.

164 A similar text is in Tosephta 10:2.

165 The mother-in-law is forbidden as the wife's mother (*Lev.* 18:17); the penalty for the willful crime is burning (20:14), more serious than strangling, the penalty for adultery (20:10).

166 The penalty is stoning (20:10). Even though the question here is about the number of sacrifices due for an unintended crime, the more serious crime is the only one counted. But, naturally, if in case of intentional crime the warning was given

only about adultery, not about any incestuous aspect, the perpetrator is tried for adultery. This *baraita* contradicts the Mishnah.

167 Adultery is a capital crime; sleeping with one's sister is punishable only by Heaven, not the human court.

The verb קטר used here is Greek $\kappa\epsilon\upsilon\tau\rho\acute{o}\omega$ "to strike with a stick" (to goad an animal.)

168 The sister is always characterized as *your father's daughter* or *your mother's daughter* (18:9,20:17), describing the full

sister or the maternal half-sister, or *your father's wife's daughter* from *your father* (18:11), describing the paternal half-sister.

It seems that there is no biblical penalty attached to relations with the paternal extramarital half-sister. Babli *Yebamot* 22b.

169 The unmarried sister.

170 Children from previous marriages who are not related to one another are encouraged to marry. Rav was the son of R. Hiyya's unrelated half-brother and half-sister from previous marriages of his parents.

משנה ט: (fol. 24a) הבא על הזכר ועל בהמה והאשה המביאה את הבהמה. אם אדם חטא בבהמה מה חטאת. אלא לפי שבאת לאדם תסקלה על ידה לפיכך אמר הכתוב תיסקל. דבר אחר שלא תהא הבהמה עוברת בשוק ויאמרו זו היא שנסקל אש פלוני על ידיה:

Mishnah 9: A man who had sexual relations with a male or an animal, or a woman who brings an animal [upon herself]¹⁷¹. If a human sinned, what did the animal sin¹⁷²? But because it caused a mishap to a human, therefore the verse decreed that it should be stoned. Another explanation: Lest the animal be seen in public and people say, this is the one because of which X was stoned.

171 These are to be stoned, Mishnah 5.

172 Lev. 20:15 decrees that a male who had relations with an animal shall be killed together with the animal, while v. 16 decrees that a woman who had relations with an

animal shall be stoned together with the animal. The two verses are considered a unit, so that *killing* in v. 15 is read as *stoning*.

הלכה ט: (24d line 76) הבא על הזכר. אזהרה לבא על הזכר מניין. ואת־זכר לא תשכב משכבי אשה. פרת מניין. כי כל־אשר יעשה מכל התועבות האלה ונכרתו וגו': עונש מניין. ואיש אשר ישכב את־זכר משכבי אשה תועיבה עשו שניהם מות יומתו דמיהם בם: את וליו דמיהם בם מדימיהם בם. עד דדון לשוכב. לנשכב מניין. ואת־זכר לא תשכב משכבי אשה.

קָרִי בִיה. לֹא תִשְׁכַּב. עַד קְדוֹן כְּרָבִי עֲקִיבָה. כְּרָבִי יִשְׁמְעָל. לֹא־יִהְיֶה קֹדֶשׁ מִבְּנֵי יִשְׂרָאֵל. כָּרַת לִנְשָׁכָב כְּרָבִי יִשְׁמְעָל מִנִּין. רַבִּי יִרְמְיָה בָּשֶׁם רַבִּי אֲבָהוּ. נֹאמֶר כָּאן קֹדֶשׁ וְנֹאמֶר לְהֵלֵךְ וְגַם־קֹדֶשׁ הָיָה בְּאַרְצָךְ. אֶת־לְמַד קֹדֶשׁ מִקֹּדֶשׁ וְקֹדֶשׁ מִתּוֹעֵבָה. רַבִּי חִיָּיָה בַר אֲדָא בָּשֶׁם רַבִּי חֲנִינָה. תּוֹעֵבָה מִתּוֹעֵבָה. אָמַר רַבִּי יוֹסִי בְּרַבִּי בּוּן. מִתְּנִיתָה אֶמְרָה כו'. תּוֹעֵבָה עָשׂוּ שְׁנֵיהֶם. שְׁנֵיהֶם בְּסִקִּילָה. שְׁנֵיהֶם בְּאִזְהָרָה. שְׁנֵיהֶן בְּהַכָּרַת.

Halakhah 9: “A man who had sexual relations with a male.” From where the warning¹⁷³ for a person having sexual relations with a male¹⁷³? *With a male you shall not sleep in women’s ways*¹⁷⁴. From where extirpation? *For anybody who would commit any of these abominations will be extirpated*^{131,135}, etc. Punishment from where? *A man who would sleep with a male in women’s ways, an abomination did both of them commit; they shall be put to death; their blood be on them*¹⁷⁵. You learn *their blood be on them* from *their blood be on them*¹⁵. That is for the active one. For the passive one from where? *With a male you shall not sleep in women’s ways*, read: *to be slept with*¹⁷⁶. So far following Rabbi Aqiba. Following Rabbi Ismael? *There shall be no qadeš among the sons of Israel*¹⁷⁷. From where extirpation for the passive homosexual following Rabbi Ismael? Rabbi Jeremiah in the name of Rabbi Abbahu. It says here *qadeš* and it says there, *also a qadeš was in the land*¹⁷⁸. You learn *qadeš* from *qadeš* and *qadeš* from *abomination*¹⁷⁹. Rabbi Hiyya bar Ada in the name of Rabbi Hanina: *Abomination* from *abomination*¹⁸⁰. Rabbi Yose ben Rabbi Abun said, a *baraita*¹⁸¹ states this: *Both committed an abomination*¹⁷⁴. Both are stoned, both are subject to warning, both by extirpation.

173 The form זָכָר denotes, if not the penis, then the male as appendix to his sex organ.

174 Lev. 18:22. A general parallel to this paragraph is in the Babli, 54b.

175 Lev. 20:13.

176 The unvocalized text תִּשְׁכַּב can be read either with the masoretes as active תִּשְׁכַּב “you shall sleep” or as passive תִּשְׁכַּב “you shall be slept with”. The nonstandard vocalization in the text is from the ms. (Babli 54b).

177 Deut. 23:18. The identification of the *qadeš* as the male prostitute follows later from the verse in *Kings*.

178 1K. 14:24.

179 It is assumed that *qadeš* means the same in both verses. Also, *qadeš* must refer to the male since the feminine form *qadešah* is explicitly mentioned in Deut. 23:18. 1K. 14 continues: *They did all the abominations of the peoples whom the Eternal had uprooted from before the Children of Israel.*

These *abominations* are referred to in *Lev.* 18:29 and the only abominations unique to a male are homosexuality and active bestiality. In the Babli, 54b, both R. Ismael's and R. Aqiba's statements are quoted as *baraitot*; partially also in *Sifra Qedošim Pereq* 9(12).

180 In *Lev.* 20, the expression *abomination* is only used for the homosexual. This implies that the *qadeš* in *1K.* 14:24, and therefore in *Deut.* 23:18 is engaged in homosexual acts.

181 Not recorded elsewhere.

25c line 11) אֶזְהָרָה לְבָא עַל הַבְּהֵמָה מִנִּיּוֹ. וּבְכָל-בְּהֵמָה לֹא-תִתֵּן שְׂכָבְתְּךָ לְטִמְאָה-בָּהּ. כָּרַת מִנִּיּוֹ. בִּי כָל-אֲשֶׁר יַעֲשֶׂה מִכָּל הַתּוֹעֵבוֹת הָאֵלֶּה וְנִכְרְתוֹ וְגו': עוֹנֵשׁ מִנִּיּוֹ. וְאִישׁ אֲשֶׁר יִתֵּן שְׂכָבְתּוֹ בְּבְהֵמָה מוֹת יוּמָת: אֶת יָלִיד דְּמִיָּהֶם בָּם מִדְּמִיָּהֶם בָּם. עַד דָּדוֹן כָּרְבִי עֲקִיבָה. כָּרְבִי יִשְׁמַעְיָאֵל. רַבִּי יִשְׁמַעְיָאֵל מִן אֶתְרִיָּה וְרַבִּי עֲקִיבָה מִן אֶתְרִיָּה. כָּרַת לְנִשְׁכָּב עַל דָּרְבִי יִשְׁמַעְיָאֵל לִית מִשְׁכַּח. עוֹנֵשׁ לְנִשְׁכָּב בֵּין עַל דָּרְבִי יִשְׁמַעְיָאֵל בֵּין עַל דָּרְבִי עֲקִיבָה לִית מִשְׁכַּח. וְכַתִּיב זִכַּח לְאֱלֹהִים יַחֲרֹם. מִה זֶה בְּסִקִּילָה וְכָרַת אִף זֶה בְּסִקִּילָה וְכָרַת. מִה נִפְקָא מִבִּינְיָהוּ. שְׂכָב אֶת הַזָּכּוֹר וְנִשְׁכָּב מִמֶּנּוּ. עַל דַּעֲתִיָּה דָּרְבִי יִשְׁמַעְיָאֵל אֵינוֹ חֵיב אֶלָּא אַחַת. עַל דַּעֲתִיָּה דָּרְבִי עֲקִיבָה חֵיב שְׁתֵּי. שְׂכָב אֶת הַבְּהֵמָה וְנִשְׁכָּב מִמֶּנָּה. בֵּין עַל דַּעֲתִיָּה דָּרְבִי עֲקִיבָה בֵּין עַל דַּעֲתִיָּה דָּרְבִי יִשְׁמַעְיָאֵל חֵיב שְׁתֵּי. שְׂכָב אֶת הַזָּכּוֹר וְאֶת הַבְּהֵמָה חֵיב שְׁתֵּי. נִשְׁכָּב מִן הַזָּכּוֹר וּמִן הַבְּהֵמָה חֵיב שְׁתֵּי. שְׂכָב שְׁנֵי זָכָרִים כְּאַחַת. מֵאַחַר שְׁמִתְחַיִּיבִין עַל יְדוֹ שְׁנֵי חֵיב שְׁתֵּי. נִשְׁכָּב מִשְׁנֵי זָכָרִים כְּאַחַת. מֵאַחַר שְׁמִתְחַיִּיבִים עַל יְדוֹ שְׁנֵי חֵיב שְׁתֵּי. תִּנִּי. הַזָּכּוֹר לֹא עָשָׂה בּוֹ הַקָּטָן כְּגִדּוֹל וְהַבְּהֵמָה עָשָׂה בָּהּ הַקָּטָן כְּגִדּוֹלָה. אָמַר רַבִּי לַעֲזֹר. לְעוֹלָם אֵינוֹ מִתְחַיֵּב עָלֶיהָ עַד שֶׁתִּהְיֶה בֵּת שְׁלֹשׁ שְׁנִים וְיֻזַּם אֶחָד.

From where the warning¹²⁹ for a person having sexual relations with an animal? *Do not give your emission into an animal to defile yourself by it*¹⁸². From where extirpation? *For anybody who would commit any of these abominations will be extirpated*^{131,135}, etc. Punishment from where? *A man who would sleep with a animal shall be put to death*¹⁸³. You infer *their blood be on them* from *their blood be on them*^{15,184}. So far following Rabbi Aqiba. Following Rabbi Ismael? Rabbi Ismael from his source¹⁷⁹ and Rabbi Aqiba from his source¹⁸⁵. Extirpation for a male passive partner is not found for Rabbi Ismael¹⁸⁶. Punishment for a male passive partner is not found for Rabbi Ismael or Rabbi Aqiba¹⁸⁷, but it is written: *One who sacrifices to the forces of nature shall be banned*. Since this one is in for stoning and extirpation, also that one is in for stoning and extirpation¹⁸⁸. What is the difference between them? If one had active homosexual relations followed by passive ones, in

Rebbi Ismael's opinion he is liable only once; in Rebbi Aqiba's opinion he is liable twice¹⁸⁹. If one had active relations with an animal followed by passive ones. Both in Rebbi Aqiba's as in Rebbi Ismael's opinions he is liable twice¹⁹⁰. If he had active homosexual relations with both a male and an animal he is liable twice. If he had passive homosexual relations with both a male and an animal he is liable twice. If he had simultaneous active sexual relations with two males, since both of them became guilty because of him, he is liable twice. If he had simultaneous passive sexual relations with two males, since both of them became guilty because of him, he is liable twice

It was stated: For males, an underage boy does not have the status of an adult¹⁹¹; a young animal has the status of a fully grown one. Rebbi Eleazar said, he cannot become liable because of it unless it be three years and one day of age¹⁹².

182 Lev. 18:23. The entire paragraph has a parallel in the Babli, 54b.

183 Lev.20:15. The corresponding verse for a woman is 20:16.

184 The expression is used only in v. 16. It is implied that the punishment for male bestiality cannot be less than that of female bestiality.

185 R. Ismael includes bestiality in the actions of a *qadeš*. R. Aqiba always refers to Lev. 18:29.

186 The Babli disagrees and finds the passive participant in bestiality in Ex. 22:18.

187 In Lev. 20.

188 The worshipper of the forces of nature is banned Ex. 22:19, but as adherent of foreign worship he is stoned. It is implied that the death penalty decreed in the preceding verse, *anybody lying with an animal shall be put to death*, for the passive participant in bestiality also must be executed by stoning.

189 In the Babli, 54b, the attributions are switched. One has to follow the classical commentaries in correcting the Yerushalmi following the Babli since, as explained in Notes 175-178, R. Aqiba finds the prohibition of active and passive homosexuality in the same verse whereas R. Ismael defines the passive homosexual as *qadeš*. Therefore, combined active and passive homosexual activity violates one verse for R. Aqiba, two for R. Ismael.

190 For both R. Aqiba and R. Ismael both Lev. 18:22 (or 23) and Ex. 22:18 are violated. The Babli disagrees, 54b.

191 Sexual relations with males under the age of nine years and one day, and females under three years and one day, are not considered as sexual activities; cf. *Ketubot* 1:3 Notes 147,152.

192 This does not refer to bestiality but to homosexuality. Homosexual relations of a male with an underage boy are not punishable unless the boy is at least three

years and one day of age, i. e., that a valid sex act would have been performed if the child had been a girl. In the Babli, 54b/55a,

Samuel derives this from *Lev. 18:22* where homosexual acts are called *lyings in woman's way*.

25a line 28) רבי בון בר חייא בעא מרבי זעירא. מה ראה רבי ישמעאל ורבי עקיבה ליחלק בזכור ובבהמה ובשאר כל-העצרות לא נחלקו. אמר ליה. שכל-העצרות כתוב בהן שאר בשר ואילו אין כתוב בהן שאר בשר. התיבין. הרי נידה אין כתוב בה שאר בשר ונחלקו עליה. רבי ירמיה בשם רבי אבהו. מכין דכתיב קריבה קריבה. כמי שכולהם כאן וכולהם כאן. רבי חייא בר אבא בשם רבי חנינה. ואל-אשה בנדת טומאתה לא תקרב לגלות ערותה: אמר רבי יוסי בירבי בון. היא כל תקרב היא כל תגלה.

Rebbi Abun bar Hiyya asked of Rebbi Ze'ira: For what reason did Rebbi Ismael and Rebbi Aqiba disagree about a male and an animal but did not disagree about any incest prohibition¹⁹³? He told him, because for all incest prohibitions it is written *blood relative*,¹⁹⁴ and about these it is not written *blood relative*. They objected: About the menstruating woman it is not written *blood relative*; did they disagree about her¹⁹⁵? Rebbi Jeremiah in the name of Rebbi Abbahu: For it is written *approach, approach*; it is as if all were here and there¹⁹⁶. Rebbi Hiyya bar Aba in the name of Rebbi Hanina: *To the wife in the separation of her impurity you shall not come near to uncover her nakedness*¹⁹⁷. Rebbi Yose ben Rebbi Abun said, "not to come near" is "not to uncover."¹⁹⁸

193 For all other sexual prohibitions they agree that the warnings and punishments equally apply to both partners.

194 The introductory clause *Lev. 18:6: No human shall come near to his blood relative to uncover nakedness* refers to both sexes. The detailed prohibitions always are formulated for the male and mention the female's nakedness, but here nakedness is mentioned without any pronoun, masculine or feminine.

195 Both agree that for both partners the warning is *Lev. 18:19* and the punishment, explicitly for both sexes, is *20:18*.

196 The singular in *18:19* is equivalent to the plural used in *18:6*; it is as if "blood relative" were written there.

197 *Lev. 18:19*. The verse seems to refer exclusively to the male; it is quoted as an objection.

198 Since "not to uncover" is used in *20:18* explicitly for both sexes, "not to come near" in *18:19* also must apply to both sexes.

(25a line 35) אֲזַהְרָה לְאִשָּׁה הַמְבִיָּאָה אֶת הַבְּהֵמָה עָלֶיהָ מִנִּיּוֹ. וְאִשָּׁה לֹא־תַעֲמֹד לִפְנֵי בְּהֵמָה לְרַבְּעָה תִּבָּל הוּא: כָּרַת מִנִּיּוֹ. בִּי כָּל־אִשָּׁר יַעֲשֶׂה מִכָּל הַתּוֹעֵבוֹת הָאֵלֶּה וְנִכְרָתוֹ: עוֹנֶשׁ מִנִּיּוֹ. וְאִשָּׁה אִשָּׁר תַּעֲמֹד לִפְנֵי בְּהֵמָה לְרַבְּעָה אוֹתָהּ וְהִרְגָּת אֶת־הָאִשָּׁה וְאֶת־הַבְּהֵמָה מוֹת יוֹמָתוֹ דְּמִיָּהֶם בָּם: אֶת וְלִפְנֵי הִרְיָגָה מִהִרְיָגָה. סָקִילָה מִסָּקִילָה. דְּמִיָּהֶם בָּם מִדְּמִיָּהֶם בָּם.

From where the warning¹²⁹ for a woman bringing an animal upon herself? *A woman should not stand before an animal to be impregnated; it is mixture*¹⁹⁹. Extirpation from where? *For anybody who would commit any of these abominations will be extirpated*^{131,135}. Punishment from where? *If a woman stood before an animal to be impregnated, you should slay the woman and the animal; dying they shall be put to death, their blood be on them*²⁰⁰. One infers slaying from slaying, stoning from stoning, *their blood be on them from their blood be on them*²⁰¹.

199 Lev. 18:19.

200 Misquoted from Lev. 20:16.

201 Both for male and female bestiality it is said that the animal has to be *slain*; this shows that in both cases the animal has to be

killed in the same way. Stoning is to be inferred from *their blood be on them* (Notes 15,184) referring to the female; this then is transferred also to apply to the male.

(25a line 41) רַבִּי בָּא בַר מַמְל בְּעֵי. הִגַּע עֲצָמָד שָׁבָא עָלֶיהָ שׁוּגְגִי. הָרִי הִיא נִסְקָלָת עַל יָדוֹ וְהוּא פְטוּר. רַבִּי שְׁמַעוֹן בְּעֵי. הִגַּע עֲצָמָד שְׁחָרַשׁ בָּהּ בְּשִׁבְתָּ. הָרִי הוּא נִסְקָל עַל יָדָהּ וְהִיא פְטוּרָה. לִית לָד אֵלָּא כְּהָדָא דְּמַר רַבִּי שְׁמוּאֵל בַּר רַב יִצְחָק. כִּסְפָּם וְזָהָבָם עָשׂוּ לָהֶם עֲצָבִים לְמַעַן יִכְרֹתוּן אִין כְּתוּב כָּאן אֵלָּא לְמַעַן יִכְרֹת. כָּאִינֵשׁ דְּמַר. שְׁחִיק טִימִיָּא דְּפָלָן. דִּיאִפִּיק בְּרִיָּה לְעִבְדָּא בִּישָׁא.

Rebbi Abba bar Mamal asked: Think of it, if he erroneously has sexual relations with it²⁰². Should it be stoned because of him while he is not liable²⁰³? Rebbi Simeon asked: Think of it, if he used it to plough on the Sabbath. Is he not being stoned while it is not liable²⁰⁴? You have only, as Rebbi Samuel ben Rav Isaac explained: ²⁰⁵*With their silver and gold they made idols for themselves*; it is not written “that they be extirpated” but *that he be extirpated*²⁰⁶. As if a person say: the bones of X be ground up for he led his son to evil ways.

202 If a male thought that bestiality was not forbidden.

203 Instead of simply stating that the verse requires that the animal be killed, the

Mishnah states two different reasons for it. The first reason, that it led a human into sin, applies even if the human is not prosecutable because he was not duly warned of the criminality of the intended act. The second reason, that the animal was known as the one for which a human was stoned, does not apply. Babli 55b in the name of Babylonian Amora'im.

204 The second reason stated in the

Mishnah would apply here, but no animal can be stoned for a Sabbath violation.

Since R. Simeon is quoted after R. Abba bar Mamal, it seems that he is to be identified with R. Simeon ben Laqish.

205 *Hos.* 8:4.

206 It is possible that of a group of criminals only one actually is prosecutable.

There is nothing remarkable if human and animal are treated differently.

(fol. 24a) **משנה י:** המגדף אינו חייב עד שיפרש את השם. אמר רבי יהושע בן קרחה בכל יום דנין את העדים בכינוי יפה יוסה את יוסה. נגמר הדין לא היו הורגין בכינוי אלא מוציאין את כל־האדם לחוץ ומשיירין את הגדול שבהן ואומר לו אמור מה ששמעת בפרוש. והוא אומר והדינים עומדין על רגליהן וקורעין ולא מאחין. והשני אומר אף אני כמוהו והשלישי אומר אף אני כמוהו:

Mishnah 10: The blasphemer is not liable unless he explicitly use the Name²⁰⁷. Rabbi Joshua ben Qorha said, during the trial one deals with the witnesses by substitute name, may Yose hit²⁰⁸ Yose. At the end of the proceedings one does not sentence him to death by substitute name but one dismisses the public, retains the most prestigious among them²⁰⁹ and says to him, tell us explicitly what you heard. He says it while the judges are standing; they tear their garments²¹⁰ and never mend them²¹¹. The second one²⁰⁹ says, also I [heard] like him; the third²⁰⁹ one says, also I [heard] like him.

207 The Tetragrammaton in its original pronunciation, now lost.

208 An expression of curse, *Deut.* 28:22.

209 The witnesses.

210 Since everybody who hears a

blasphemy using the Name has to rend his garment, as if a close relative had died.

211 As for garments rent because of the death of a parent, the tear cannot be mended invisibly.

(25a line 46) **הלכה י:** המגדף אינו חייב כול. אזהרה למגדף מניין. אלהים לא תסלל. כרת מניין. איש איש כִּי־יִסְלַל אֶלֶהֶּי וְנָשָׂא חֲטָאוֹ. עונש מניין. ונוקב שם־י מות יומת. וברבי

יְשַׁמְעֵאל. דְּרַבִּי יִשְׁמַעְאֵל אָמַר. בְּדִינֵי הַכְּתוּב מִדְּבַר. אִם עַל הַדִּינִים הוּא מְזַהֵר לֹא כָל-שֹׁכֵן עַל הַכִּינוּיִם. אִם עַל הַכִּינוּיִם הוּא עוֹנֵשׁ כָּרַת לֹא כָל-שֹׁכֵן עַל שֵׁם הַמִּיּוּחָד. אֵיךְ תִּנְיִי תִנְיִי. עַל הַכִּינוּיִם בְּאֲזָהָרָה וְכָרַת. עַל שֵׁם הַמִּיּוּחָד בְּמִיתָה. אֵיךְ תִּנְיִי תִנְיִי. עַל הַכִּינוּיִם בְּאֲזָהָרָה וְעַל שֵׁם הַמִּיּוּחָד בְּמִיתָה וְכָרַת. מֵאֵן דָּמַר. עַל הַכִּינוּיִם בְּאֲזָהָרָה וְכָרַת. אֱלֹהִים לֹא תִקְלָל. וְעוֹד אִישׁ אִישׁ כִּי-יִקְלָל אֱלֹהִיו וְנִשְׂאָ חֲטָאוֹ. בְּכָרַת. וְעַל שֵׁם הַמִּיּוּחָד בְּמִיתָה. וְנוֹקֵב שֵׁם יְיָ מוֹת יוֹמָת. וּמֵאֵן דָּמַר. עַל הַכִּינוּיִם בְּאֲזָהָרָה. אֱלֹהִים לֹא תִקְלָל. וְעַל שֵׁם הַמִּיּוּחָד בְּמִיתָה וְכָרַת. וְנוֹקֵב שֵׁם יְיָ מוֹת יוֹמָת. אִישׁ אִישׁ כִּי-יִקְלָל אֱלֹהִיו וּגו'.

Halakhah 10: “The blasphemer is not liable,” etc.²¹² From where a warning for the blasphemer? *You shall not curse God*²¹³. Extirpation from where? *Anybody who curses his God shall bear his sin*²¹⁴. Punishment from where? *He who curses the Name of the Eternal shall be put to death*²¹⁵. But according to Rabbi Ismael, since Rabbi Ismael said that the verse refers to judges²¹⁶? If he is warned about judges, then so much more about [divine] substitute names²¹⁷. If he is subject to extirpation for substitute names, so much more for the Unique Name.

Some Tanna'im state: for substitute names warning and extirpation, for the Unique Name the death penalty. Some Tanna'im state: for substitute names warning, for the Unique Name the death penalty or extirpation²¹⁸. He who says, for substitute names warning and extirpation, *you shall not curse God* and *anybody who curses his God shall bear his sin* by extirpation; for the Unique Name the death penalty, *he who curses the Name of the Eternal shall be put to death*. He who says, for substitute names warning, *you shall not curse God*, for the Unique Name the death penalty or extirpation, *he who curses the Name of the Eternal shall be put to death; anybody who curses his God shall bear his sin*²¹⁹, etc.

212 The parallel in the Babli is 56a.

213 Ex. 22:27. Since *El* means “power”, *Elohim* as a plural of majesty means “superior power”; in this case “supreme power” in contrast to *elohim aherim* which are not other gods” but “other powers”, such as the rain worshipped by Semites as Baal and by the Greeks as Zeus.

214 Lev. 24:15. In Num. 9:13, referring to the Second Passover, it is spelled out that “carrying one’s sin” is equivalent to “being subject to extirpation” [*Sifra Emor Pereq* 19(6), in the name of R. Jehudah.]

215 Lev. 24:16.

216 He reads Ex. 22:27 as referring to judges, who are called *elohim* in Ex. 22:7, Ps. 82:1. Babli 66a, *Mekhilta dR. Ismael*

Mišpatim 19 (p. 317). The previous argument is R. Aqiba's.

217 Any reference to the Deity other than the Tetragrammaton, the Unique name.

Babli 56a, *Mekhilta dR. Simeon ben Iohai* p.

213. The argument seems to contradict the principle that "one may not punish on the basis of a logical argument" (cf. Halakhah 7:1 Note 9). But since the argument refers

only to warning and Heavenly retribution, not to penalties imposed by the court, there is no contradiction.

218 *Sifra Emor Pereq* 19(5), opinion of the rabbis opposing Rabbi Meir who equates the Unique Name and its substitute names.

219 The same group of verses can lead to two different conclusions without possibility of deciding between them.

25a line 57) רבי ירמיה בשם רבי שמואל בר רב יצחק. זאת אומרת שדינן מספק. היך עבידא. פלוני הרג את הנפש. והא נידון עד שגבואו עדי. אמר ליה רבי יוסי. ותפושין בר נשא בשוקא ומבזין ליה. אלא כיני. פלוני הרג את הנפש והרי עדיי שהרג את הנפש. יהא תפוש עד שגבואו עדי.

Rebbi Jeremiah in the name of Rebbi Samuel bar Rav Isaac: This²²⁰ implies that one proceeds on the basis of a doubt. How is this? "X killed a person." One proceeds to try him until his witnesses come. Rebbi Yose said to him, does one arrest a person in the market and insult him²²¹? But is it as follows: "X killed a person, and there are witnesses." Let him be put under arrest until his witnesses come.

220 The Mishnah which states that the trial of the blasphemer proceeds before the court did hear the exact wording of the offensive statement.

221 The court, acting as inquisitor, cannot arrest a person without a reasonable probability of conviction.

25a line 61) ואמרין ליה. גדי. אלא אותו השם שאמרתיו לפניכם אותו קלל. ובו קלל. ואין העדים צריכין לקרוע שכבר קראו בשעה ששמעו.

רבי שמעון בן לקיש אמר. מכן לדיינים שקיבלו עדות עומדין שדינן דין. את שמע מינה שית. את שמע מינה כהיא דאמר רבי שמואל בר רב יצחק. ואת שמע מינה כהיא דאמר רבי שמעון בן לקיש. ואת שמע מינה. שומע מפי שומע חייב לקרוע. ואת שמע מינה. מכן לעד שהעיד עדותו השיני אומר. אף אני כמוהו. והשלישי אומר. אף אני כמוהו. ואת שמע מינה שהוא אחד מן הקרעים שאין מתאחין. ואת שמע מינה. מכין שיהי יודעין משעה הראשונה שהוא שם המיוחד שהוא צריך לקרוע.

רבי חייה אמר רבי יסא מקושי. תנינן. הכרוז יוצא לפניו. איש פלוני בן פלוני יוצא ליסקל על שער עברה פלונית. ופלוני ופלוני עדין. כל מי שיודע לו זכות יבוא וילמד. שמענו. שומע מפי שומע צריך לקרוע. שמענו. שומע מפי שומע ושומע מפי שומע צריך לקרוע. מהו לקרוע על קילת השם. נישמענה מן הדא. ויהי כשמעל המלך חזקתה את דברי רב שקה ויקרע את בגדיו. מהו לקרוע על קילת הגוי. מאן דאמר. רב שקה גוי היה. קורעין. מאן דמר. ישאל היה. אין קורעין. תני רבי הושענה. אחד השומע קילת השם מישאל ואחד השומע מפי הגוי חייב לקרוע. מה טעמא. הנה יי אלהי כל־בשר הממני יפלא כל־דבר:

Does one tell him, blaspheme²²²? But that Name which I am saying before you, that one he cursed or by that one he cursed²²³. But the witnesses need not rend their garments since they already rent them when they heard it the first time. Rabbi Simeon ben Laqish said, from here²²⁴ that in case the judges heard testimony while standing, their judgment is valid.

You infer six statements from this²²⁴. One infers the statement of Rabbi Samuel bar Rav Isaac²²⁰, and one infers the statement of Rabbi Simeon ben Laqish. Also one infers that he who hears from one who heard has to rend²²⁵, and one infers that if one witness testified, the second one says, I testify to the same, and the third says, I testify to the same²²⁶. Also one infers that this is one of the tears which are not mended²¹¹, and one infers that even when they know from the start that it is the Unique Name, they have to rend.

Rebbi Hiyya said that Rabbi Yasa asked: We have stated²²⁷: “The herald goes before him: ‘X ben Y is led to be stoned because he committed crime Z; U and V testified against him. Anybody who knows of his innocence shall come and argue.’” We inferred that he who hears from one who heard has to rend. Does he who hears from one who heard from one who heard have to rend²²⁸?

Does one have to rend one’s garments for blasphemy?²²⁹ Let us hear from the following: *When king Hezekias heard the words of Rab Šake, he rent his garment*²³⁰. Does one have to rend for a Gentile’s blasphemy? According to him who said that Rab Šake was a Gentile, one rends. According to him who said that Rab Šake was an Israel, one does not rend²³¹. Rabbi Hoshiaia stated: Both one who heard blasphemy from an Israel or one who heard from the mouth of a Gentile has to rend his garment. What is the reason? *Since I am the Eternal, God over all flesh, should anything be extraordinary for me*²³²?

222 This is a question about the Mishnah. How can the court require the witness to sin by repeating the entire blasphemy?

223 The witness is not asked to blaspheme. The text of the blasphemy except for the Name had been testified to earlier; now it is only necessary to confirm that the Name was used, which alone makes the blasphemy a capital crime.

The text makes it clear that blasphemy is not only cursing God by His Name but also cursing another person using the Name, including any magical practices using the Name.

224 From the Mishnah.

225 Since the judges have to tear their garments, even though they are hearing the blasphemy only indirectly.

226 This statement seems to apply only to the case of the blasphemer. Witnesses have to be heard one at a time (5:3-4) to determine that they are not perjured. The speaking of the Name is the only case in which witnesses appear together, after having been interrogated separately about all other aspects of the case. However, the Babli (60a) reads the statement as implying

that by biblical standards a witness may state that his testimony is identical with that of the first witness and that the rules of 5:3-4 are rabbinic only.

227 Mishnah 6:2.

228 Does everybody who hears the herald have to rend his garment? Since this is not mentioned in the Mishnah, the implied answer to the question is negative.

229 Finally one asks why one has to rend his garment when he hears blasphemy since this obligation is not mentioned in the Torah.

230 *2K. 19:1*. Since the king heard the blasphemy from his ministers, it proves that one has to rend his garment even if he hears it indirectly. Babli 69a.

231 On the one hand, it is not likely that a high official of the king of Assyria was not an Assyrian. On the other hand, why should a high Assyrian official be able to speak Hebrew unless he was a Jewish apostate? *Mo'ed qatan* 3:6 (83b l. 32); Babli 60a. M. Cogan and H. Tadmor, *II Kings*, The Anchor Bible vol. 11 (1988) p. 230.

232 *Jer. 32:26*.

רבי יוסה רבי ירמיה בשם רבי חייה בר בא רבי חזקיה רבי ירמיה בשם רבי יוחנן. משרבו הגוֹדֵפִים פִּסְקוּ מִלְקָרֵעַ. מִהוּ לְקָרֵעַ עַל הַכִּינוּיִן בְּזִמְן הַזֶּה. נִשְׁמָעִינָה מִהֶדָּא. רבי שמעון בן לקיש הֵרָה מִהֶלֶךְ בְּאִיסְרָטָא. פָּגַע בֵּיהּ חַד כּוּתִי וְהָרָה מִגִּדִּף וְהוּא קָרַע מִגִּדִּף וְהוּא קָרַע. נָחַת לֵיהּ מִן חֲמָרָא וְיָהֵב לֵיהּ מִרְתּוּקָא גּוֹ לִבְיָהּ. אָמַר לֵיהּ. בֵּר כּוּתִי. אֵית לֵאמָרָא מֵאִינוֹן מִסְפָּקָא לִי. מִלְתִּיהּ הֵדָּא אָמַרָה שְׁקוּרְעִין עַל הַכִּינוּיִן וְשְׁקוּרְעִין בְּזִמְן הַזֶּה.

Does one rend his garment nowadays²³³? Rabbi Yose, Rabbi Jeremiah in the name of Rabbi Hiyya bar Abba, Rabbi Hisqiah, Rabbi Jeremiah in the name of Rabbi Johanan: When blasphemers proliferated, they stopped rending²³⁴. Does one rend for substitute names today? Let us hear from the

following: Rabbi Simeon ben Laqish was travelling on the highway. He met a Samaritan who was repeatedly blaspheming, and he was rending. He dismounted from the donkey and gave him a blow on his heart saying to him: Samaritan! Does your mother have garments to supply me with? [His word] This implies²³⁵ that one rends for substitute names²³⁶ and rends his garments at the present time.

233 Since the pronunciation of the Name is unknown, an obligation to rend one's garments would imply that it applies to substitutes of the Name. The paragraph has a parallel in *Mo'ed qatan* 3:6, 83b l. 38.

234 The same statement in the Babli 60a in the name of R. Hiyya (bar Abba). The implication is that the status of substitute

names is the same as that of the Name.

235 The scribe wrote *הדא אמרה* "this implies". The corrector added *מילתיה* but then forgot to cross out *הדא*. One should read either "his word" or "this".

236 Disagreeing with R. Johanan and the latter's student R. Hiyya bar Abba.

(fol. 24a) **משנה יא:** העוֹבֵד עֲבֹדָה זָרָה אֶחָד הָעוֹבֵד וְאֶחָד הַזֹּבֵחַ וְאֶחָד הַמְקַטֵּר וְאֶחָד הַמְנַסֵּף וְאֶחָד הַמְשַׁתְּחֶה וְהַמְקַבֵּל עָלָיו לְאֵלוֹהַּ וְהַאֲמִיר לוֹ אֱלִי אֲתָנָה.

Mishnah 11: The worshipper of strange worship²³⁷ whether he worships²³⁸, or sacrifices²³⁹, or burns incense, or makes a libation, or prostrates himself; also one who accepts it as a god and says to it: you are my god²⁴⁰.

משנה יב: אֲבָל הַמְגַפֵּף וְהַמְנַשֵּׁק וְהַמְכַבֵּד וְהַמְרַבֵּץ הַמְרַחֵץ הַסֵּף הַמְלַבִּישׁ וְהַמְנַעִיל עוֹבֵר בְּלֹא תַעֲשֶׂה. הַנּוֹדֵד בְּשִׁמּוֹ וְהַמְקַיֵּם בְּשִׁמּוֹ עוֹבֵר בְּלֹא תַעֲשֶׂה. הַפּוֹעֵר עֲצָמוֹ לְבַעַל פְּעוֹר זֶה הֵיא עֲבֹדָתוֹ. הַזֹּרֵק אֶבֶן לְמַרְקוּלִיס זֶה הֵיא עֲבֹדָתוֹ:

Mishnah 12: But one who embraces²⁴¹, or kisses, or sweeps clean²⁴², or sprinkles water²⁴³; one who washes, rubs with oil, clothes, or puts shoes on it, violates a prohibition²⁴⁴. He who makes a vow in its name or keeps one in its name violates a prohibition. One who defecates in front of *Baal Pe'or* follows its worship²⁴⁵. One who throws a stone at a statue of Mercury follows its worship²⁴⁶.

237 Who is mentioned in Mishnah 5 as subject to stoning.

238 In a way customary for the worship of the idol even if it does not resemble any

approved worship of Heaven.

239 Any of the acts required in the Temple proffered to an idol is a capital crime even if ordinarily this is not the worship of this idol.

240 Without any other action.

241 A statue.

242 The floor on which the statue stands.

243 To settle the dust on the dirt floor on which the statue is standing.

244 The penalty would be flogging, not stoning.

245 While in later biblical texts (*Is.* 5:14,

Job 6:10) פער פער means “to open one’s

mouth wide”, in rabbinic Hebrew it always means “to defecate”. Therefore *Ba'al Pe'or* is interpreted as a deity worshipped by defecating in front of it. The defecation then becomes a capital crime.

246 While in general throwing a stone at an idol would be a commendable sign of disrespect, throwing a stone at a Hermes stele is a capital crime.

(25b line 10) **הלכה יא:** העובד עבודה זרה כול. אזהרה לעובד עבודה זרה מניין. לא תעבדם. ברת מניין. אתי הוא מגדף ונכרתה. ולא מגדף כתוב. כאדם שהוא אומר לחבירו. גידפתה את כל-הקערה ולא שירתה בה כלום. משל רבי שמעון בן לעזר אומר. לשנים שהיו יושבין וקערה שלגריסין ביניהון. פשט אחד את ידי וגידף את כל-הקערה ולא שייר בה כלום. כך המגדף והעובד עבודה זרה אינו משייר לאחרי מצה. עונש מניין. והוצאת האיש ההוא או את-האשה ההיא אשר עשו את-הדבר הזה אל-שעריך וגו' עד וסקלתם אותם באבנים ומתו:

Halakhah 11: “The worshipper of strange worship,” etc. From where warning about strange worship? *Do not worship them*²⁴⁷. Extirpation from where? *He blasphemed the Eternal and will be extirpated*²⁴⁸. But is there not written “blasphemed”? As one would say to another, you scraped out the entire pot²⁴⁹ and did not leave anything; a parable which Rabbi Simeon ben Eleazar formulated: Two people were sitting with a pot of porridge between them. One of them stretched out his hand, scraped out the entire pot, and did not leave anything in it. So both the blasphemer and the worshipper of strange worship do not leave any commandment as residue²⁵⁰.

From where the punishment? *You shall lead out that man, or that woman, who did this deed to your gates, etc., up to and stone them with stones until they die*²⁵¹.

247 *Ex.* 20:5, *Deut.* 5:9 the Second Commandment.

248 *Num.* 15:30. The verse describes any person who sins intentionally as a

blasphemer. The verse decrees extirpation as punishment for any willful deed for which a sacrifice would be required if done inadvertently, in case it cannot be

prosecuted in court for lack of witnesses.

The traditional interpretation of the purification sacrifices prescribed in *Num.* 15:22-29, which differ from those prescribed under similar headings in *Lev.* 4:1-5:14, assigns the sacrifices prescribed in *Num.* exclusively to sins of idolatry; those of *Lev.* to the atonement of all other transgressions (*Sifry Num.* 111-112). Therefore, the following verse 15:30 can also be interpreted as specifically referring to idolatry.

249 It seems that in Galilean dialect גדף

جفف “to blaspheme” was pronounced like

גדף “to fly quickly” and this in turn sounded like גרף “to scoop out with a shovel, to scratch out completely.” The parallel in the Babli, *Keritut* 7b, formulates גרפת הקערה “you scratched out the pot” and Rashi comments: ד can be replaced by ר.

250 Obeying a Divine command after blaspheming or worshipping a strange deity is an empty gesture, devoid of all value.

251 *Deut.* 17:5.

(25b line 18) לא תַעֲבֹדֵם. הִייתִי אוֹמֵר. עַד שִׁיעָבוֹד כָּל-עֲבוֹדָה זָרָה שְׂבָעוּלָם. תִּלְמִיד לֹא־תִשְׁתַּחֲוֶה לָהֶם. הַשְׁתַּחֲוִיָּה בְּכָל הַיּוֹמָה וְלַמָּה נִצָּאָתָה. לְהַקִּישׁ אֵלֶיהָ. אֵלָּא מֵהַשְׁתַּחֲוִיָּה מִיּוֹחֲדָת מַעֲשֵׂה יָחִיד וְחִיבִין עָלֶיהָ בִּפְנֵי עַצְמָהּ. אִף אֲנִי אֲרַבָּה כָּל-מַעֲשֵׂה וּמַעֲשֵׂה שְׁלֹשׁ בָּהּ חִיבִין עָלָיו בִּפְנֵי עַצְמוֹ. אִף עַל גֵּב דְּרַבִּי שְׂמַעוֹן בֶּן לָעֶזֶר אָמַר. זֵיבִחַ וְקִיטֵר וְנִיסֵּד בְּהֶעֱלֵם אֶחָד אֵינוֹ חֵיב אֵלָּא אַחַת. מוֹדָה שָׂאֵם עֲבֹדָה בְּעֲבוֹדָתָהּ בְּעֲבוֹדָת הַגְּבוּיָה בְּעֲבוֹדָת הַשְׁתַּחֲוִיָּה שֶׁהוּא חֵיב עַל כָּל-אַחַת וְאַחַת. כְּדָמַר רַבִּי שְׁמוּאֵל בְּשֵׁם רַבִּי זְעִירָא. וְלֹא יִזְבְּחוּ עוֹד אֶת-זִבְחֵיהֶם לְשִׁעִיָּם. אֲמָרוּ לֵיהּ. מַטִּי תְנֶה לְקַדְשִׁים.

*Do not worship them*²⁴⁷. Should I say, not unless he worshipped every single strange worship in the world? The verse says, *do not prostrate yourself before them*²⁴⁷.²⁵² Prostration was included²⁵³; why is it mentioned separately? To tie to it: Prostration is special in that it is the act of a single person and is punishable separately, so I am adding any single act that one is liable for separately. Even though Rabbi Simeon ben Eleazar said²⁵⁴, if one sacrificed, and burned incense, and poured a libation in one forgetting²⁵⁵ he is liable only for one; he agrees that if one worshipped it in its proper worship which is identical with the worship of Heaven like prostrating, he is liable for each single action²⁵⁶. As Rabbi Samuel said in the name of Rabbi Ze'ira: *They should not continue to offer their sacrifices to spirits*.²⁵⁷ They said to him, turn and refer it to sacrifices²⁵⁸.

252 The argument is hinted at in the Babli, 60b.

253 Even though in the verse prostrating is mentioned before worshipping, it clearly is

an act of worship and on purely logical grounds would not have to be mentioned separately.

254 Halakhah 13, 25c l. 18, the entire argument is attributed to R. Jehudah ben Tanhum.

255 If he was oblivious to the fact that worshipping other gods was forbidden, he only has to bring one purification sacrifice.

256 Applying any forms of worship of Heaven to any other purpose is sinful. Therefore, using it for pagan worship is not the same as accepting pagan rites of other forms.

257 *Lev. 17:7.*

258 The paragraph forbids any sacrificial act outside the holy precinct. It is not applicable to the question at hand.

25b line 27) רַבִּי יִסָּא בָּשֵׁם רַבִּי יוֹחָנָן. זֵיבְחָהּ לָהּ טֹלָהּ בְּעַל מוֹם חֵיב. מַאי כְדוֹן. כִּי דִמְר רַבִּי הִילָא. לֹא־תַעֲשׂוּן לָן לִי אֱלֹהֵיכֶם: כָּל־לִי אֱלֹהֵיכֶם לֹא־תַעֲשׂוּן בָּן.

Rebbi Yasa in the name of Rebbi Johanan: If he sacrificed a defective lamb to it, he is guilty²⁵⁹. From where this? As Rebbi Hila said, *do not do such to the Eternal, your God*²⁶⁰. Anything that you might do for the Eternal, your God, you may not do in this case.

259 It is forbidden to sacrifice defective animals to God (*Lev. 22:20*). Nevertheless, if regular pagan worship does not include animal sacrifices but a Jew chooses to sacrifice a defective animal to that idol, he is guilty of idolatry. The Babli, *Avodah zarah* 51a, quotes R. Abbahu in the name of R. Johanan in the opposite sense.

260 *Deut. 12:4*. The paragraph deals with the destruction of places of pagan worship.

It is interpreted to mean that anything similar to Temple worship, even if executed in an unacceptable way, is forbidden as pagan worship. *Sifry Deut. 81* follows the Yerushalmi: "Anything which cannot be sacrificed in the Temple but somebody sacrificed it as foreign worship, if its kind might be sacrificed to God he is guilty; otherwise he cannot be prosecuted."

25b line 31) רַבִּי בִּין בַּר חִינָה בָּעָא קוּמִי רַבִּי זְעִירָה. לֹא תַעֲבֹדִם כָּלָל. לֹא־תִשְׁתַּחֲוֶה לָהֶם פָּרֹט. כִּי לֹא תִשְׁתַּחֲוֶה לְאֵל אֲחֵר חֹזֵר וְכָלָל. כָּלָל וּפָרֹט וְכָלָל אִין בְּכָלָל אֵלָא מַה שְּׁבַפְרֹט. רַבִּי בִּין בַּר קְהִנָּה בָּעָא קוּמִי רַבִּי הִילָא. לֹא־תַעֲשׂוּן לָן כָּלָל. זֵיבְחָהּ לְאֱלֹהִים יַחֲרֹם פָּרֹט. בִּלְתִּי לִי לְבַדּוּ. חֹזֵר וְכָלָל. כָּלָל וּפָרֹט וְכָלָל וְהַכֹּל בְּכָלָל. וְרִיבָה אֶת הַמִּגְפָּף וְהַמִּנְשֶׁק. אָמַר לִיה. לֹאִי זֶה דָּבָר נְאֻמָּרָה הַשְׁתַּחֲוִיָּה. לֹא לְלַמֵּד עַל עֲצָמוֹ שְׁהוּא מַעֲשֶׂה. הַמִּגְפָּף וְהַמִּשְׁתַּחֲוִיָּה שְׁאִין מַעֲשֶׂה.

Rebbi Abun bar Hiyya asked before Rebbi Ze'ira: *Do not worship them*²⁴⁷, a principle. *Do not prostrate yourself before them*²⁴⁷, a detail. *For you shall not prostrate yourself before another god*²⁶¹; He again stated the principle. Principle, detail, and principle: is nothing covered but the detail²⁶²?

Rebbi Abun bar Cahana asked before Rebbi Hila: *Do not do such*²⁶⁰, a principle. *One who sacrifices to gods shall be banned*²⁶³, a detail. *Only for the Eternal alone*²⁶³, He again stated the principle. Principle, detail, and principle; is not everything included²⁶⁴? Does it not add one who embraces and one who kisses²⁶⁸? He told him, why is prostrating mentioned? Not to infer from it that it is an action? He who embraces and he who (prostrates himself)²⁶⁶ do not exemplify actions.

261 Ex. 34:14.

262 Since in the Ten Commandments prostrating is mentioned before worshipping, the order really should be detail, principle, principle. Also, in our text of the *Introduction to Sifra*, “principle, detail, principle has to be judged in light of the detail,” adding anything similar to detail. The passage supports the thesis of Menahem Cahana [קיום לתולדות התפתחותה] ספר זיכרון, של מידת כלל ופרט בתקופת התנאים א. אדרעי, מ. בראשי, י. לוינסון, ed. לתרצה ליפשיץ Jerusalem 2005, pp. 173-216] that only the list of hermeneutical rules is original but the detailed interpretation of the rules is Babylonian (following R. Aqiba), never accepted in the Yerushalmi. The latter does not differentiate between *פרט וכלל* and *כלל ופרט* and in all cases reduces the validity of the principle to the case of the

detail. The question naturally deserves no answer since it is not *פרט וכלל* but *כלל ופרט* and *כלל וכלל*, which is not the subject of any hermeneutical rule.

263 Ex. 22:19.

264 This statement is not found elsewhere in talmudic texts. But in R. Aqiba's system of additions (רבי) and subtractions (מעוט), addition + subtraction + addition implies that almost everything corresponding to the broad description of the additions is included (Tosephta *Ševu'ot* 1:7, Babli *Nazir* 35b).

265 But according to Mishnah 12, embracing or kissing an idol is not a capital crime.

266 It is clear that one has to read *ומנשק* “and kisses” instead of *ומשתחויה* “and prostrates himself”. Embracing and kissing are not acts of worship.

(25b line 36) מניין לאומר לו. אלי אתה. רב אבון בשם רבנן דתמן. וישתחויו לו ויזבחו לו ויאמרו אלה אלהיך ישראל וגו'. מעתה אינו מתחייב עד שיזבח ויקטר ויאמר. אמר רבי יוסי. לא בא הכתוב להזכיר אלא גנין של ישראל. וישתחויו לו ולא לגבוה. ויזבחו לו לא לגבוה. ויאמרו לו. לא לגבוה. מאי כדון. נאמר כאן אמירה ונאמרה אמירה במסית. מה אמירה האמורה במסית עשה בה אמירה כמעשה. אף אמירה האמורה כאן נעשה בה אמירה כמעשה.

כתוב וילך ויעבד אלהים אחרים וישתחויו להם ולעמם | או לזר. אמר רבי זעורה. לשמש אין כתוב כאן אלא ולעמם. אין כאן כלל ופרט אלא ריבויים. התיב רבי אבא בר

זמינא קומי רבי זעורה. והא כתוב כל אשר-לו סנפיר וקשקשת וכל אשר אין-לו סנפיר וקשקשת. מעתה אין פאן כלל ופרט אלא ריבויים. אלא בגין דכתב וי'. אמר רבי יוחנן בר מריא. כל-הו דאנא משכח וי' אנא מחיק ליה. אמר רבי שמואל בר אבדומא. הייתי אומר. מה שבגמלים יהוא אסורין ומה שבגגיות ושביבירים יהוא מותרין. תלמוד לומר וכל-אשר בגמלים. ריבה.

רבי שמואל בר נחמני בשם רבי הושעיה. האומר לו. אלי אתה. מחלוקת רבי וחכמים. השתחוה לה מהו. רבי יוחנן אמר. דברי הכל מודין בכפיפת קומה שהוא חייב. מה בין המעלה והמוריד קומתו והמעלה והמוריד שפתותיו. רבי יוחנן אמר. כמחלוקת. וריש לקיש אמר. כמחלוקת. אמר רבי זעירא. קריא מסייע לריש לקיש. תורה אחת יהיה לכם לעושה בשגגה. אין לי אלא דבר שהוא מעשה. המגפף והמשתחוה שאינו מעשה מניין.

From where about him who says, “you are my god”²⁶⁷? Rav Abun in the name of the rabbis there²⁶⁸: *They prostrated themselves before it, and sacrificed to it, and said, these are your gods, Israel.* Then he should not be guilty unless he sacrifice, burn incense, and declare. Rabbi Yose said, the verse is written only for the disgrace of Israel. *They prostrated themselves before it, not before Heaven. And sacrificed to it, not to Heaven. And said, not to Heaven.* What about this²⁶⁹? *Saying* is mentioned here and *saying* is said about one who leads astray^{61,270}. Since for *saying* mentioned about one who leads astray, saying is equated with acting, also for the *saying* mentioned here, we have to equate saying with acting.

It is written²⁷¹: *He went and worshipped other powers and prostrated himself before them, and to the sun, and to the moon.* Rabbi Ze'ira said, it is not said *to the sun* but *and to the sun*. That is not principle and detail but addition²⁷². Rabbi Abba bar Zemina objected before Rabbi Ze'ura; is it not written *any which have fins and scales, and any which do not have fins and scales*²⁷³? Then this is not principle and detail but additions since there is written *and*²⁷⁴? Rabbi Johanan bar Marius said, anywhere I am encountering *and*, I am deleting it²⁷⁵. Rabbi Samuel ben Eudaimon said, I would have said that anything in the oceans is forbidden, what is in barrels and vivaria²⁷⁶ should be permitted. The verse says, *and anything which lives in water*, an addition²⁷⁷.

Rabbi Samuel bar Nahmani in the name of Rabbi Hoshai: If one says to it, you are my god, there is disagreement between Rabbi²⁷⁸ and the Sages. If

he (prostrated himself)²⁶⁶, what is the rule? Rabbi Johanan said, everybody agrees that if he lowered his body²⁷⁹, he is guilty. What is the difference between raising and lowering his body, and raising and lowering his lips²⁸⁰? Rabbi Johanan said, following disagreement²⁸¹. Rabbi Simeon ben Laqish said, following the distinction²⁸². Rabbi Ze'ira said, a verse supports Rabbi Simeon ben Laqish: *One rule should be for you, for the one acting in error*²⁸³. This only refers to what represents an action. The one who embraces (and who prostrates himself)²⁶⁶, which are not action, from where²⁸⁴?

267 That it is a capital crime.

268 Ex. 32:8, speaking of the Golden Calf.

269 How does the verse imply that declaring one's allegiance to another power constitutes a capital crime?

270 An example of *הקשה* "trapping", or *בגין* *אחד*, *אב מכתוב אחד*, the third hermeneutical rule. Since in one case it is established that by talking alone one may commit a capital crime, in all other cases where talking is equated to actions constituting capital crimes, it is a capital crime in itself.

271 Deut. 17:3. If not for R. Ze'ira's interpretation, one would translate *or to the sun, or to the moon*.

272 By the rule *כלל ופרט אין בכלל אלא מה שבפרט* "principle, detail, and principle: nothing is covered but the detail," the verse seems to imply that only worship of sun or moon are capital crimes, not the worship of other gods (cf. Note 213). Since the detail is not standing alone but is connected to the general category by *and*, even R. Ismael will agree that the verse adds the worship of celestial bodies as bodies, rather than deities, to the definition of pagan worship.

273 Lev. 11:9: *This you may eat from anything which is in the water: Any with fin and scale in the water*, in seas and rivers,

those you may eat. On the face of it, the verse declares a principle of what may be eaten from the water, followed by a detail, from lakes (standing water) and rivers (flowing water).

274 As explained later, the preceding argument would allow to eat seafood grown in barrels and aquariums, against the received rules, unless one accepts every *and*, even those needed by the rules of grammar, as additions. This may be R. Aqiba's approach; it certainly is unacceptable for R. Ismael's hermeneutical rules. Babli *Hulin* 66b.

275 This is essentially R. Ismael's approach that "the Torah speaks human speech;" no word needed by the basic rules of grammar and syntax carries a hidden meaning.

276 Latin *vivarium* "game, fish preserve".

277 Because of the introductory clause, the verse must be read as principle, principle, and detail; this does not fit the scheme of "principle and detail" but the wordiness must be interpreted as intended to cover all possible cases.

The verse as quoted does not exist; in Lev. 11:9-10, Deut. 14:9 one reads *מכל אשר במים*, the partitive *mem* indicating that not

everything living in the water can be eaten, but not referring to the varieties of water.

278 This disagreement is not mentioned in any other source. It is possible that a name should be inserted here.

279 This is prostrating which by the verse was defined as an idolatrous act.

280 This is declaring the idol as one's god, which also can be done by only moving body parts, the lips. In the Babli, 65b, R. Johanan extends his argument by criminalizing a person who prevents his ox from eating while threshing by shouting at it.

281 The nature of this disagreement cannot be determined. It is possible that R. Johanan by his argument implies that embracing and kissing idols are capital crimes.

282 The distinction made in the Mishnah between idolatrous acts which are capital crimes and those which are simple transgressions.

283 *Num.* 15:29; the reference to idolatrous acts is explained in Note 248.

284 Therefore, embracing and kissing cannot be capital crimes since they do not fit the criterion for a purification sacrifice in case the act was unintentional.

משנה יג: הנותן מזרעו למולך אינו חייב עד שיקסור למולך ויעביר באש. מִסֵּר למולך ולא העביר באש. העביר באש ולא מסר למולך אינו חייב עד שיקסור למולך ויעביר באש. בעל אוב זה פיתום והמדבר משחיו וידעוני זה המדבר בפיו. הרי אלו בסקילה והנשאף בהן באזהרה:

Mishnah 13: One who gives any of his descendants to the Moloch is only guilty if he delivers him to the Moloch and makes him pass through fire. If he delivered him to the Moloch but did not make him pass through fire, or made him pass through fire but did not deliver him to the Moloch, is only guilty if he delivers him to the Moloch and makes him pass through fire.

The necromancer is the Πύθων²⁸⁵ and one who²⁸⁶ speaks from his armpit. The medium⁵⁸ speaks through his mouth. These are stoned but one who consults them is forewarned²⁸⁷.

285 Πύθων, -ωνος, ὁ, "the serpent Python", a spirit of divination. The plural πύθωνες "ventriloquists".

286 In the Babli and the independent Mishnah mss: the Πύθων who speaks from

his armpit.

287 While turning to necromancers and fortune-tellers is repeatedly forbidden (*Lev.* 19:31, *Deut.* 18:10-11), no punishment is spelled out in the biblical text.

(25b line 56) **הלכה יג:** הנותן מזרעו למולך. אזהרה לנותן מזרעו למולך מניין. ומזרעו לאיתנו להעביר למולך. פרת מניין. כי מזרעו נתן למולך ונכרתה. עונש מניין. איש איש מבני ישראל ומן הגר | הגר בישאל אשר יתן מזרעו למולך מות יומת עם הארץ יגמוהו באביו ומזרעו לאיתנו. יכול אפילו מסר ולא העביר יהא חייב. תלמוד לומר ומזרעו לאיתנו להעביר. יכול אפילו מסר והעביר שלא למולך יהא חייב. תלמוד לומר ומזרעו לאיתנו להעביר למולך. יכול אפילו מסר והעביר למולך שלא באש יהא חייב. תלמוד לומר לא ימצא בך מעביר בנזבתו באש. עברה עברה לגזירה שוה. מה העברה שנאמרה להלן באש אף כאן באש. נמצאתה אומר. לעולם אינו חייב עד שימסור ויעביר באש למולך. רבי נסה בשם רבי לעזר. לעולם אינו מתחייב עד שימסרנו לכופרים ויטילנו ויעבירנו. העבירו כדרכו מהו. היה מושכו ומעבירו. תני. העבירו ברגלו פטור. רבי לעזר בירבי שמעון מחייב. אחד המולך ואחד שאר עבודה זרה. רבי לעזר בירבי שמעון אומר. אינו חייב אלא למולך בלבד. אינו חייב אלא על יוצאי ירכו. אמר רבי יוחנן. טעמא דרבי לעזר בירבי שמעון מהכא. לא ימצא בך גנוף לא ימצא מעביר. והכרתי אתו מקרב עמו. לרבות שאר עבודה זרה בהיפכר. עונש מניין. מזרעו נתן למולך מות יומת. והוא שהעביר עצמו. לא ברגלו הוא עובר. מפני שהעביר את עצמו. אבל אם היה מושך בו ומעבירו חייב. מה היא דאמר רבי לעזר בירבי שמעון. העבירו ברגלו פטור. בהוא דעבירה מזקר.

Halakhah 13: “One who gives any of his descendants to the Moloch.”

From where a warning not to give any of his descendants to the Moloch? *Do not give any of your descendants to the Moloch*²⁸⁸. Extirpation from where? *For he gave one of his descendants to the Moloch*²⁸⁹ *and shall be extirpated*²⁹⁰. Punishment from where? *Each one of the Children of Israel, or of the sojourner in Israel, who would give any of his descendants to the Moloch shall be made to die; the people of the Land shall smash him with stones*²⁹¹. *Do not give any of your descendants*, I could think that he was guilty if he handed over but did not make him pass²⁹²; the verse says: *Do not give any of your descendants to pass through*. I could think that he was guilty if he handed over and made him pass through but not for the Moloch; the verse says: *Do not give any of your descendants to pass through for the Moloch*²⁹³. I could think that he was guilty if he handed over and made him pass through for the Moloch but without fire; the verse says: *among you, nobody should be found to make his son or his daughter pass through fire*²⁹⁴. Passing through, passing through as an equal cut²⁹⁵. Since “passing through” mentioned there is through fire, so “passing through” mentioned here also is through fire. You

have to say that he is not guilty unless he handed over and made him pass through fire for the Moloch.

Rebbi Nasa in the name of Rebbi Eleazar: He is guilty only if he hand him over to the priests, takes him, and makes him pass. What if he lets him walk normally? It was stated: one was drawing him and made him pass through. It was stated: if he made him walk through on his feet he is not prosecutable²⁹⁶. Rebbi Eleazar ben Rebbi Simeon declares him guilty. Whether for the Moloch or for any other foreign worship; Rebbi Eleazar ben Rebbi Simeon says, he is guilty only for the Moloch²⁹⁷, he is guilty only for his descendants. Rebbi Johanan said, Rebbi Eleazar ben Rebbi Simeon's reason is from here: *It shall not be found in you*²⁹⁸, from your body you should not be found making pass through.

*I shall extirpate him . . . from among his people*²⁹⁹. To include all other foreign worship for extirpation³⁰⁰. From where punishment? *Of his descendants he gave to the Moloch*²⁸⁹, *death he shall be made to die*²⁹¹, if he made him pass through himself. Does he not pass through on his feet? Because he made him pass through himself, but if he was drawing him and made him pass through, he is guilty. What does Rebbi Eleazar ben Rebbi Simeon mean, if he made him walk through on his feet he is not prosecutable? He has to make him pass through jumping.

288 Lev. 18:21.

289 Lev. 20:3

290 A wrong quote from Lev. 20:5. It should read: *I shall extirpate him*.

291 Lev. 20:2.

292 In the interpretation of the Talmudim, the child was handed over to the Moloch priests and then made to pass or be carried between two fires. It is not assumed that the child was burned since that would be murder which in itself is a capital crime and would obviate the discussion of the exact conditions which make Moloch worship a capital crime. In the Babli, 64b, it is assumed that there is one fire in a ditch and

the Moloch worship requires to jump, not to walk, over the fire. This interpretation also is possible for the Yerushalmi.

The paragraphs have a parallel in the Babli, 64b, partially with different attributions.

293 Since passing through (or jumping over) fire is characteristic for Moloch worship and not part of worship of Heaven, doing this for any other deity is forbidden foreign worship, subject to divine extirpation, but not a prosecutable capital crime.

294 Deut. 18:10. In the Moloch paragraphs in Lev., the nature of "passing

through” is never spelled out; by the doctrine of invariability of lexemes it is only made definite in this quote. *Sifra Qedošim Parašah* 10(3).

295 Cf. 3:10, Note 158.

296 Babli 64b. In neither Talmud is it totally clear whether father or priests make the child pass through or over the fire.

297 Babli 64a.

298 The word בך in *Deut.* 18:10 is read as *in you*; this is interpreted to describe one's bodily issue, the children.

299 A not quite correct quote from *Lev.* 20:5.

300 In the Moloch paragraph *Lev.* 20:1-5 extirpation is mentioned twice, in vv. 3 and 5. One refers to Moloch worship; the other then must refer to any other worship using fire. *Sifra Qedošim Parašah* 10(15).

25c line 1) רבי בון בר חייא בעא קומי רבי זעירא. מסר ולא העביר תפלוגתא דחזקיה ורבי יוחנן. גאיתפלוגין. טבח ולא מכר. חזקיה אמר חייב. ורבי יוחנן אמר פטור.

Rebbi Abun bar Hiyya asked before Rebbi Ze'ira: If he handed over but did not make to pass through,³⁹¹ is that the disagreement between Hizqiah and Rebbi Johanan? Fore they disagreed: If he slaughtered but did not sell, Hizqiah said he is liable, but Rebbi Johanan said, he is not liable³⁹².

301 At the start of the Halakhah it was noted that if somebody handed over his child to the Moloch priests but did not make him pass over the fire, he is not guilty under the Moloch paragraph. One has to read that to mean that the intent had been for a full Moloch ceremony but that for some reason it was not executed. Then the question here is, whether there is any guilt in handing over the child knowing that the ceremony cannot be performed.

302 The thief of livestock who *slaughters and sells* stolen animals is liable to fourfold or fivefold restitution (*Ex.* 21:37). The question arises whether stealing and slaughtering an animal which cannot be sold, e. g., one dedicated as sacrifice but still in its owner's hand, triggers liability for quadruple or only double restitution. The problem is not mentioned elsewhere; a related one is in *Ševu'ot* 8:8. The comparison of civil and criminal law is unfounded; the question merits no answer.

25c line 4) רבי בא רבי חייא בשם רבי יוחנן. ראה לשון שלמידתך התורה. מולך. כל-שתמליכהו עליך. אפילו קיסם אפילו צרור. והכרתיו אותו מקרב עמו. לרבות שאר עבודה זרה בהיפך. רבי נסה בשם רבי לעזר. לרבות שאר עבודה זרה לבנים ולבנות. דתני. אחד המולך ואחד שאר עבודה זרה. בין שעבדה בבנים ובבנות בין שעבדה באבות ובאמהות. חייב. אמר רבי זעירא. בשאין עבודתה לכו פטור. אמר רבי הילא. אפילו עבודתה לכו חייב שתים. מתניתא מסייעא לרבי הילא. מולך בכלל עבודה זרה היה ונצא

לִידוֹן לְהַקְלֵל עָלָיו שְׁלֵא יִהְיֶה חַיִּיב אֶלָּא עַל יוֹצְאֵי יִרְכּוֹ. אָמַר רַבִּי תַנְחוּם בְּרַי יְרֵמְיָה. אֵתִיבָא דְרַבִּי לְעֶזֶר בִּירְבִּי שְׁמַעוֹן קְשִׁיטָה רַבִּי שְׁמַעוֹן אָבִי. כְּמָה דְרַבִּי שְׁמַעוֹן אָמַר. מוֹלֵךְ בְּכָלֵל עוֹבְדֵי עֲבוּדָה זָרָה הֵיךְ. נֶצָא לִידוֹן לְהַקְלֵל עָלָיו שְׁלֵא יִהְיֶה חַיִּיב אֶלָּא עַל יוֹצְאֵי יִרְכּוֹ. כֵּן רַבִּי לְעֶזֶר בִּירְבִּי שְׁמַעוֹן אָמַר. בְּכָלֵל עוֹבְדֵי עֲבוּדָה זָרָה הֵיךְ. נֶצָא לִידוֹן לְהַקְלֵל עָלָיו שְׁלֵא יִהְיֶה חַיִּיב אֶלָּא עַל יוֹצְאֵי יִרְכּוֹ.

אָמַר רַבִּי תַנְחוּם בְּרַי יוֹדָן. אִף עַל גַּב דְרַבִּי לְעֶזֶר בִּירְבִּי שְׁמַעוֹן אָמַר. זִיבְחָ וְקִיטֵר נִיטֵר בְּהַעֲלֵם אֶחָד אֵינוֹ חַיִּיב אֶלָּא אַחַת. מוֹדָה שְׂאֵם עֲבָדָה בְּעֲבוּדָתָהּ בְּעֲבוּדַת הַגְּבוּהָ בְּעֲבוּדַת הַשְׁתַּחֲוִיָּה שֶׁהוּא חַיִּיב עַל כָּל־אַחַת וְאַחַת. מְנִיין שְׂאֵם עֲבָדָה בְּעֲבוּדָתָהּ בְּעֲבוּדַת הַגְּבוּהָ בְּעֲבוּדַת הַשְׁתַּחֲוִיָּה שֶׁהוּא חַיִּיב עַל כָּל־אַחַת וְאַחַת. רַבִּי שְׁמוּאֵל בְּשֵׁם רַבִּי זְעוּרָה. וְלֹא־זִיבְחֵי עוֹד אֶת־זִבְחֵיהֶם לְשַׁעֲרֵם. אָמְרוּ לִיה. מִטֵּי תִנָּה לְקַדְּשִׁים.

רַבִּי יִסָּא בְּשֵׁם רַבִּי יוֹחָנָן. זִיבְחָ לֵה טְלָה בַעַל מוֹם חַיִּיב. מֵאִי כְדוֹן. כְּדָאֻמַּר רַבִּי הִילָא. לֹא־תַעֲשִׂיוּ כֵּן לִי אֱלֹהֵיכֶם: כְּלִי אֱלֹהֵיכֶם לֹא־תַעֲשִׂיוּ כֵּן.

אָמַר רַבִּי פִּינְחָס קוּמִי רַבִּי יוֹסֵה בְּשֵׁם רַב חֲסִידָא. הֵיכִי עֲבוּדָתָהּ בְּבָנִים וּבָבוֹת וְעֲבָדָה בְּאֲבוֹת וּבְאִמָּהוֹת חַיִּיב שְׁתֵּינִים. וְהֵיכִי רַבִּי זְעוּרָה חֲדִי בָּהּ. סָבַר מִימַר. בְּשִׁטָּתָהּ רַבִּי הִילָא רַבִּיֵּה אֵיתִיאֲמַרְתָּ. וְעַל דְרַבִּי לְעֶזֶר בִּירְבִּי שְׁמַעוֹן אֵיתִיאֲמַרְתָּ. אָמַר לִיה. וַיִּמָּה בְּיָדָהּ. וְעַל דְרַבִּינִי אֵיתִיאֲמַרְתָּ. אָמַר לִיה. וְלִהְדָא צוּרְכָתָהּ.

Rebbi Abba bar Hiyya in the name of Rebbi Johanan³⁰³: Look at the expression which the Torah taught you, *Moloch*; anything that you make king over yourself, even a chip of wood, even a pebble³⁰⁴. *I shall extirpate him from amidst his people*, to include all other foreign worship in extirpation³⁰⁰. Rebbi Nasa in the name of Rebbi Eleazar: to include all other foreign worship relating to sons and daughters, as it was stated: He is guilty whether for the Moloch or any other foreign worship, whether he worshipped them with sons and daughters, or worshipped them with fathers and mothers. Rebbi Ze'ira said: if its worship did not prescribe this; but if its worship did prescribe it, he is free from prosecution³⁰⁵. Rebbi Hila said, even if its worship did prescribe it, he is twice guilty³⁰⁶. A *baraita* supports Rebbi Hila: The Moloch was included in all other foreign worships; it is mentioned separately to be lenient in this regard that he be guilty only for his descendants³⁰⁷.

Rebbi Tanḥum bar Jeremiah said, it follows that Rebbi Eleazar ben Rebbi Simeon follows the argument of his father Rebbi Simeon. Just as Rebbi Simeon said, the Moloch was included in all other foreign worships; it is mentioned separately to be lenient in this regard that he be guilty only for his

descendants, so Rabbi Eleazar ben Rabbi Simeon said, the Moloch was included in all other foreign worships; it is mentioned separately to be lenient in this regard that he be guilty only for his descendants²⁹⁸.

Rebbi Tanḥum ben Yudan said, even though Rabbi Eleazar ben Rabbi Simeon said²⁵⁴, if one sacrificed, and burned incense, and poured a libation in one forgetting²⁵⁵ he is liable only for one; he agrees that if one worshipped it in its proper worship which is identical to the worship of Heaven like prostrating, he is liable for each single action²⁵⁶. From where that if one sacrificed, and burned incense, and poured a libation in one forgetting he is liable only for one; he agrees that if one worshipped it in its proper worship which is identical with the worship of Heaven like prostrating, he is liable for each single action? As Rabbi Samuel said in the name of Rabbi Ze'ira: *They should not continue to offer their sacrifices to spirits*²⁵⁷. They said to him, turn and refer it to sacrifices.

Rebbi Yasa in the name of Rabbi Johanan: If he sacrificed a defective lamb to it, he is guilty²⁵⁹. From where this? As Rabbi Hila said, *do not do such to the the Eternal, your God*²⁶⁰. Anything that be for the Eternal, your God, you may not do.

Rebbi Phineas said before Rabbi Yose in the name of Rav Hisda³⁰⁸: If its worship prescribed sons or daughters but he worshipped it with fathers or mothers, he is twice guilty. Rabbi Ze'ira enjoyed this; he thought that this was said following his teacher's Rabbi Hila's system and referred to Rabbi Eleazar ben Rabbi Simeon. He told him, what do you have in your hand? It referred to the rabbis! He answered, did you need it for this³⁰⁹?

303 In the Babli, 64a, this is a tannaïtic statement attributed to R. Hanina ben Antigonus.

304 Since the root *mlk* of "Moloch" means "to rule".

305 He holds that Moloch worship is defined by its rules, not by the name given to the deity being worshipped. Since R. Eleazar ben R. Simeon was quoted earlier that in Moloch worship one is guilty only

for his descendants; if the rules of worship require descendants, the rules of Moloch worship apply. But if the Moloch rules are applied to the worship of a deity whose published rules do not include the Moloch rules, then it is an act of idolatry irrespective of the nature of the participants.

306 Once for idolatry and once for following the Moloch rules.

307 The following paragraph shows that

this *baraita* must be attributed to R. Simeon.
 308 The name tradition here is impossible.
 R. Phineas, student of the last generation
 Amora R. Yose who was R. Ze'ira's
 student's student, could not have been R.
 Ze'ira's discussion partner and was an
 unlikely source for the statement of the

second generation Rav Hisda.

309 Since the rabbis do not accept that the
 rules of the Moloch include any leniency, it
 is obvious that a person who worships any
 other deity by the Moloch ritual is guilty
 both of idolatry and of following the
 Moloch.

(25c line 31) אֶזְהָרָה לְבַעַל אוֹב מְנִיין. אֶל־תִּפְנֶנּוּ אֶל־הָאוֹבוֹת. כָּרַת מְנִיין. הַנֶּפֶשׁ אֲשֶׁר תִּפְנֶנָּה
 אֶל־הָאוֹבוֹת וְאֶל־הַיִּדְעוֹנִים וגו'. עוֹנֵשׁ מְנִיין. וְאִישׁ אוֹר־אִשָּׁה כִּי־יִהְיֶה בָהֶם אוֹב אוֹ יִדְעוֹנֵי מוֹת
 יִמָּוֶת. וְלָמָּה לֹא תִינָן יִדְעוֹנֵי בְכָרִיתוֹת. רַבִּי חִזְקִיָּה בִּשְׁם רִישׁ לְקִישׁ. מִפְּנֵי שֶׁנִּכְלְלוּ כוֹלָם בְּלֹא
 אֶחָד אֶל־תִּפְנֶנּוּ אֶל־הָאוֹבוֹת וגו'. רַבִּי יִסָּא בִּשְׁם רִישׁ לְקִישׁ. שֶׁהוּא בֹלֵא תַעֲשֶׂה שֶׁהוּא בֹא מִכַּחַ
 עֲשֶׂה. אָמַר רַבִּי זְעִירָה קוֹמִי רַבִּי יִסָּא. הֵכֵן לֹא אֵתָא מִתְּנִי בֵּר נֵשׁ מִתְּנִי יִדְעוֹנֵי בְכָרִיתוֹת אֶלָּא
 אֵת. אָמַר לִיה. כִּמָּה דְאִישְׁתַּעֲי קָרָא אִישְׁתַּעֲיִית מִתְּנִיתָה. אוֹב אוֹ יִדְעוֹנֵי.

אוֹ³²⁵ זֶה פִּיתוּם הַמְדַּבֵּר מִשִּׁיחוֹ. וְיִדְעוֹנֵי זֶה הַמְדַּבֵּר בְּפִיו. הֲרִי אֱלוֹי בִּסְקִילָה וְהַנֶּשְׂאֵל בְּהֵן
 בְּאֶזְהָרָה: וְדָרַשׁ אֶל־הַמֵּתִים. אֵת תִּנִּי תִנִּי. זֶה הַנֶּשְׂאֵל בְּגוֹלְגוֹלָתָה. אֵת תִּנִּי תִנִּי. זֶה הַנֶּשְׂאֵל
 בְּזִכּוֹרוֹ. מֶה בֵּין הַנֶּשְׂאֵל בְּגוֹלְגוֹלָתָה לַמַּעֲלָה בְּזִכּוֹרוֹ. שֶׁהַנֶּשְׂאֵל בְּגוֹלְגוֹלָתָה עוֹלָה כְּדָרְכּוֹ וְעוֹלָה
 בִּשְׁבֻתָּ וְהַיִּדְיוּט מַעֲלָה אֶת הַמָּלָךְ. וְהַמַּעֲלָה בְּזִכּוֹרוֹ אֵינוֹ עוֹלָה כְּדָרְכּוֹ וְאֵינוֹ עוֹלָה בִּשְׁבֻתָּ וְאֵין
 הַיִּדְיוּט מַעֲלָה אֶת הַמָּלָךְ.

אָמַר רַבִּי הוּנָא. קָרִינָא מְסִייעַ לָמָּן דְּאָמַר. אוֹב זֶה הַמַּעֲלָה בְּזִכּוֹרוֹ. מֶה טַעְמָא. קֶסְמִי
 נָא לִי בְּאוֹב וְהַעֲלֵי לִי אֶת אֲשֶׁר־אָמַר אֱלֹהִים: מֶה אֵת שָׁמַע מִינָה. אָמַר רַבִּי מְנָא. מִיכּוֹ דְּהִנָּת
 יִדְעָה מִלְּקִין מִלְּקִין סָגִין. מֵאִי כְדוֹן. וְהִיא כְּאוֹב מֵאַרְצֵי קוֹלָךְ.

מִיִּלְיָהוֹן דְּרַבְנִין מְסִייעֵן לְרַבִּי יִסָּא. דְּאָמַר רַבִּי יִסָּא בִּשְׁם רַבְנִין. מִפְּנֵי שֶׁהוּא מְקַטִּירִין
 לְשָׂדִים. רַבִּי הִילָא בִּשְׁם רַבִּי יִסָּא. מִפְּנֵי שֶׁנִּכְלְלוּ כוֹלָן עַל יְדֵי מַעֲשֶׂה.

From where the warning about the necromancer? *Do not turn to the necromancers*³²⁶. From where extirpation? *A person who would turn to necromancers and mediums*³²⁷, etc. Punishment from where? *A man or woman, impersonating a necromancer or a medium, shall be put to death*³²⁸. Why is the medium not mentioned in *Keritut*³²⁹? Rabbi Hizqiah in the name of Rabbi Simeon ben Laqish: Because they are taken together in one prohibition, *do not turn to the necromancers*³³⁰, etc. Rabbi Yasa in the name of Rabbi Simeon ben Laqish: Because it is a prohibition implied by a positive commandment³³¹. Rabbi Ze'ira said before Rabbi Yasa: No person except you thought of stating the medium in this way in *Keritut*. He told him,

because as the verse formulated it so the Mishnah formulates it, *a necromancer or a medium*³³⁰.

“The necromancer is the *πύθων*²⁸⁵ and one who²⁸⁶ speaks from his armpit. The medium⁵⁸ speaks through his mouth. These are stoned but one who consults them is forewarned²⁸⁷. *And one who asks the dead*³³².³³³ Some Tannaïm state: this is one who interrogates a skull. Some Tannaïm state: this is one who interrogates his^{334,173} masculinity. What is the difference between one interrogated by his skull or one raised by his masculinity? The one interrogated by his skull rises normally, rises on the Sabbath, and a commoner can raise a king. But one raised by his masculinity does not rise normally³³⁵, does not rise on the Sabbath, and a commoner cannot raise a king.

Rebbi Huna said, a verse supports him who said, the necromancer is the one who raises by his masculinity. What is the reason? *Please apply necromancer’s magic and raise for me whom I shall tell you*³³⁶. What do you understand from here? Rebbi Mana said, it implies that she was competent in many ways³³⁷. What about it? *Your voice will be from the earth like that of a necromancer*³³⁸.

The words of the rabbis support Rebbi Yasa, as Rebbi Yasa said in the rabbis’ name: Because they burn incense to spirits³³⁹. Rebbi Hila in the name of Rebbi Yasa: Because they all were included by actions³⁴⁰.

325 Read אור.

326 Lev. 19:31. Here starts the discussion of the second part of the Mishnah.

327 Lev. 20:6.

328 Lev. 20:27.

329 Mishnah *Keritot* 1:1 mentions only the necromancer, not the medium.

330 In *all* pentateuchal verses mentioning אור it is paired with קְדַעְנִי (the verses quoted plus *Deut.* 18:11). Babli 65b.

331 Cf. 5:3, Note 73. This formulation does not make any sense, as indicated by R. Ze’ira’s question. It should have been formulated: Because the medium is treated as an appendix to the necromancer. The

medium never creates an obligation for a purification offering if one for necromancy already was established; he cannot be mentioned in *Keritot* 1:1 separately from the necromancer.

332 *Deut.* 18:11. No criminal sanction is spelled out for this.

333 Tosephta 10:7, explaining the term “interrogating the dead”. In the Babli, 65b, the same *baraita* explains the term “necromancer”.

334 The dead.

335 The dead appears feet up, head down.

336 *1S.* 28:8.

337 Since Saul had to request a particular

method, the woman must have been competent in all sorts of sorcery. She realized that her customer was Saul because she recognized Samuel whose status was that of a king.

338 *Is.* 29:4.

339 This returns to the statement of R. Yasa in the first paragraph here. The user of necromancy is a potential candidate for a

purification offering since it depends on an action, *viz.*, burning incense to spirits. But a medium who is totally passive does not qualify.

340 A different formulation of the argument of Note 339; all transgressions mentioned in *Keritut* 1:1 involve some action.

(fol. 24a) **משנה יד:** המְחַלֵּל אֶת הַשַּׁבָּת בְּדָבָר שְׁחִיבִין עַל יָדוֹנוֹ כָּרַת וְעַל שְׁגָגָתוֹ חֲטָאָתָהּ. וְהַמְקַלֵּל אָבִיו וְאִמּוֹ אֵינוֹ חַיִּיב עַד שֶׁיִּקְלָלֵם בְּשֵׁם. קָלָלָם בְּכַנּוּי רַבִּי מֵאִיר מְחִיב וְחֻכְמִים פּוֹטְרִין:

Mishnah 14: One who desecrates the Sabbath^{59,341} by something which if performed intentionally makes him liable to extirpation, or to a purification sacrifice if in error. But he who curses father or mother⁶⁰ is guilty only of he cursed them by the Name²⁰⁷. If he cursed them by a substitute name, Rabbi Meïr declares him guilty but the Sages free him from prosecution.

משנה טו: הַבָּא עַל נַעֲרָה הַמְאֻרְסָה אֵינוֹ חַיִּיב עַד שֶׁתִּהְיֶה נַעֲרָה בְּתוּלָה מְאֻרְסָה בְּבֵית אָבִיהָ. בָּאוּ עָלֶיהָ שְׁנַיִם הָרָאוּשׁוֹן בְּסָקִילָה וְהִשְׁנִי בְּחִנְקָה:

Mishnah 15: One who has sexual relations with a preliminarily married adolescent⁷ is only liable if she was an adolescent, a virgin, and preliminarily married, in her father's house. If two [men] had relations with her, the first one is stoned, the second is subject to strangling³⁴².

341 If duly warned by two witnesses about the criminality of his intent, he can be prosecuted if in the absence of witnesses he would be subject to Divine extirpation. But if he violates any of the positive

commandments for the Sabbath he cannot be prosecuted by biblical standards; for violating a simple prohibition he at most could be sentenced to 39 lashes.

342 As a common adulterer.

(25c line 51) **הלכה יד:** הַמְחַלֵּל אֶת הַשַּׁבָּת כּוֹל. אֲזֵהָרָה לְמַחְלֵל מְנִיין. לֹא־תַעֲשֶׂה כָל־מְלָאכָה. כָּרַת מְנִיין. כִּי כָל־הַעֲשֶׂה בָּהּ מְלָאכָה וְנִכְרְתָהּ. עוֹנֵשׁ מְנִיין. מְחַלֵּלָהּ מוֹת יוֹמָת.

וְנִתְּנִי שְׁלֹשִׁים וְשִׁבְעַת כְּרִיתוֹת בַּתּוֹרָה. אָמַר רַבִּי יוֹסִי בִּירְבִּי בּוֹן. שָׁאֵם עָשָׂה כּוֹלֵן בְּזִדּוֹן שֶׁבֶת וּבְזִדּוֹן מִלְּאָכָה שֶׁהוּא חַיִּיב עַל כָּל־אַחַת וְאַחַת.

Halakhah 14: “One who desecrates the Sabbath,” etc. From where warning for the desecrator? *Do not perform any work*³⁴³. From where extirpation? *For any who would perform work on it would be extirpated*³⁴⁴. From where punishment? *Its desecrator shall be made to die the death*. Should we not state 37 kinds of extirpation in the Torah³⁴⁵? Rabbi Yose ben Rabbi Abun said, because if he performs all of them, intentionally on the Sabbath and intentionally for the work, he is liable for each one singly.

343 Ex. 20:10.

344 Ex. 31:14.

345 This is a copy from Halakhah 9, Note 149. The question should be that in *Keritut* 1:1 74 kinds of extirpation should be mentioned since, as R. Yose ben Abun explains, each one of the 39 categories of work forbidden on the Sabbath defines its own obligation for a purification sacrifice if

the person was aware that it was Sabbath and that he was performing this kind of work, and only had forgotten that it was forbidden. Then a single person could be obligated for up to 39 sacrifices for desecrating a single Sabbath. But if he simply had forgotten that it was Sabbath, a single sacrifice is due and this is what is counted in *Keritut*.

(25c line 55) אֲזַהְרָה לְמַקְלֵל אָבִיו וְאִמּוֹ מִנִּיין. אִישׁ אָמַר וְאָבִיו תִּירָא. עוֹנֵשׁ וְכָרַת מִנִּיין. וּמַקְלֵל אָבִיו וְאִמּוֹ מוֹת יוּמָת. וְאֹמֵר בִּי כָל־אֲשֶׁר יַעֲשֶׂה מִכָּל הַתּוֹעֲבוֹת הָאֵלֶּה וְנִכְרַת.

From where a warning for the one who curses father or mother? *Everybody has to fear his mother and father*³⁴⁶. From where punishment and extirpation? *And he who curses his father or mother shall be made to die the death*³⁴⁷. And it says, *for anybody who would commit any of these abominations will be extirpated*^{349,131}.

346 Lev. 19:3.

347 Ex. 21:17.

348 A verse introduced by “and it says” is quoted as indirect support of a thesis, not a proof. The verse decrees extirpation only

for sexual crimes; it precedes Lev. 19:3 by 4 verses. But cursing or injuring father or mother are the only capital crimes for which no verse decrees extirpation. One might consider cursing a parent as an abomination.

(25c line 58) הָבָא עַל נִעְרָה הַמְּאוֹרָסָה. רַבִּי יְסָא בָּשֵׁם רַבִּי יוֹחָנָן רַבִּי חִיָּה בָּשֵׁם רַבִּי לְעִזֵּר. דְּרַבִּי מֵאִיר הִיא. בְּרַם לְרַבְּנִין אֶפְּלִי קִטְנָה. מֵה טַעֲמָא דְּרַבִּי מֵאִיר. נִעַר חֹסֵר אָמַר בְּפִרְשָׁה.

מה מקיימין רבנן נער. רבי אבהו בשם ריש לקיש. נערה אחת שלימה אמורה בפרשה ולימדה על כל-הפרשה כולה שהיא גדולה. מתיב רבי מאיר לרבניו. הרי המוציא שם רע הרי אין פתוב בו אלא נער והיא גדולה. שאין קטנה נסקלת. מה עבדין לה רבניו. אמר רבי אבין. תיפתר שפא עליה דרך זכריות. רבי יעקב בר אבא בעא קומי רב. הבא על הקטנה מהו. אמר ליה. בסקילה. הבא על הבוגרת מהו. אמר ליה. אני אקרא נערה ולא בוגרת. וקרא נערה ולא קטנה. ולית מודה לי שהיא בקנס. אמר ליה. תחת אשר עינה. לרבות את הקטנה לקנס. וקרא תחת אשר עינה. לרבות את הבוגרת בקנס. אמר רב. אף על גב דנצחי רבי יעקב בר אבא בדינא הלכה הבא על הקטנה בסקילה והיא פטורה. רבי אבון בשם רבי שמואל. ולמה לא פתר ליה מן הדא. ומת האיש אשר שכב עמה לבדו. וכי אין אנו יודעין שאין לנערה חט מות. ומה תלמוד לומר ולנער לא-תעשה דבר אין לנערה חטא מות. אלא מקו הבא על הקטנה בסקילה והיא פטורה.

³⁴⁹“One who has sexual relations with a preliminarily married maiden.”

Rebbi Yasa in the name of Rebbi Johanan, Rebbi Hiyya in the name of Rebbi Eleazar: This is Rebbi Meir's. But for the rabbis even if she is a minor. What is Rebbi Meir's reason? “*Lad*” is written defectively in the paragraph. How do the rabbis explain “*a lad*”? Rebbi Abbahu in the name of Rebbi Simeon ben Laqish: Once in the paragraph it is written *a young woman*; this teaches that in the entire paragraph she is an adult. Rebbi Meir objected to the rabbis: In the matter of the calumniator, *a lad* is written and she is an adult since a minor is not stoned? What do the rabbis do with this? Rebbi Abin said, explain it that he came to her as a male.

Rebbi Jacob bar Abba asked before Rav: What is the law of him who comes to a minor? He said to him, by stoning. What is the law of him who comes to an adult? He said to him, I am reading *an adolescent*, not an adult. Read *an adolescent*, not a minor! Do you not agree with me that she has the right to a fine? He answered, *because he mistreated her*, that includes a minor for a fine. Read *because he mistreated her*, that includes an adult for a fine! Rav said, even though Rebbi Jacob bar Abba won the logical argument, practice is that he who comes to a minor is [punished] by stoning but she is free. Rebbi Abun in the name of (Rebbi)³⁵⁰ Samuel. Why? He understood it from the following: *The man who had lain with her alone shall die*. Do we not know that the girl has not committed a capital crime? Why does the verse say, *do not do anything to the girl; the girl has not committed a capital crime*?

That includes him who has sexual relations with a [preliminarily married] underage girl; he is stoned and she is free.

349 This text is also in *Ketubot* 3:9, explained there with a list of readings in Notes 126-135. The parallel in the Babli is 66b.

that the speaker is Samuel, Rav's contemporary, and not the later Galilean R. Samuel. *Sifry Deut* 243 disagrees with Samuels' argument.

350 It is clear from *Ketubot* and the Babli

(fol. 24a) **משנה יז:** המסית זה הדייט המסית את ההדייט. אמר לו יש יראה במקום פלוגי קד אוכלת קד שותה קד מטיבה קד מריעה. כל חייבי מיתות שבתורה אין מכמינין עליהם חוץ מא. אמר לשנים והן עידיי, מביאין אותו לבית דין וסוקלין אותו.

Mishnah 16: The one who leads astray³⁵¹ is a commoner who leads a commoner astray, by saying to him: There is something to worship at place X; it eats such and such, drinks such and such; it gives such and such benefits, can do such and such evil. For no capital crime in the Torah may one use entrapment³⁵², except for this one. If he said it to two persons, they become his witnesses, bring him to court, and stone him.

משנה יז: אמר לאחד הוא אומר יש לי חברים רוצים בקד. אם הנה ערים ואינו מדבר בפניהם מכמינין מאחורי הגדר והוא אומר לו אמור מה שאמרת לי בייחוד והלה אומר לו והוא אומר לו היאך נניח אלהינו שבשמים ונעבוד עצים ואבנים. אם חזר בו מוטב. אם אמר קד היא חובתנו וקד לפה לנו העומדין מאחורי הגדר מביאין אותו לבית דין וסוקלין אותו.

Mishnah 17: If he said this to a single person, he should tell him, I have friends who also want this³⁵³. If he was sly³⁵⁴ and did not talk in their presence, one sets a trap behind a wall³⁵⁵; he tells him, repeat what you told me alone; then he tells him, how can we abandon our God in Heaven and worship wood and stones³⁵⁶? If he repents, it is good³⁵⁷; if he says, it is our duty, or so it is good for us, those who stand behind the wall bring him to court and stone him.

משנה יח: האומר אעבוד אלה ואעבוד גלף ונעבוד. אבנא אלה ואבנא גלף ונבנא. אקטיר אלה ואקטיר גלף ונקטיר. אנסא אלה ואנסא גלף וננסא. אשתחא אלה ואשתחא גלף ונשתחא. המדיח זה האומר גלף ונעבוד עבודה זרה:

Mishnah 18: He says, I shall worship, I shall go and worship, let us go and worship; I shall sacrifice, I shall go and sacrifice, let us go and sacrifice; I shall burn incense, I shall go and burn incense, let us go and burn incense; I shall pour libations, I shall go and pour libations, let us go and pour libations; I shall prostrate myself, I shall go and prostrate myself, let us go and prostrate ourselves. The seducer³⁵¹ is one who says, let us go and profess a strange worship.

351 The one who leads astray (Note 61) presents a problem for law enforcement since a single listener cannot appear in court as a witness. In the Babli, the seducer (Note 62) is one who openly propagates another faith, who is easily prosecuted. But in the Yerushalmi the difference between *him who leads astray* and the *seducer* is that the former speaks Hebrew while the latter speaks in the vernacular.

352 By the prosecution, as spelled out in Mishnah 17.

353 In order to have him speak before two

witnesses.

354 He knows that if he only speaks to a single listener, he may with impunity try to convert a thousand people since no two of them can testify to the same occurrence and, therefore, cannot appear as witnesses in court.

355 A rural wall of stones without mortar.

356 This is the required warning, *viz.*, that apostasy is a crime.

357 Then he cannot be prosecuted since what he said was before he was duly warned, which is not prosecutable in court.

(25c line 74) **הלכה יו:** המסית זה הדייט כול. הא חכם לא. מכנין שהוא מסית אין זה חכם. מכנין שהוא ניסית אין זה חכם. כיצד עושין להערים עליו. מכמינין עליו שני עדים בבית הפנימית ומושיבין אותו בבית החיצון ומדליקין את הנר על גביו כדי שיהיו רואין אותו ושומעין את קולו. שכן עשו לבן סוטדא בלוד והכמינו עליו שני תלמידי חכמים והביאווהו לבית דין וסקלוהו. וכה את אמר הכן. שנייא היא דאמר. אני. ואמר אף הקא. אני. שלא יערים. ויערים. שלא ילך ויסית עצמו ויסית אחרים עמו.

2 ניסת | ניסית מכמינין | מכמינים עדים | י עדים בני אדם 3 את הנר | י נר 4 סוטדא | י סטרא והכמינו | י שהכמינו 5 את אמר | י תמר ואמר אף | י אף שלא יערים. ויערים | י - 6 ילך ויסית עצמו ויסית | י יברח וילך לו וילך ויסית את

Halakhah 16: “The one who leads astray is a commoner,” etc.

³⁵⁸Therefore, not a Sage? Since he seduces, he is not a Sage. Since he is seduced, he is not a Sage. What does one do to outwit him? One hides two witnesses in an inner room and puts him into the outer room, lights a candle near him so they can see him and hear his voice. That is what they did to Ben Sateda in Lydda, where they hid two Sages, brought him to court, and stoned

him. And here, you say so? It is different because he said, “I am”. Here also, “I am”? That he should not get wise to it. And what if he got wise to it? That he should not go away, and continue to seduce himself and others with him.

358 The parallel text is in *Yebamot* 16:6 (י) here, you say so?” and the answer to it make Notes 125-132. The text there is the sense. original, since only there the question “and

25d line 5) מְסִית אוֹמֵר בְּלָשׁוֹן גְּבוּהָ וְהַמְדִּיחַ אוֹמֵר בְּלָשׁוֹן זָמוּד. מְסִית שְׁאֵמַר בְּלָשׁוֹן זָמוּד; נֶעֱשָׂה מְדִיחַ. וּמְדִיחַ שְׁאֵמַר בְּלָשׁוֹן גְּבוּהָ נֶעֱשָׂה מְסִית. מְסִית אוֹמֵר בְּלָשׁוֹן הַקּוֹדֵשׁ וּמְדִיחַ אוֹמֵר בְּלָשׁוֹן הַדִּיּוֹט. מְסִית שְׁאֵמַר בְּלָשׁוֹן הַדִּיּוֹט נֶעֱשָׂה מְדִיחַ. וּמְדִיחַ שְׁאֵמַר בְּלָשׁוֹן הַקּוֹדֵשׁ נֶעֱשָׂה מְסִית.

The one who leads astray says it aloud, the seducer speaks in a low voice. One who leads astray who spoke in a low voice becomes a seducer; a seducer who spoke in a low voice becomes one who leads astray. The one who leads astray speaks in Hebrew, the seducer speaks in a vernacular. One who leads astray who spoke in a vernacular becomes a seducer; a seducer who spoke in Hebrew becomes one who leads astray^{351,359}.

345 Since one who leads astray and the seducer are two different biblical categories, condemned if the paragraph under which he is condemned is not determined. a missionary for paganism cannot be

(fol. 24b) **משנה יט:** המכשף העושה מעשה ולא האוחז את העינים. רבי עקיבה אוֹמֵר מְשׁוּם רַבִּי יְהוֹשֻׁעַ שְׁנַיִם לֹקְטִים קְשׁוּאִין אֶחָד לֹקֵט פְּטוּר וְאֶחָד לֹקֵט חַיִּיב. הָעוֹשֶׂה מַעֲשֶׂה חַיִּיב וְהַאֲחִיז אֶת הָעֵינַיִם פְּטוּר:

Mishnah 19: The sorcerer is one who does a deed³⁶⁰ but not one who creates an illusion³⁶¹. Rabbi Aqiba says in the name of Rabbi Joshua: Two are collecting green melons³⁶²; one who collected cannot be prosecuted, the other one is guilty. The who does a deed is guilty; he who creates an illusion cannot be prosecuted.

360 To convict somebody of sorcery, to be punished by stoning (Mishnah 5), the

witnesses have to prove that he created something contradicting the laws of nature; at the end of the Halakhah this seems to be restricted to the creation of a parentless living creature.

361 In this matter, visual impressions do not count.

362 In modern Hebrew “zucchini”; cf. *Kilaim* Chapter 1, Note 38.

10) **הלכה יט:** המכשף העושה מעשה כול. מכשפה לא תחיה: אחד האיש ואחד האשה. אלא שלימדו: התורה דרך ארץ מפני שרוב הנשים כשפניות. אמר רבי לעזר. מכשף בסקילה. מה טעמא דרבי לעזר. נאמר פאן מכשפה לא תחיה. ונאמר להלן אם-בהמה אם-איש לא יחיה. מה לא יחיה שנאמר להלן בסקילה אף פאן בסקילה. מה טעמון דרבינו. נאמר פאן מכשפה לא תחיה. ונאמר להלן לא תחיה כל-נשמה. מה לא תחיה שנאמר להלן מיתה בחרב. אף לא תחיה שנאמר פאן מיתה בחרב. אמר רבי עקיבה. מן הדבר הזה אני מכריעו. מוטב שילמד לא תחיה מלא תחיה ואל יוכיח לא יחיה. מה טעמא דרבי יהודה. נאמר פאן מכשפה לא תחיה ונאמר להלן כל-שכב עם-בהמה מות יימת: מה מיתת הבהמה בסקילה אף פאן נסקילה.

Halakhah 19: “The sorcerer is one who does a deed,” etc. *A sorceress you shall not let live*³⁶³, whether man or woman, but the Torah taught you the way of the world that most women have a tendency to sorcery³⁶⁴. Rabbi Eliezer said, a sorcerer is [executed] by stoning. What is Rabbi Eliezer’s reason? It says here, *a sorceress you shall not let live*, and it says there, *whether human or animal they shall not live*³⁶⁵. Since *shall not live* there means by stoning, also here by stoning. What is the rabbis’³⁶⁶ reason? It says here, *a sorceress you shall not let live*, and it says there, *you shall not let live anybody*³⁶⁷. Since *you shall not let live* there means death by the sword, also *you shall not let live* here means death by the sword. Rabbi Aqiba said, from this argument I am deciding. It is preferable to learn *you shall not let live* from *you shall not let live* rather than from *shall not live*. What is Rabbi Jehudah’s reason³⁶⁸? It says here, *a sorceress you shall not let live*, and it says there, *anybody lying with an animal shall die the death*³⁶⁹. Since the execution of the animal is by stoning, so here also by stoning³⁷⁰.

363 Ex. 22:17.

364 Babli 67a and *Mekhilta dR. Simeon ben Iohai*, ad loc., the first part only in *Mekhilta dR. Ismael*, ad loc.

365 Ex. 19:13. The verse requires *stoning* or *shooting* the transgressor.

In the Babylonian sources (Babli and the two *Mekhillot*), this argument is

attributed to R. Aqiba, who in the Yerushalmi rejects it.

366 There “rabbis” oppose the Mishnah and decree beheading for the sorcerer; in Babli and *Mekhilta dR. Simeon ben Iohai* the author is R. Yose the Galilean, in *Mekhilta dR. Ismael* it is R. Ismael.

367 *Deut.* 20:16.

368 The student of R. Eliezer’s student gives the final argument for the Mishnah. In the Babli (here and *Berakhot* 21b) and

Mekhilta dR. Simeon ben Iohai his argument is attributed to Ben Azzai, in *Mekhilta dR. Ismael* to R. Yose the Galilean.

369 *Ex.* 22:18, the verse following the one about the sorceress. Since in v. 17 the method of execution is not indicated, the instruction of v. 18 is interpreted in the light of *Lev.* 20:15-16 and applied to both verses.

370 Since for animals the only explicitly mentioned example of execution is the stoning of the notorious bull.

רבי לעזר ורבי יהושע ורבי עקיבה עלון למסחי בהדין דימוסין דטיבריא. חמתון חד מיניי. אמר מה דמר ותפשייתון כיפה. אמר רבי ליעזר לרבי יהושע. מה יהושע בן חנניה. חמי מה דאת עבד. מי נפק אהן מינייא אמר רבי יהושע מה דמר ותפש יתיה תרעה. והנה כל-מאן דעליל הנה יהיב ליה חד מרתוקה וכל-מאן דנפק הנה יהיב ליה בנתיקא. אמר לון. שרון מה דעבדתון. אמרין ליה. שרי ואנן שריי. שרון אילין ואילין. מן דנפקון אמר רבי יהושע לההוא מינייא. הא מה דאת חכם. אמר נחות למא. מן דנחתין למא אמר ההוא מינייא מה דאמר ואיתבזע ומא. אמר לון. ולא כן עבד משה רבכון בנמא. אמרין ליה. לית את מודה לון דהליך משה רבן בגויה. אמר לון. אין. אמרין ליה. והליך בגויה. הליך בגויה. גזר רבי יהושע על שרה דינמא ובלעיה.

Example. Rabbi Eliezer, Rabbi Joshua, and Rabbi Aqiba went to bathe at the public baths³⁷¹ of Tiberias. A Minean³⁷² saw them, said what he said, and the cupola caught them³⁷³. Rabbi Eliezer said to Rabbi Joshua:³⁷⁴ Joshua ben Hanania, look what you can do. When this Minean was leaving, Rabbi Joshua said what he said and the door trapped him. Anybody who entered hit him with his fist, anybody leaving hit him when forcing the door open. He told them, undo what you did; they told him, you undo, then we shall undo. They mutually undid. When they left, Rabbi Joshua said to this Minean, is that all you are wise to? He answered, let us go down to the sea. When they had descended to the sea, this Minean said what he said and the sea was split. He told them, is that not what your teacher Moses did to the sea? They answered, do you not agree that our teacher Moses walked through it? He said to them, yes. They told him, enter it. He entered it. Rabbi Joshua commanded the prince of the sea³⁷⁵ who swallowed him.

371 *δημόσια* (*scil.*, *βαλανεῖα*).

372 A Jewish heretic; a name frequently but not exclusively applied to Jewish Christians.

373 They were put under a spell so they could not leave the space under the cupola of the main room of the thermal baths.

374 In the rules of witchcraft all Sages of his generation were students of R. Eliezer, as told at the end of the Halakhah.

375 The angel running the Sea of Genesareth. The idea of angels running natural phenomena is a Jewish adaptation of the Greek myth of gods of the sea and nymphs of sources.

25d line 33) דלמא. רבי לעזר ורבי יהושע ורבן גמליאל סלקון לרומי. עלון לחד אתר ואשכחון מיינוקא עבדין גבשושין ואמרין הכין. בני ארעא דישראל עבדין ואמרין. ההו תרומה וזהו מעשר. אמרין מסתברא דאית הקא והודאין. עלון לחד אתר ואשכחון בחד כיי³⁷⁶. יתבון למיכל והנה כל-תבשיל דהנה עליל קומיהון אי לא הוון מעלין ליה בחד קיטון לא הנה מיינתי ליה קומיהון. וחשון דילמא דאינון אכלין זבחי מתים. אמרין ליה. מה עסקך דכל-תבשיל דאת מיינתי קומינן אין לית את מעייל להו קיטונא לית את מיינתי לו קומינן. אמר לון. חד אבא גבר סב אית לי וגזר על נפשיה דלא נפק מן הדא קיטונא כלום עד דייהימי לחכמי ישראל. אמרין ליה. עול ואמור ליה. פוק הקא לגביהון דאינון הקא. נפק לגבון. אמרין ליה. מה עיסקך. אמר לון. עלון על ברי דלא מוליד. אמר רבי לעזר לרבי יהושע. מה יהושע בן חנניה. חמי מה דאת עבדי. אמר לון. אייתון לי זרע דכיתון. ואיתתון ליה זרע דכיתון. איתחמי ליה זרע על גבי טבלה. איתחמי מרבץ ליה. איתחמי דסלקת. איתחמי מתלש ביה. עד דאסק הדא איתא בקלעיתא דשערה. אמר לה. שרי מה דעבדתין. אמרה ליה. לי נא שרייה. אמר לה. דלא כן אנא מפרסם לין. אמרה ליה. לי נא נכלה דאינון מטלקין בינא. וגזר יהושע על שריא דקמא ופלטון. וצלון עלוי וזכה למוקמי לרבי יודה בן בתירה. אמר. אילו לא עלינו לכאן אלא להעמיד הצדיק הזה דינינו.

Example. Rabbi Eliezer, and Rabbi Joshua, and Rabban Gamliel travelled to Rome. They came to a place where they found children making stone heaps and saying as follows: What they do in the Land of Israel is to say, this is heave, this is tithe. They said, it is clear that Jews live here. They entered a place and were received at a house. They sat down to eat. It happened that no dish was brought to them unless it was brought [first] to a certain bedroom³⁷⁷. They became afraid that perhaps they were eating offerings to the dead³⁷⁸. They asked him, why is it that you bring no dish before us unless you brought it first to that bedroom? He told them, I have an old father who vowed not to leave that bedroom until he might see the Sages of Israel. They told him, go and tell him to come out because they are here. He came out; they asked him,

what is your problem? He told them, pray for my son because he is sterile. Rabbi Eliezer said to Rabbi Joshua.³⁷⁴ Joshua ben Hanania, look what you can do. He told them, bring me linseed; they brought him linseed. It appeared to them as if he was sowing it on a table³⁷⁹. It appeared as if he was watering it; it appeared to grow; it appeared that he was plucking out of it, until there appeared a woman with braided hair. He told her, undo what you did. She answered, I shall not undo. He told her, then I shall make you known. She said, I cannot, because they³⁸⁰ were thrown into the sea. Rabbi Joshua commanded the prince of the sea³⁷⁵ who disgorged them. Then they prayed for him and he had the merit of raising Rabbi Jehudah ben Bathyra³⁸¹. They said, if we came here only to bring the just person to the world, it would have been enough.

376 Read בַּי for בֵּית.

377 Greek κοιτών.

378 Since it is not usual to eat in a bedroom, they were afraid that the food was first offered to a corpse in a pagan ceremony which would make the food forbidden to them.

379 Latin *tabula*.

380 The charms used for the spell put on the son to make him sterile.

381 The family Ben Bathyra is placed in both Talmudim (cf. *Berakhot* 3:4 Note 391) at Nisibis in Kurdistan, not on the road from Palestine to Rome. The source of the stories, characterized as non-legal texts by their Aramaic language, is a problem because it mixes Palestinian חַמִּי “to see” with the Babylonian meaning “to decree” of the root גִּיר instead of Galilean “to decide”.

(25d line 53) אָמַר רַבִּי יְהוֹשֻעַ בֶּן חֲנַנְיָה. יָכִיל אֲנָא נָסִיב קָרִינָן וְאַבְטִיחִין וְעָבִיד לֹון אֵילִין טַבִּין וְהִידְנוּ עֲבִידִין אֵילִין וְטַבִּין. אָמַר רַבִּי יֵאָא. מִחֲלָף הָיִנָּא אֲסָרְטָא דְּצִיפּוּרִי וְחִזִּית חַד מִינֵי נָסִיב חַד צָרִיר וְזָרַק לֵיהּ לְרוּמָא וְהָהּ נָחַת וּמִתְעַבֵּד עָגֹל. וְלֹא כֹן אָמַר רַבִּי לְעֶזֶר בְּשֵׁם רַבִּי יוֹסִי בֶר זִמְרָא. אִם מִתְפַּנְסִין הֵן פֶּל-בָּאֵי עוֹלָם אֵינָן וְכִילִין לְבָרָאוֹת יְתוֹשׁ אֶחָד וְלִזְרוֹק בּוֹ נִשְׁמָה. נִימַר. לֹא נִסְבָּה הוּא מִיֵּינָא חַד צָרוֹר וְזָרַקִיה לְרוּמָא וְנָחַת וּמִתְעַבֵּד חַד עָגֹל. אֵלָא לְסָרִיָּה קָרָא וְנָנֵב לֵיהּ עָגֹל מִן בְּקוֹרְתָא וְאֵייתִי לֵיהּ.

אָמַר רַבִּי חֲנַנְיָא בִּירְבִי חֲנַנְיָה. מְטִיִל הָיִנָּא בְּאֵילִין גּוֹפְתָא דְּצִיפּוּרִין וְחִמִּית חַד מִינֵי נָסִיב חַדָּא גּוֹלְגָלָא וְזָרַקִיה לְרוּמָא וְהִיא נָחַתָּא וּמִתְעַבֵּדָּא עָגֹל. אֶתִּית וְאַמְרִית לְאַבָּא. אָמַר לִי. אֵין אֶקְלִית מִינָּה מַעֲשֶׂה הוּא. וְאֵילָא אֲחִזִּית עֵינִים הוּא.

Rabbi Joshua ben Hanania said: I am able to take gourds and watermelons and turn them into rams and deer who would produce rams and deer. Rabbi

Yannai said, I was walking on a road in Sepphoris when I saw a Minean³⁷² taking a pebble, throwing it into the air, after which it came down transforming itself into a calf. But did not Rabbi Eleazar say in the name of Rabbi Yose ben Zimra: If all people of the world came together, they could not create one mosquito and bring it to life³⁸². Let us say that this Minean did not take a pebble, threw it into the air, after which it came down transforming itself into a calf, but he called on his genie³⁸³ who stole a calf for him from a cattle barn and brought it to him.

Rebbi Hinena ben Hanania said: I was promenading at Gufta³⁸⁴ of Sepphoris when I saw a Minean taking a skull, throwing it into the air, after which it came down transforming itself into a calf. I went and told it to my father. He said, if you ate from it, it was an action; otherwise it was an illusion.

382 Since the objection is not raised against R. Joshua, plants are recognized as living things parallel to animals. Babli 67b.

383 Both vocalization and translation are tentative.

384 An unidentified suburb of Sepphoris; cf. *Kilaim* 9:4 Note 85.

(25d line 65) אָמַר רַבִּי יְהוֹשֻעַ בֶּן חֲנַנְיָה. שְׁלֹשׁ מֵאוֹת פְּרָשִׁיּוֹת הָיָה רַבִּי לִיעֲזָר דּוֹרָשׁ בְּפֶרֶשֶׁת מִכְשֶׁפָּה וּמְכֻלָּם לֹא שָׁמַעְתִּי אֵלָּא שְׁנֵי דְבָרִים. שְׁנַיִם לֹקֶטִין קִישׁוּאִין אֶחָד לֹקֶט פְּטוֹר וְאֶחָד לֹקֶט חַיִּב. הָעוֹשֶׂה מַעֲשֶׂה חַיִּב וְהַאֲחִז אֶת הָעֵינִים פְּטוֹר. אָמַר רַבִּי דְרֹסָא. תִּשְׁעָה מֵאוֹת פְּרָשִׁיּוֹת הָיוּ. שְׁלֹשׁ מֵאוֹת לְחַיִּיב וְשְׁלֹשׁ מֵאוֹת לְפְטוֹר וְשְׁלֹשׁ מֵאוֹת לְחַיִּיב שְׁהוּא פְטוֹר.

Rebbi Joshua ben Hanania said: Rabbi Eliezer used to explain 300 chapters in the matter of the sorceress, but from all of them I understood only two things: "Two are collecting green melons³⁸²; one who collected cannot be prosecuted, the other one is guilty. He who does a deed is guilty; he who creates an illusion cannot be prosecuted." Rabbi Darosa said, there were 900 chapters. 300 where one is guilty, 300 where one is free³⁸⁵, and 300 where one is guilty but cannot be prosecuted.³⁸⁶

385 Creating the illusion of witchcraft is not forbidden.

386 Forbidden action which nevertheless cannot lead to prosecution. A similar

situation exists for Sabbath prohibitions where only a small part of Sabbath violations are of the kind that could be prosecuted in court. Babli 68a.