

אילו הן הגולין פרק שני

(fol. 31b) **משנה א:** אילו הן הגולין ההורג נפש בשגגה. היה מעגל במעגילה ונפלה עליו והרגתו היה משלשל בחבית ונפלה עליו והרגתו היה יורד בסולם ונפל עליו והרגו הרי זה גולה. אבל אם היה מושך במעגילה ונפלה עליו והרגתו היה דולה בחבית ונפסק החבל ונפלה עליו והרגתו היה עולה בסולם ונפל עליו והרגו הרי זה אינו גולה. זה הכלל כל שבדרך הורדתו גולה ושלל בדרך הורדתו אינו גולה.

Mishnah 1: The following are exiled: the unintentional homicide¹. If he was rolling with the roller² when it fell on somebody and killed him, or lowering an amphora when it fell on somebody and killed him, or was descending on a ladder when he fell on somebody and killed him, he is exiled. But if he was drawing the roller when it fell on somebody and killed him, or lifting an amphora when it fell on somebody and killed him, or was climbing a ladder when he fell on somebody and killed him, he is not exiled. This is the principle, by anything lowered, he is exiled, if it is not lowered, he is not exiled³.

1 The rules of exile of the unintentional homicide are detailed in *Num. 35, Deut. 19:1-10*.

2 The roller is used to smoothe the surface of a roof after waterproofing.

3 The rules of *Num. 35* essentially absolve the homicide from exile if there was a freak accident, where nobody could have expected a deadly outcome. Then when the theme is taken up again in *Deut.*, v. 19:5 gives as example that two people

go to cut down a tree, one swings his axe to cut the tree when the blade comes off the handle (or jumps off the tree to be cut) while the axe is lowered and kills the other person. The verse ends with an emphatic statement, *this one has to flee to a city of asylum to stay alive*. This is read to mean that exile is appropriate only if the impetus given to the deadly object is reinforced by gravity, not if it is attenuated by it.

(31c line 43) **הלכה א:** אילו הן הגולין כול. רבי יהודה פוטר עד שיפיל את כל-החבל. רבי שמעון פוטר עד שיתיר את כל-המחלצון. מאי דמר רבי שמעון בפסיקת החבל. מה דמר רבי יהודה בשמיטת המחלצון.

רבי ירמיה בעא קומי רבי אבהו. הנה מעגל במעגילה כדרך הליכתה והוציא הלה את ראשו והטיחה לו. אמר ליה. היא עליה היא ירדה. רבי ירמיה בעא קומי רבי אבהו. הנה מעגל במעגילה כדרך הליכתה והושיט התינוק את ידו ורצצה. אמר ליה. אטרוחת ביה. היא עליה היא ירדה.

Halakhah 1⁴: “The following are exiled,” etc. Rabbi Jehudah declares him not liable unless the entire rope falls from his hand⁵. Rabbi Simeon declares him not liable unless he let go the trowel completely⁶. What Rabbi Simeon said refers to breaking of the rope. What Rabbi Jehudah said, was about letting the trowel go⁷.

Rebbi Jeremiah asked before Rebbi Abbahu: If one was using a roller going forward when another person stuck out his head and the roller hit him. He told him, there is no difference between upward and downward movement⁸.

Rebbi Jeremiah asked before Rebbi Abbahu: If one was using a roller going forward when a child stuck out his hand and it was smothered. He told him, you are bothering me about this; there is no difference between upward and downward movement⁹.

4 This note is found only in the *editio princeps*; it is missing in the ms.

5 This refers to the case of a person lowering a load by means of a rope when the load comes crashing down and kills somebody. If he loosens his grip, the homicide is due to his negligence and he is exiled. If the rope breaks (assuming he was not negligent in using a rope not suitable for its task by common engineering standards), it is an act of God and he is not liable.

6 Both Rashi (French *truelle*) and the `Arukh (Italian *cazzuola*) define this as builder's trowel (Babli 9b). If the builder is standing on a roof and lets go of the trowel

which falls down and kills, he is negligent. But if the tool breaks (assuming it was well maintained), it is an act of God and he is not liable.

7 Meaning that the argument of R. Jehudah applied to R. Simeon's case would have resulted in R. Simeon's statement and vice-versa.

8 This is a personal injury case, not one of homicide. The particular distinction derived from *Deut.* 19:5 is not applicable.

9 If there is no negligence on the part of the operator, he is not liable and the distinction becomes meaningless.

(fol. 31b) **משנה ב:** נִשְׁמַט הַבְּרָזֶל מִקֶּטֶהוּ וְהָרַג רַבִּי אוֹמֵר אֵינוֹ גּוֹלָה. וְחֻכָּמִים אוֹמְרִים גּוֹלָה. מִן הָעֵץ הַמִּתְבַּקֵּעַ רַבִּי אוֹמֵר גּוֹלָה. וְחֻכָּמִים אוֹמְרִים אֵינוֹ גּוֹלָה:

Mishnah 2: If the iron slipped off the handle and killed, Rabbi said he does not go into exile, but the Sages say he does go. From the wood to split, Rabbi says he goes into exile, but the Sages say, he does not go¹⁰.

10 This is a matter of interpretation of *Deut. 19:5* as explained in the Halakhah (Babli 7b/8a, *Sifry Deut.* 183.) The Babli points out that for the Sages indirect causation is not punishable as negligence, while for Rabbi it is.

(31c line 50) **הלכה ב:** נִשְׁמַט הַבְּרָזֶל מִקֶּטֶהוּ כו"ל. מֵה טַעְמָא דְרַבִּי. נֹאמַר כָּאן נִשְׁיֵלָה וְנֹאמַר לְהֵלֶן כִּי יִשָּׁל זִיתָד. מֵה נִשְׁיֵלָה שְׁנֵאמָרָה לְהֵלֶן נִשְׁיֵרָה אִף כָּאן נִשְׁיֵרָה. מֵה טַעְמֹן דְּרַבִּינִי. נֹאמַר כָּאן נִשְׁיֵלָה וְנֹאמַר לְהֵלֶן וְנִשָּׁל יִי אֱלֹהֵיךְ אֶת־הַגּוֹיִם הָאֵל מִפְּנֵיךְ וְגו'. מֵה נִשְׁיֵלָה שְׁנֵאמָרָה לְהֵלֶן מִכָּה אִף כָּאן מִכָּה.

Halakhah 2: "If the iron slipped off the handle," etc. What is Rabbi's reason? It is said here¹¹ getting lost and it says there¹², *for your olives will fall off*. Since getting lost there means falling off, here also it means falling off. What is the rabbis' reason? It is said here getting lost and it says there¹³, *the Eternal, your God, will eliminate these peoples before you*. Since getting lost there means taking a hit, here also taking a hit.

11 In *Deut. 19:5*: וְנִשָּׁל הַבְּרָזֶל מִן־הָעֵץ *the iron was lost from the wood*. The wood

might either be the handle or the tree to be felled. Cf. Arabic نسل "to beget, procreate; to pluck; to unravel, untwist, fray; to molt;

to fall out" (1st conjugation).

12 *Deut. 17:40*. נשר is Mishnaic Hebrew for all material shed by a plant.

13 *Deut. 7:22*.

(fol. 31b) **משנה ג:** זָרַק אֶת הָאֶבֶן לְרִשּׁוֹת הָרַבִּים וְהָרַג הָרִי זֶה גּוֹלָה. רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אוֹמֵר אִם מִשְׁנֵצָאֵת הָאֶבֶן מִדָּוִד וְהוֹצִיָא הִלָּה אֶת רִאשׁוֹ וְקִיבְלָה הָרִי זֶה פְטוּר.

Mishnah 3: If one threw a stone into the public domain and it killed someone, he is exiled¹⁴. Rabbi Eliezer ben Jacob says, if after the stone left his¹⁵ hand, the other one stuck out his head and received it, he¹⁵ is not liable.

14 As negligent homicide.

15 The thrower's.

31c line 55) **הלכה ג:** זרק את האבן כול. תני רבי אליעזר בן יעקב ומצא. שיהא מצוי לו בשעה שהוא הורגו. ויש רשות לזרוק את האבן לרשות הרבים. אמר רבי יוסי בירבי בון. תפתר שיהיה כותלי גוהא.

Halakhah 3: “If one threw a stone,” etc. Rabbi Eliezer ben Jacob stated, *it found*. That he should have been there at the moment he killed him¹⁶. But is there permission to throw the stone into the public domain? Rabbi Yose ben Abun said, explain it if his wall was inclined¹⁷.

16 *Deut. 19:5 reads: If somebody goes with another to a forest to cut down trees; his hand was coming down with the axe to cut the tree, the iron was lost from the wood, found the other, and he died; this one has to flee to one of these towns and live. If the person killed was not in the trajectory of the flying object at the start, the thrower is not guilty of negligent homicide. (Babli 8a; Sifry Deut. 183).*

17 The wall of his property tilted towards the outside and threatens to fall into the public domain. The owner of the wall throws stones into the overhang to support the wall to remove the danger to the public. The anonymous Tanna assumes that the stones will have to be carried there, not thrown. (Babli 8a, in the name of R. Samuel bar Rav Isaac).

(fol. 31b) **משנה ד:** זרק את האבן לחצירו והרג אם יש רשות לניזק ליכנס לשם גולה. ואם לאו אינו גולה. שנאמר ואשר יבא את רעהו ביער. מה היער רשות לניזק ולמזיק ליכנס לשם. יצא חצר בעל הבית שאין רשות לניזק ולמזיק ליכנס לשם. אבא שאול אומר מה חסבת עצים רשות. יצא האב המכה את בנו והרב הרודה את תלמידו ושליח בית דין:

Mishnah 4: If he threw the stone into his own courtyard and it killed, if the person damaged had the right to enter there, he is exiled, but if not, he is not exiled, as it is said, *if somebody goes with another to a forest*¹⁶. Since the forest is a place where the person injured and the one causing the injury both may enter, this excludes a private courtyard where the person injured and the one causing the injury may not enter together. Abba Shaul says, since cutting down trees is a voluntary act, this excludes a father who hits his son¹⁸, a teacher who disciplines his student, and the court bailiff¹⁹.

- 18 In the course of his duty as educator. flogging people.
 19 Acting on the orders of the court in

(31c line 58) **הלכה ד:** זרק את האבן לחבירו כול'. אמר רבי ינאי. טבח שהוא מקצב והיכה בין מלמעלה בין מלמטה גולה. ואתיא כיי דמר רבי הונא. טבח שהוא מקצב והיכה לפניו למטון גולה למעלה אינו גולה. לאחריי למעלה גולה למטון אינו גולה. אמר רבי יצחק. כל מילה ומילה לדעתיה. ישב לו על גבי מיטה ביום ואין דרך התינוק לינתן על גבי מיטה ביום גולה. בלילה ודרך התינוק הנתון על גבי מיטה בלילה אינו גולה. ישב לו על גבי עריסה ביום ודרך התינוק לינתן על גבי עריסה בלילה גולה. בלילה ואין דרך התינוק לינתן על גבי עריסה בלילה גולה.

אמר רבי יוסי בר חנינה. הנה עומד ומבקע עצים בחצירו ונכנס הפועל ליטול שקרו נתזה הבקעת עליו והזקתו חיב. ואם מת אינו גולה. שאינו כיער. תני רבי חנינה פטור. ולא פליגי. מה דמר רבי יוסי בן חנינה. בשלא ראו אותו. ומה דתני רבי חייה. בשלא ראו אותו. אם בשלא ראו אותו פטור שפטר לו היכנס חיב. תני רבי חייה. פטור. כיון שאמר לו היכנס צריך לשמר את עצמו. ואית דבגי מימר. כיון שאמר לו היכנס נעשית פחצר שותפין. רבי חייה בשם רבי יוחנן. השותפין קונין זה מזה בחצר. וממחין זה על ידי זה בחצר. וחיבין זה בנזקי זה. (ולא כן אמר רב. ממלא את כל דשות הרבים. וזו אינה ממלאה את כל דשות הרבים. מכיון שדרכו לחלף בחצר כמי שהיא ממלאה את כל החצר.

1 בר | בן ליטול | ק לתבוע נתזה | ק ונתזה 2 עליו | ק - שאינו כיער | ק - תני | ק והתני חנינה | ק חייה פליגי | ק פליגי 3 בן חנינה | ק - בשלא ראו אותו | ק בשראו דתני | ק דמר בשראו אותו | ק בשלא ראו 4 ראו אותו | ק ראו תני | ק והתני היכנס | ק הכנס לשמר את | ק לשמור 6 שותפין | ק השותפין ר' חייה בשם ר' יוחנן | ק דמר ר' יוחנן בשם ר' חייה 6 וממחין זה על ידי זה | ק - זה | ק וזה 7 ממלא | ק בממלא את | ק - (twice) אינה ממלאה | ק ממלא מכיון | ק אמ' מכיון 8 שדרכו | ק שדרכו את | ק -

Halakhah 4: If he threw the stone into his (comrade)²⁰, etc. Rabbi Yannai said, a butcher who was cutting up [a carcass] and hit somebody whether raising or descending has to go into exile. This follows what Rabbi Huna said: A butcher who was cutting up [a carcass] and hit somebody in front of him in a descending motion goes into exile, in an ascending motion does not go into exile. In his back, in an ascending motion he goes into exile, in a descending motion he does not go into exile²¹. Rabbi Isaac said, each case goes by its circumstances. If somebody sat on a bed during the day, and it is not usual to find a baby in a bed during the day, he goes into exile. During the night, when it is usual to find a baby in a bed during the night, he does not go into exile. If somebody sat on a crib during the day, and it is usual to find a baby in a crib during the day, he does not go into exile. During

the night, when it is not usual to find a baby in a crib during the night, he goes into exile²².

²³Rebbi Yose ben Hanina said, if he was splitting wood in his courtyard, when a worker entered to collect his wages, and a splinter ricocheted and injured him, he is liable. If he died, he does not go into exile, for it is not like a forest. Rebbi Hanina²⁴ stated, he is not liable. They do not disagree. What Rebbi Yose ben Hanina said, when they did not see him. But what Rebbi Hiyya stated, when they saw him²⁵. When they did not see him, from the moment he told him: enter, should he not be liable? Rebbi Hiyya stated, he is not liable. Since he told him: enter, he has to take precautions. Some would say, since he told him to enter, it becomes like the courtyard of partners. Rebbi Hiyya²⁶ in the name of Rebbi Johanan: Partners acquire from one another in a courtyard; they object to one another in a courtyard²⁷, and are mutually liable for damages. But did not Rav say, if he filled the entire public domain? This did not fill the entire public domain! Since they usually walk in the entire domain, it is as if he had filled the entire domain²⁸.

20 A scribal error, חבירו "his comrade" for חצירו "his courtyard."

21 (Babli 7b). A butcher is cutting up a cattle carcass into quarters using a meat cleaver. He holds the cleaver behind his back, raises it over his head, and brings it down in front to split the animal. Therefore, the ascending motion behind his back is a necessary prelude to the descending motion in front, and is part of a descending motion in the sense of Mishnah 1. An ascending motion in front and the following descending motion in his back are both classified as ascending; an accident during this motion does not qualify to send the perpetrator into exile.

22 A person sits on a bed or a crib without looking whether a baby is lying there and by his action kills the baby. If he could reasonably have expected to find a

baby there, his action is murder; otherwise it is involuntary homicide which qualifies for exile. During the day, the baby is put in a movable crib, so the mother can have him close by at all times. During the night, the baby is in his mother's bed (*IK*. 3:19).

23 This is from *Baba qamma* 3:8 (ק, Notes 112-117). While the origin of the text clearly is in *Bava qamma*, neither text is a copy of the other; they are derived from a common source. "Liable" and "not liable" refer to the payments due for personal injury claims.

24 Read with ק "R. Hiyya" (the Elder).

25 The occurrences of "liable" and "not liable" should be exchanged, following ק.

26 R. Hiyya bar Abba.

27 In a condominium courtyard, only outdoor activities (other than access to the

houses built around the courtyard) agreeable to all parties can be performed. Cf. *Nedarim* 5:1 (Note 4).

28 This refers to Halakhah *Bava qamma* 3:6 (Note 104). Would the right of access

given to the worker be restricted to a narrow path of shortest access? The answer is negative; also in this aspect the property owner is liable.

משנה ה: האב גולה על ידי בנו והבן על ידי האב. הכל גולים על ידי ישראל וישראל גולים על ידיהם חוץ מעל ידי גר תושב. וגר תושב גולה על ידי גר תושב.

Mishnah 5: The father is exiled for his son, and the son for the father²⁹. Everybody³⁰ is exiled for an Israel, and an Israel for everybody except a sojourner. A sojourner is exiled for a sojourner³¹.

משנה ו: הסוֹמֵא אינו גולה דברי רבי יהודה. רבי מאיר אומר גולה. השוֹנֵא אינו גולה. רבי יוסי בן רבי יהודה אומר השוֹנֵא נֶהְרָג מִפְּנֵי שֶׁהוּא כְמוֹעֵד. רבי שמעון אומר יש שוֹנֵא גולה ויש שֶׁאֵינוֹ גולה. כל שֶׁהוּא זָכוֹל לומר לְדַעַת הָרֵג אֵינוֹ גולה. וְשֶׁלֹא לְדַעַת הָרֵג הָרֵי זֶה גולה:

Mishnah 6: A blind person is not exiled, the words of Rabbi Jehudah; Rabbi Meir says, he is exiled³². Rabbi Yose ben Rabbi Jehudah³³ says, the hater is executed for he is as if notorious³⁴. Rabbi Simeon says, there is a hater who is exiled and one who is not exiled. In any case where one can say that he killed intentionally, he is not exiled; unintentionally, he is exiled.

29 If the father kills his son unintentionally. If he kills him during a punishment for educational reasons he is not liable for any penalty (Note 18); if he kills him otherwise intentionally he must be prosecuted for murder and the perpetrator is barred from the cities of refuge even if no conviction is possible, e.g., for lack of eye witnesses or warning. Similarly, a son is exiled for the unintentional killing of his father.

30 Adult Israel, Samaritan, or circumcised

slave of a Jewish master.

31 A Gentile observing the Noahide commandments.

32 They disagree about the interpretation of *Num.* 35:23.

33 In the later editions of the Babli: R. Yose, by actions of editors who held that R. Simeon, contemporary of R. Jehudah, could not react to an opinion of the latter's son.

34 He does not need warning and in his opinion cannot claim that he did it unintentionally.

31d line 1) **הלכה ה:** האב גולה על ידי הֶבֶן כול'. אָמַר רַבִּי זְעוּרָא. תָּנָא רַבִּי שִׁילָא בַר בִּינָה. כִּלְפֵי שְׁנָאֲמַר גּוֹאֵל הַדָּם הוּא יָמִית אֶת־הַרָצָח. הָרִי מִי שֶׁהָכָה אֶת בְּנוֹ אִין בְּנוֹ הַשֵּׁנִי נַעֲשֶׂה גּוֹאֵל הַדָּם לְהָמִית אֶת אָבִיו. אָבֵל אַח שֶׁהָכָה אֶת אָחִיו אָחִיו הַשֵּׁנִי נַעֲשֶׂה גּוֹאֵל הַדָּם לְהָמִית אֶת אָחִיו. תָּנִי רַבִּי לִיעֲזָר בֶּן יַעֲקֹב. כִּלְפֵי שְׁנָאֲמַר גּוֹאֵל הַדָּם הוּא יָמִית אֶת־הַרָצָח. הָרִי מִי שֶׁהָכָה אֶת בְּנוֹ בְּנוֹ הַשֵּׁנִי נַעֲשֶׂה גּוֹאֵל הַדָּם לְהָמִית אֶת אָבִיו. אָבֵל אַח שֶׁהָכָה אָחִיו אִין אָחִיו הַשֵּׁנִי נַעֲשֶׂה גּוֹאֵל הַדָּם לְהָמִית אֶת אָחִיו. וּמִנִּין אֶפִּילּוּ אָמַר. שְׁאֵינִי יָכוֹל לְהַקְבִּילוֹ. תִּלְמוּד לֹאֲמַר בְּפִגְעוֹ־בּוֹ הוּא יָמִיתֵנִי:

Halakhah 5: “The father is exiled for the son,” etc. Rabbi Ze’ira said that Rabbi Shila bar Binah stated: Even though it be written³⁵, *the redeemer of the blood*³⁶ *himself shall kill the murderer*, nevertheless if somebody smote his son, his second son does not become the redeemer of the blood to kill his father. But if a brother smote his brother, the second brother becomes the redeemer of the blood to kill his brother. Rabbi Eliezer ben Jacob stated: Even though it be written, *the redeemer of the blood himself shall kill the murderer*, nevertheless if somebody smote his son, his second son becomes the redeemer of the blood to kill his father. But if a brother smote his brother, the second brother does not become the redeemer of the blood to kill his brother³⁷.

And from where even if he said, I cannot face him³⁸, the verse says³⁵, *when he comes upon him he shall kill him*³⁶.

35 Num. 35:19.

36 The closest family member of the murder victim is required to lead the execution of the duly convicted murderer. Num. 35:30 requires that the killing of the murderer be in the presence of witnesses; this implies that the killing be in execution of a court order (*Sifry Num.* 161).

37 The Babli 12a simply notes the

existence of contradictory interpretations, without attaching names to the traditions. R. Eliezer ben Jacob probably is the second of this name, of the fourth generation of Tanna’im. R. Shila bar Binah (Avinna) belongs to the generation of transition from Tanna’im and Amora’im.

38 That he is forced to witness the execution, *Sifry Num.* 160.

31d line 10) וְהַסוּמָא. אָמַר רַבִּי בָּא. מֵאֵן תָּנָא סוּמָא. רַבִּי יוֹדָה. דְּרַבִּי יוֹדָה פּוֹטְרוֹ מִקְל־מִצּוֹת הָאֻמּוּרוֹת בִּתְוֹרָה. דְּתִינִין תַּמָּן. רַבִּי יוֹדָה אוֹמַר. כֹּל שֶׁלֹּא רָאָה מֵאוּרוֹת מִיָּמָיו לֹא יִפְרוֹשׁ אֶת שְׁמֵעִ: הָא אִם רָאָה פּוֹרֵשׁ. וְשִׁנְיָהּ מִקְרָא אֶחָד דְּרָשׁ. בְּלֹא רְאוּת. רַבִּי מֵאִיר אוֹמַר. לְרִבּוֹת אֶת הַסוּמָא. רַבִּי יוֹדָה אוֹמַר. פָּרֵט לַסוּמָא. מִחֻלְפָּה שִׁטְיָתָיָה דְּרַבִּי מֵאִיר. תַּמָּן הוּא

אָמַר פֶּרֶט וְכָא הוּא אָמַר לְרֵבּוּת. אָמַר רַבִּי חֲנִינָה בְּרִיה דְּרַבִּי הֵלֵל. בְּיוֹשֵׁב בְּבֵית אֶפֶל הִיא מִתְּנִיתָא. כִּדְ אָנּוּ אוּמָרִים. הַיּוֹשֵׁב בְּבֵית אֶפֶל לֹא יִפְרוֹשׁ אֶת שְׁמַע: בְּרַם הָכָא בְּלֹא רְאוּת לְרֵבּוּת אֶת הַסּוּמָא. מַה מְקַיֵּמִין רַבְּנֵין בְּלֹא רְאוּת. לְהַבִּיא אֶת הַמִּכָּה בְּלֵילָה.

“And the blind person.” Rabbi Abba said, who stated “the blind person”? Rabbi Jehudah, for Rabbi Jehudah frees him from all obligations of the Torah³⁹, as we have stated there⁴⁰: “Rabbi Jehudah said, anyone who never saw light in his life may not cover the *Shema*’.⁴¹” Therefore, if he saw once he may cover. And both of them explained the same verse, *without seeing*⁴². Rabbi Meïr says, to include the blind person. Rabbi Jehudah says, excluding the blind person.

⁴³The argument of Rabbi Meïr seems inverted. There he says, excluding, but here he says, to include. Rabbi Hanina the son of Rabbi Hillel said, the Mishnah is about one sitting in a dark house. So we are saying, “one sitting in a dark house may not cover the *Shema*’.⁴⁴” But here, *without seeing*, to include the blind person. How do the rabbis read *without seeing*? To include one who smites in the night⁴⁵.

39 *Sotah* 2:6 (Note 201), Babli *Bava qamma* 87a.

40 *Megillah* Mishnah 4:7.

41 He cannot lead the congregation in the recital of the benedictions before and after the recitation of the *Shema*’ since they start with a praise of God for the creation of the celestial shining bodies. The majority opinion holds that while a blind person cannot see the sun’s light, he profits from it since other people who can see can help him during daylight.

42 *Num.* 35:23, part of the definition of involuntary homicide. Babli 9b, *Sifry Num.*

160. As the Babli explains, the double restriction mentioned by the verse, *unintentional, without seeing*, has to be read as an inclusion.

43 A parallel to this paragraph is in *Megillah* 4:7. One has to read “Jehudah” for Meïr, as in *Megillah*, since only for R. Jehudah are two opinions recorded. Also “there” means *Makkot*, “here” *Megillah*.

44 In his explanation, R. Jehudah does not exclude the blind person but one born and raised in a cave who never saw daylight.

45 He is included in the list of the exiled together with the blind person.

משנה ז: לְאַיְכּוֹן גּוֹלִין לְעָרֵי מִקְלָט. לְשֵׁלֶשׁ שְׁבַעֲבָר הֵיָדוֹן וּלְשֵׁלֶשׁ שְׁבַעֲרָץ כְּנָעוֹן שֶׁנֶּאֱמַר אֵת שְׁלֹשׁ הָעָרִים תִּתְּנוּ מֵעַבֵּר לְיִדְּוֹן וְגו'. עַד שֶׁלֹּא נִבְחָרוּ שְׁלֹשׁ שְׁבַעֲרָץ יִשְׂרָאֵל לֹא הָיוּ שְׁלֹשׁ שְׁבַעֲבָר הֵיָדוֹן קוֹלָטוֹת שֶׁנֶּאֱמַר שֵׁשׁ עָרֵי מִקְלָט תִּהְיֶינָה. עַד שֶׁיִּהְיוּ שִׁשָּׁתָּן קוֹלָטוֹת כְּאַחַת:

Mishnah 7: Where are they exiled to? To the cities of refuge. To the three in Transjordan and the three in the Land of Canaan, as it is said⁴⁶: *Three cities you shall designate in Transjordan*, etc. As long as those in the Land of Israel had not been selected⁴⁷, those in Transjordan were not receiving, as it is said⁴⁸, *there shall be six cities of refuge*, not until all six were receiving together⁴⁹.

משנה ח: וּמִכּוֹנּוֹת לָהֶן דְּרָכִים מֵאֵל לְזוֹ שֶׁנֶּאֱמַר תִּכְנֶן לָךְ הַדֶּרֶךְ וְשִׁלַּשְׁתָּ אֶת־גְּבוּל אֶרְצְךָ. וּמוֹסְרֵין לָהֶן שְׁנֵי תַלְמִידֵי חֲכָמִים שָׁמָּה יִהְרְגֻנוּ בַּדֶּרֶךְ וַיְדַבְּרוּ אֵלָיו. רַבִּי מֵאִיר אֹמֵר אֵף הוּא מִדְּבָר עַל יְדֵי עֲצָמוֹ שֶׁנֶּאֱמַר וְזֶה דְּבַר הָרוּצָח:

Mishnah 8: Roads were maintained from one to the other, as it is said⁵⁰: *Maintain the road for yourselves, and divide the domain of your Land into three parts*⁵¹. One sends with them⁵² two scholars lest he⁵³ kill him⁵² on the road, to argue with him. Rabbi Meïr says, he⁵³ may argue for himself as it is said⁵⁴, *this is the word of the homicide*.

משנה ט: רַבִּי יוֹסִי בֶּן רַבִּי יְהוּדָה אֹמֵר בִּתְחִלָּה אֶחָד שׁוֹגֵג וְאַחַד מֵזִיד מִקְדִּימִין לְעָרֵי מִקְלָט וּבֵית דִּין שׁוֹלְחִין וּמַבִּיאִין אוֹתוֹ מִשָּׁם. מִי שֶׁנִּתְחַיֵּב מִיָּתֵהּ הִרְגוּהוּ וְשֶׁלֹּא נִתְחַיֵּב מִיָּתֵהּ פְּטָרוּהוּ וְשֶׁנִּתְחַיֵּב גְּלוּת מִחֲזִירִין אוֹתוֹ לְמִקּוֹמוֹ שֶׁנֶּאֱמַר וְהָשִׁיבוּ אוֹתוֹ הָעֵדָה אֶל עִיר מִקְלָטוֹ. אֶחָד מְשֻׁחַּח בְּשִׁמּוֹן הַמְּשֻׁחָה וְאַחַד הַמְּרוּבָּה בְּגָדִים וְאַחַד שֶׁעָבַר מִמְּשֻׁחָתוֹ. רַבִּי יְהוּדָה אֹמֵר אֵף מְשֻׁחַח מִלְחָמָה מִחֲזִיר אֶת הָרוּצָח. לְפִיכֵךְ אֵימּוֹתֵיהֶן שָׁל כְּהֻנִּים מְסַפְּקוֹת לָהֶן מַחִיָּה וְכִסּוּת כְּדֵי שֶׁלֹּא יִתְפַּלְלוּ עַל בְּנֵיהֶן שְׁיָמוּתוּ.

Mishnah 9: Rabbi Yose ben Rabbi Jehudah says, at the start both the involuntary and the voluntary [homicide] go to the city of refuge; the court sends and brings them back from there. If one is found guilty by a death sentence, they execute him. If he is found not guilty in a capital case, he is freed. If he is found guilty to be exiled they return him to his place as it is said⁵⁵, *the community shall return him to his city of refuge*.

Not only⁵⁶ a [High Priest] anointed with the anointing oil⁵⁷, but also one wearing the many vestments⁵⁸, and one deposed from his office⁵⁹. Rabbi Jehudah says, also the one anointed for war⁶⁰ returns the homicide. Therefore,

the mothers of the [High] Priests support them with food and clothing, so they should not pray for the death of their sons.

משנה י: נגמר דינו ומת כהן גדול הרי זה אינו גולה. אם עד שלא נגמר דינו מת כהן גדול ומינו אחר תחתיו ולאחר מיכן נגמר דינו חוזר במיתתו של שני.

Mishnah 10: If sentence had been passed when the High Priest died, he is not exiled. If sentence had not yet been passed when the High Priest died, and sentence was passed after a successor had been appointed, he returns after the death of the second.

משנה יא: נגמר דינו בלא כהן גדול ההורג כהן גדול וכהן גדול שהרג אינו יוצא משם לעולם. ואינו יוצא לא לעדות מצוה ולא לעדות ממון ולא לעדות נפשות ואפילו ישראל צריכין לו ואפילו שר צבא ישראל כיוצא בן צרויה אינו יוצא משם לעולם שנאמר שמה. שם תהא דירתו ושם תהא מיתתו ושם תהא קבורתו.

Mishnah 11: If sentence was passed when there was no High Priest, or one who killed a High Priest, or a High Priest who killed, can never leave from there.

He⁵² cannot leave from there, neither for a testimony of obligation,⁶¹ nor a testimony in a civil suit, nor a testimony in a criminal suit, not even if Israel needs him like Joab ben Šeruya⁶², he cannot ever leave from there, as it is said *there*⁵⁵. There shall be his dwelling, there he shall die, there he shall be buried.

משנה יב: כשם שהעיר קולטת בן תחומה קולט. רוצח שניצא חוץ לתחום ומצאו גואל הדם רבי יוסי הגלילי אומר מצוה ביד גואל הדם ורשות ביד כל-אדם. רבי עקיבה אומר רשות ביד גואל הדם וכל אדם אין חייבין עליו.

Mishnah 12: Just as the city grants asylum, so does its domain grant asylum⁶³. If a murderer left the domain and was found by the avenger of the blood, Rabbi Yose the Galilean says, it is the obligation of the avenger of the blood and the right of everybody⁶⁴. Rabbi Aqiba says, it is the right of the avenger of the blood and nobody would be liable because of him.

משנה יג: אילן שהוא עומד בתוך התחום ונזפו נוטה חוץ לתחום או עומד חוץ לתחום ונזפו נוטה בתוך התחום הכל הולך אחר הנוף. הרג באותה העיר גולה משכונה לשכונה. וכן לוי גולה מעיר לעיר.

Mishnah 13: If a tree stands inside the domain but its crown is outside the domain, or the tree stands outside the domain but its crown is inside the domain, everything follows the crown⁶⁵.

If somebody killed in one of these cities, he is exiled from quarter to quarter; but a Levite⁶⁶ who killed is exiled from one city to another.

משנה יד: פִּיּוּצָא בּוֹ רוֹצֵחַ שֶׁנֶּלֶקָה לְעִיר מְקוֹלֵט וְרָצוּ אֲנָשֵׁי הָעִיר לְכַבְּדוֹ יֹאמְרוּ לָהֶם רוֹצֵחַ אֲנִי. אָמְרוּ לוֹ אַף עַל פִּי כֹן יִקְבַּל מֵהֵן שֶׁנֶּאֱמַר וְזֶה דְּבַר הָרָצֵחַ.

Mishnah 14: Similarly⁶⁷, a homicide exiled to a city of refuge whom the citizens of the town wanted to honor, should say to them, I am a homicide. If they tell him, anyway, he should accept, for it is said⁶⁸, *this is the word of a homicide*.

משנה טו: וּמַעֲלוֹת הֵיוּ שֶׁכָּר לְלוֹיִם דְּבָרֵי רַבִּי יְהוּדָה. רַבִּי מֵאִיר אוֹמֵר לֹא הֵיוּ מַעֲלוֹת לָהֶן שֶׁכָּר. וְחוֹזֵר לְשַׁרְרָה שֶׁהָיָה בָּהּ דְּבָרֵי רַבִּי מֵאִיר. רַבִּי יְהוּדָה אוֹמֵר לֹא הָיָה חוֹזֵר לְשַׁרְרָה שֶׁהָיָה בָּהּ:

Mishnah 15: They⁶⁸ were paying rent to the Levites, the words of Rabbi Jehudah. Rabbi Meir said, they were not paying rent. He returns to the office he held earlier⁶⁹, the words of Rabbi Meir; Rabbi Jehudah says, he does not return to the office he held earlier.

46 Num. 35:14.

47 Jos. 20:7. *Sifry Num.* 160.

48 Num. 35:13.

49 Giving asylum to the involuntary homicide.

50 Deut. 19:3.

51 Divide both the Land of Israel and Transjordan into three Voronoi domains each so that the nearest city of refuge always was indicated on the sign posts.

52 The homicide.

53 The avenger of the blood.

54 Deut. 19:4.

55 Num. 35:25.

56 The homicide may return to his home town upon the death of the High Priest (Num. 35:28).

57 A High Priest of the period of Judges or Kings, anointed from the vial prepared by Moses (Ex. 30:22-33).

58 A High Priest of Second Temple times, wearing an imitation of the High Priest's robes.

59 A High Priest of Herodian times or later, when High Priests usually were appointed annually.

60 To exhort the army, Deut. 20:2.

61 A religious act, neither civil nor criminal; e. g., to testify to the appearance of the New Moon.

62 David's general.

63 Every city of refuge also is a Levitic city (Num. 35:6). Each Levitic city was surrounded by a greenbelt of 2'000 cubits,

having the same status as the city itself (*Lev.* 35:4-5; *Sotah* 5:4 Notes 107-111.) The avenger of the blood has no right to pursue the homicide into the city's domain.

64 To kill the homicide who left the city of refuge (in the Babli: intentionally).

65 If most of the crown is outside (inside), the entire tree is considered outside (inside). In the Babli, the crown is only taken as an extension of the tree.

66 Whose city it is. Only a Levite can be a permanent resident of a city of refuge.

67 This makes no sense here; it is copied from the identical Mishnah *Sevi'it* 10:8.

68 The feminine form of the verb is confirmed by the readings of Maimonides

and Rashi, as well as the Munich ms. of the Babli. In the Babli, the question is raised whether the homicide (reading מעלים) pays rent or his hometown (reading מעלות) pays indemnity to the Levites in either the city of refuge or the 42 additional Levitic cities which also serve as cities of asylum. Since neither *Sifry* nor the Yerushalmi mention this, it seems that the Yerushalmi recognizes only the six cities of refuge as proper places of asylum.

69 The public office held by the homicide before his exile. The question is whether the homicide is barred from holding public office upon his return.

18) **הלכה ז:** לאיכן גולין כול. שלש עיירות הפריש משה בעבר הירדן. ומשפאו לארץ הפרישו עוד שלש. אילו ואילו לא היו קולטות עד שכיבשו וחילקו. כיון שכיבשו וחילקו נתחייבה הארץ בשמיטין וביובלות והיו אילו ואילו קולטות. שלש ערים שהפרישו בארץ ישראל היו מכוונות כנגד שלש ערים שהפריש משה בעבר הירדן בשתי שורות שלקברם. את חברון ביהודה כנגד בצר במדבר. ואת שכם בהר אפרים כנגד ראמות בגלעד. את קדש בגליל כנגד גולן בבשן. עד שלא הפרישו שכם בהר אפרים לא היתה קולטת. הפרישו קרית יערים ותחתיה עד שכיבשו את שכם. עד שלא הפרישו קדש בגליל לא היתה קולטת. הפריש גמלה ותחתיה עד שכיבשו את קדש.

ושלשת. שיהו משולשות. כדי שתהא מחברון ליהודה כמחברון לשכם ומחברון לשכם כמשכם לקדש.

נפלה אחת מהן בונין אותה מאותו השבט. ומניין אף בשאר כל השבטים. תלמוד לומר שש. שיהו מכוונות וקולטות כראשונות.

הערים הללו אין בונין אותן לא כרבים גדולים ולא עיירות קטנות אלא בינוניות. אין בונין אותה אלא על השוק. אם אין שם שוק עושין לשם שוק. אין בונין אותם אלא על הפנים. אם אין שם מים מביאין לשם מים. נתמעטו דייריהן מביאין אחרים תחתיהן. אם אין שם אוכלוסין מביאין לשם כהנים לויים וישראלים.

אין עושין בתוך לא בית הבד ולא בית הבצירה. דברי רבי נחמיה. וחכמים מתירין. אין מפשילין בתוך חבלים. ואין עושין בתוך כלי זכוכית בשביל להרגיל את הרגל לשם.

Halakhah 7: “Where are they exiled to,” etc. ⁷⁰“Three cities did Moses designate in Transjordan⁷¹. When they came to the Land they designated another three⁷². Neither of them were giving asylum until after they conquered and divided⁷³. After they conquered and divided, the Land became obligated for Sabbaticals and Jubilees and these and those⁷⁴ were giving asylum. The three cities which they designated in the Land of Israel were parallel to the three cities which Moses had designated in Transjordan like two rows in a vineyard. Hebron in Judea parallels Bešer in the desert. Sichem on Mount Ephraim parallels Ramot Gilead. Qedesh in Galilee parallels Golan in Bashan. (Before) [even though]⁷⁵ they had designated Sichem on Mount Ephraim it could not give asylum; they designated Qiryat-Yearim in its place until they conquered Sichem⁷⁶. (Before) [even though]⁷⁵ they had designated Qedesh in Galilee it could not give asylum; they designated Gamla in its place until they conquered Qedesh.⁷⁷”

“*Divide into three parts*⁵¹. That it should be from Hebron to (Jehudah)⁷⁸ as from Hebron to Sichem and from Hebron to Sichem as from Sichem to Qedesh.”

“If any of them collapsed, one rebuilds it from the same tribe. And from where also from other tribes? The verse says, *six*⁷⁹. That they should be parallel and receiving like the earlier ones.”

“One builds these cities not as great fortified places or small villages but in average sizes. One only builds them around a market place. If they have no market place one creates a market place for them. One only builds them near water. If they have no water one brings water to them⁸⁰. If the number of households declined, one brings others there. If the number of inhabitants declined, one brings there Cohanim, Levites, and Israel⁸¹.”

“One builds in them neither an olive press nor a wine press⁸², the words of Rabbi Nehemiah, but the Sages permit it. One does not braid ropes there, nor does one manufacture glass, in order not to attract visitors.⁸³”

70 Tosephta 3:1-4, 8-9. Babli 9b-10a.

rededicated by Josua, *Jos.* 20:8. *Sifry Num.*

71 *Deut.* 4:41.

160.

72 *Jos.* 20:7.

74 The towns dedicated by Moes and

73 Since the Transjordan towns are

Joshua.

75 The text in parentheses, to be deleted, is from the ms., the one in brackets from the Tosephta.

76 The king of Sichem is not listed among the kings vanquished by Josua (*Jos.* 12).

77 This is difficult to understand since the king of Qedesh is listed in *Jos.* 12. Gamla is not a biblical name; it was situated on the Eastern shore of the sea of Galilee.

78 Read with the Tosephta and the Babli: From the Southern border to Hebron.

79 *Num.* 35:15.

80 By aqueduct.

81 Even though they are Levitic cities. Levitic cities were not renewed in the Second Commonwealth; in talmudic times we only hear of priestly villages in Galilee, quite different from the biblical towns

enumerated in *Jos.* The parallel mention of דוירין “apartment dwellers” (Hebrew) and ὄχλος “multitude” expresses the same idea twice in different languages.

82 Presses for hire to be used by the surrounding agricultural population. The idea is that one does not want to attract too much traffic. A small number of people can be controlled; an “avenger of the blood” going after one of the homicides can be evicted or at least be warned that any killing within the asylum domain is murder. Greater traffic makes this impossible. The Sages hold that local traffic is acceptable; only manufactures that attract exporters have to be discouraged.

83 Here the Sages agree.

(31d line 40) רבי יוחנן שלח לרבנן דתמן. תרתין מילין אתון אמרין בשם רב ולית אינון כן. אתון אמרין בשם רב. ופת תואר לא התירו בה אלא בעילה ראשונה בלבד. ואני אומר. לא בעילה ראשונה ולא בעילה אחרונה אלא לאחר כל המעשים. ואחר כן תבוא אליה ובעלתה. אחר כל המעשים.

ואתון אמרין בשם רב. סבור היה יואב שקרנות המזבח קולטות ואינו קולט אלא גגו. של שילו קולט. ושלבית העולמים אינו קולט. ואני אומר. לא מזבח קולט ולא גגו קולט לא של שילו קולט ולא שלבית העולמים קולט. אין לך קולט אלא שש ערי מקלט בלבד. ואיפשר יואב דכתיב ביה תחבמוני ראש השלישי היה טועה בדבר זה. אמר רבי תנחומא. לסנהדרין ברת. כהדא דתני. הרגי בית דין נכסיהן ליורשין. הרגי מלכות נכסיהן למלכות. אמר יואב. מוטב שאיהרג בבית דין ויירשוני בניי ואל יהרגני המלך ויירשני. כד שמע שלמה כן אמר. לממונו אני צריך. מיד והסירותי דמי חנם. אין ממונו חנם. וישלח ביד בניהו ויפגע בו וימיתיהו ויסקרוהו בביתו במדבר. וכי מדבר היה ביתו. אלא ללמדך שפינן שמת יואב שר צבא ישראל נעשו ישראל כמדבר. אין תימר. שהיה בוז ובזנה להן דימוסיות ומרחצאות. שבה. ואין תימר. שהיה בוז ומאכיל חכמים ותלמידיהם. שבה שבחים. ומניין שהיתה סנהדרין גדולה אצל המזבח. ולא תעלה במעלות על-מזבחי. ומה כתיב תמן. ואליה המשפטים אשר תשים לפניהם.

Rebbi Johanan sent to the rabbis there⁸⁴: Two things you say in the name of Rav which are not so. You say in the name of Rav that only the first copulation with the beautiful woman⁸⁵ is permitted. But I am saying, the first or the later copulations are permitted only after all ceremonies; *after that you may come to her and copulate with her*⁸⁶, after all ceremonies.

Also you say that Joab was of the opinion that the horns of an altar give asylum⁸⁷ but only its top gives asylum; in fact only the top of the one in Shilo gives asylum, but that of the Temple does not give asylum. But I am saying that neither the altar gives asylum, nor does its top give asylum, nor the one in Shilo gives asylum, nor that of the Temple gives asylum. Nothing except the six cities of refuge give asylum. Is it possible that Joab, about whom it is written, *the most wise, head of the third*⁸⁸ should err in this matter? Rebbi Tanhuma said, he fled to the Sanhedrin, because it is stated: The property of people executed by the court goes to their heirs; the property of people executed by the government goes to the government⁸⁹. Joab said, it is better that I should be executed by the court and my sons will inherit from me than that the king should execute me and inherit from me. When Solomon heard this he said, do I need his money? Immediately, *I shall remove the blood for free*⁹⁰, but his money is not free. *He sent through Benaiah who smote him and killed him; they buried him in his house in the wilderness*⁹¹. Was his house a wilderness? But to tell you that when Joab the commander of Israel's army died⁹², Israel was turned into a wilderness. If you say that he collected booty to build public baths and baths⁹³, this is worthy of praise. But if you say that he collected booty to support Sages and their students, it is worthy of the highest praise⁹⁴. And from where that the Supreme Sanhedrin is near the altar? *Do not ascend on my altar by stairs*. What is written next? *These are the rules of law you shall put before them*⁹⁵.

84 Babylonia.

85 The female prisoner of war whom her captor desires, *Deut.* 21:10-14. The Babli *Qiddušin* 21b (*Tosaphot* 22a s. v. נש) seems to permit a first copulation before the woman undergoes formal conversion even

for a Cohen to whom the convert will be forbidden.

86 *Deut.* 21:13, after full conversion. The Babli (*Qiddušin* 68a) reads the verse as: *after that you may copulate with her as her husband*, meaning that valid marriage is possible only after conversion.

87 *IK*. 2:28, Babli 12a.

88 2S. 23:8. Joab himself is not mentioned in the Chapter. Targum Jonathan and the Babli (*Mo'ed qatan* 16b) read the expression as referring to David.

89 This projects Roman practice into Jewish law.

90 *IK*. 2:31. In the MT, confirmed by LXX, נִהְסִירָהּ. The blood is the innocent blood of Abner and Amasa.

91 A combination of *IK*. 2:29,34.

92 Here starts the second sheet of the Genizah fragment (G).

93 A double expression of Greek (*Sanhedrin* 7:19, Note 357) and Hebrew terms for public baths.

94 Babli *Sanhedrin* 49a refers to *1Chr.* 11:8 as proof that Joab used his riches to support scholars.

95 *Ex.* 20:23, 21:1.

(31d line 60) [נִגְמַר דִּינוֹ וּמָת כְּהֵן גָּדוֹל הָרִי זֶה אֵינוֹ גּוֹלָהּ]. תִּנִּי רַבִּי לִיעָזָר בֶּן יַעֲקֹב אֹמֵר. מִקְלָט מִקְלָט כְּתוּב בְּפָרֶשֶׁת דָּרְכִים. כְּדִי שְׂיֵהָא הָרוֹצֵחַ רוֹאֶה אֶת הַכְּתוּב וְהוֹלֵךְ. אָמַר רַבִּי אֲבוּן. כְּמִין יָד הַיְתָה מִרְאֶה לָהֶן אֶת הַדֶּרֶךְ. אָמַר רַבִּי פִּינְחָס. טוֹב וְשָׂר. לָמָּה הוּא טוֹב. שְׂהוּא יָשָׁר. וְלָמָּה הוּא יָשָׁר. שְׂהוּא טוֹב. עַל־כֵּן יוֹרָה חֲטָאִים בְּדֶרֶךְ. שְׂמוּרָה דֶּרֶךְ תְּשׁוּבָה. שְׂאֵלוֹ לַחֲכָמָה. חוּטָא מְהוּ עוֹנֵשׁוֹ. אָמְרָה לָהֶם. חֲטָאִים תִּרְדּוּ רָעָה. שְׂאֵלוֹ לְנְבוּאָה. חוּטָא מְהוּ עוֹנֵשׁוֹ. אָמְרָה לָהֶן. הַנֶּפֶשׁ הַחֲטָאָת הִיא תִּמּוּת: שְׂאֵלוֹ לְקוּדְשָׁא בְּרִין הוּא. חוּטָא מְהוּ עוֹנֵשׁוֹ. אָמַר לָהֶן. יַעֲשֶׂה תְּשׁוּבָה וְיִתְפָּר לוֹ. הֵינֵנוּ דְכָתִיב. עַל־כֵּן יוֹרָה חֲטָאִים בְּדֶרֶךְ. יוֹרָה לַחֲטָאִים דֶּרֶךְ לַעֲשׂוֹת תְּשׁוּבָה. כְּתִיב כְּצִפּוֹר לְנֹד כְּדָרֹר לְעוֹף בֶּן אִישׁ נוֹד מִמְּקוֹמוֹ.

["If sentence had been passed when the High Priest died, he is not exiled."] ⁹⁶ It was stated ⁹⁷: "Rebbi Eliezer ben Jacob says, 'refuge, refuge' was written at crossroads, so that the homicide might see what was written and continue." Rebbi Abun said, a sign-post was directing them ⁹⁸.

⁹⁹Rebbi Phineas said, *good and straightforward* ¹⁰⁰. Why is He good? Because He is straightforward. And why is He straightforward? Because He is good. *Therefore, He teaches the way to the sinners*. He instructs in the way of repentance.

¹⁰¹They asked Wisdom, what is the punishment of the sinner? She told them, *evil will pursue sinners* ¹⁰². They asked Prophecy, what is the punishment of the sinner? She told them, *the sinning soul is the one which will die* ¹⁰³. They asked the Holy One, praise to Him, what is the punishment of the sinner? He said to them, let him repent and it will be atoned for him. That is what is written, *therefore, He teaches the way to the sinners* ¹⁰⁰, the way to repentance.

¹⁰⁴It is written: *Like a bird to move, like a swallow to fly*, so is a man moving from his place.

96 Added from G; referring to Mishnah 10 even though the Halakhah refers to Mishnah 8.

97 Babli 10b, Tosephta 3:5.

98 He does not assume that everybody be literate.

101 There exist various versions of this homily. In G, the text reads:

שָׁאֵלוּ לַתּוֹרָה. הַחוּטָא בְּמַהוּ עוֹנֵשׁ. אָמְרָה לָהּ יְבִיא קֶרְבֵּן וְיִתְכַפֵּר לוֹ. שָׁאֵלוּ לְגִבּוּאַה. הַחוּטָא מִהוּ עוֹנֵשׁ. אָמְרָה. הַנֶּפֶשׁ הַחַטָּאת הִיא תָמוּת: שָׁאֵלוּ לְדוּיד הַחוּטָא בְּמַה עוֹנֵשׁ. אָמְרָה לָהּ יִתְּמוּ חַטָּאִים | מִן־הָאָרֶץ וּגְ: שָׁאֵלוּ לַחֲכָמָה. חוּטָא מִהוּ עוֹנֵשׁ. אָמְרָה לָהּ. חַטָּאִים תִּרְדָּף רָעָה וּגְ: שָׁאֵלוּ לְקוּדְשָׁא בְּרִיד הוּא. חוּטָא מִהוּ עוֹנֵשׁ. אָמְרָה לָהּ. יַעֲשֶׂה תְשׁוּבָה וְאֵי מְקַבֵּל דְּכֶתִיב. טוֹב וְיִשָּׁר יִי. לָמָּה הוּא טוֹב.

They asked the Torah, what is the punishment of the sinner? She told them, he shall bring a sacrifice and it will be atoned for him. They asked Prophecy, what is the punishment of the sinner? She told them, *the sinning soul is the one which will die*. They asked David, what is the punishment of the sinner? He told them, *may sins vanish from the earth* etc. They asked Wisdom, what is the punishment of the sinner? She told them, *evil will pursue sinners*. They asked the Holy One, praise to Him, what is the punishment of the sinner? He said to them, let him repent and I will accept.. That is what is written, *good and straightforward is the Eternal*. (Why is he good?)

A slightly different version of G's text is in *Pesiqta dR. Cahana Shuva* (ed. Buber p. 158b), quoted in *Yalqut Shimony* (Psalms 702, Ezekiel 358).

102 *Prov.* 13:21.

103 *Ez.* 18:4.

104 The continuation of the quote is not a verse; it seems to be the invention of a copyist who did not understand it. In G, the

This paragraph is shortened in G, it is only hinted at in the Babli, 10b (in the name of Rav Hama bar Hanina), extended in *Midrash Tehillim* 25[10].

100 *Ps.* 25:8.

quote "*Like a bird to move, like a swallow to fly*, etc.", is a paragraph by itself. In the Babli 11a, the quote *like a bird to move, like a swallow to fly, so undeserved curse will not happen* (*Prov.* 26:2) is quoted in reference to Mishnah 9. Why do the mothers of the High Priests have to support the exiled homicides if their prayers would be ineffective?

(31d line 69) [נִגְמַר דִּינוּ בְּלֹא כְּהֵן גְּדוּל]. וְתִמְרָא אֲכֹן. תִּפְתָּר שְׁהִיָּה עֵת וְעוֹנָה. כִּי דְמַר רַבִּי יוֹסִי בֶן חֲלַפְתָּא. עֵיתִים הֵן לְתַפִּילָה. אָמְרָה דּוּד לִפְנֵי הַקְדוּשׁ בְּרִיד הוּא. רַבּוּן הָעוֹלָמִים. בְּשַׁעָה שָׁאֵינִי מִתְפַּלֵּל אֲלִיד תְּהֵא עֵת רָצוֹן. דְּכֶתִיב וְאֵי תִפְלִתִי־לָךְ | יִי עֵת רָצוֹן.

[If sentence was passed when there was no High Priest.]¹⁰⁵ And you say so ¹⁰⁶? Explain it that it was time and period ¹⁰⁷. As Rabbi Yose ben Halaphta

says, there are times for prayer. David said before the Holy One, praise to Him: Master of Universes, at the moment when I am praying to You it should be a moment of goodwill. As is it written ¹⁰⁸: *But I, my prayer is to You at a time of goodwill.*

105 Added from G, referring to Mishnah 11, even though the discussion continuous about Mishnah 9.

106 This continues from Note 104. Why are the priests' mothers worried?

107 The prayers of the exiles might be

heard even if it was not their special merit that made the prayers effective. The Babbli 11a holds that the prayers of the exiles may be effective if the High Priests fail to uphold very high standards of conduct.

108 Ps. 69:14.

רבי שמואל בר נחמן בשם רבי יונתן. כל מקום שנאמר דיבור חידוש מקרא (נש) שם. והא כתיב וידבר אלהים (כול' גרשה) אל-לח ואל-בני אתו לאמר. מה חידוש מקרא יש שם. חידוש בו אבר מן החי. והא כתיב ויפל אברם על-פניו וידבר אתו אלהים לאמר: מה חידוש מקרא יש שם חידוש בו את המילה. והא כתיב דבר שלח יי בניעקב וג' מה חידוש מקרא יש שם חידוש בו את ה. לה. והא כתיב וידבר אלהים אל-משה ויאמר אליו אני יי. מה חידוש מקרא יש שם חידוש בו קידוש השם. והא כתיב וידבר יהוה אל-יהושע לאמר: מה חידוש מקרא יש שם. און תימר שש ערי מקלט. כבר נתנו למשה מסיני. אלא אף הוא נאמר לו דבר שלא נאמר למשה ולס אל-אחת | מהערים האלה ועמד פתח וג' ונתנו-לו מקום וישב עמם: מהו וישב עמם: רבניו דקיסרין בשם רבי שילה. שאים היה תלמיד חכם עושין לו בית וועד.

¹⁰⁹Rebbi Samuel bar Nahman in the name of Rebbi Jonathan: At every occasion where *dibbur*¹¹⁰ is said, there is a new biblical commandment. But is it not written, *God spoke* (etc., repetition) [to Noah (and his sons with him as follows)]¹¹¹? What new biblical commandment is there? He newly introduced limb of a living animal. But is it not written, *Abram fell on his face and God spoke to him as follows*¹¹²? What new biblical commandment is there? He newly introduced circumcision. But is it not written, *a word the Eternal sent to Jacob*¹¹³? What new biblical commandment is there? He newly introduced . . .¹¹⁴ But is it not written¹¹⁵, *God spoke to Moses and said to him, I am the Eternal*? What new biblical commandment is there? He newly introduced Sanctification of the Name. But is it not written¹¹⁶, *the Eternal spoke to Joshua as follows*? What new biblical commandment is there? If you want to say the six cities of refuge, were they not already given to Moses at Sinai?

But even to him was spoken what was not said to Moses: *He shall flee to one of these cities and stand at the gate etc., and they shall give him a place that he stay with them.*^{117]} What means *that he stay with them?* The rabbis of Caesarea in the name of Rabbi Shila¹¹⁸: If he is a scholar, they make him a house of assembly¹¹⁹.

109 This paragraph is very much truncated in the Leiden ms.; after the introduction is noted “repetition”, i. e., it is found elsewhere and needs no repetition here. But the paragraph is not known from any other place in the Yerushalmi; it is preserved almost completely in the Genizah fragment [G]. Already in 1934 S. Lieberman discovered the full text in *Yalqut Makhiri Isaiah (Tarbiz 5, p. 109.)* The Genizah text is given here in brackets; at one place where it is illegible it is completed from *Yalqut Makhiri* in the Notes.

110 If God addresses a human using the root דבר instead of אמר, it is a sign that a new commandment is contained in the following paragraph.

111 *Gen.* 8:15. The scribe, quoting from memory, erroneously added the end of v. 9:8.

112 *Gen.* 17:3.

113 *Is.* 9:7.

114 As the editor of G noted, the illegible word here seems to be מילה, belonging to the preceding sentence. Following *Yalqut*

Makhiri one has to read: The ischiatic tendon. The verse is also quoted in the Babli, *Hulin* 91a, to prove that the ischiatic tendon remains forbidden in Israel even though its prohibition was not repeated in the Torah after the epiphany of Sinai (in contrast to circumcision, which is mentioned in *Lev.* 12:3.) As S. Lieberman noted, the argument is correctly explained by Maharsha (R. Samuel Eliezer Idels) in his Notes to *Hulin*: The prohibition of the ischiatic tendon is the only commandment (דבר) which the Eternal sent through Jacob. The Babli is completely intelligible only on the basis of the Yerushalmi here.

115 *Ex.* 6:2, the only case of דבר to Moses not in connection with a commandment.

116 *Jos.* 20:1, introduction to the designation of cities of refuge; the reason for placing the paragraph in this Halakhah.

117 *Jos.* 20:4.

118 A student of R. Simeon ben Laqish.

119 Where others can come and profit from his knowledge (Babli 10a).

(31d line 76) [כְּשֶׁם שֶׁהָעִיר קוֹלָטָת כֶּד הָיָה תַּחֲנוּמָה קוֹלָטָה]. שְׁלֹש עָרִים הִפְרִישׁ מִשָּׁה בְּעֶבֶר הִיָּדָדָן. מִשְׁבָּאֵי לְאָרֶץ הִפְרִישׁוּ עוֹד שְׁלֹשׁ. וְלַעֲתִיד לָבוֹא מִפְּרִישִׁין עוֹד שְׁלֹשׁ. שְׁנֵי אֲמָר שְׁלֹשׁ שְׁלֹשׁ שְׁלֹשׁ. הָרִי ט'. אָבָא שְׁאֵיל אֲמָר. שְׁלֹשׁ. שְׁלֹשׁ שְׁלֹשְׁלֹשׁ שְׁלֹשׁ הָרִי ט'. וְעוֹד הָרִי י"ב. רַבִּי נְהוֹרָאִי אֲמָר. שְׁלֹשׁ שְׁלֹשׁ שְׁלֹשׁ הָרִי ט'. וְעוֹד הָרִי י"ב. עַל הַשְּׁלֹשׁ הָרִי ט"ו. כְּתוּב שֶׁשֶׁ-עָרֵי מִקְלָט תִּהְיֶינָה לָכֶם: שִׁיחֵי שְׁשָׁתָן קוֹלָטוֹת כְּאַחַת. וְתִימָר אֶכֶן. וְתִיָּא כִּי דָמַר רַבִּי שְׁמוּאֵל [בַּר

יִינָא בְּשֵׁם רַבִּי אֲחָא. חֲמִשָּׁה דְּבָרִים חֲסַר מִקְדָּשׁ אַחֲרוֹן מִמִּקְדָּשׁ רִאשׁוֹן. דְּכָתִיב עָלֵי הָהָר וְהִבְאֵתָם עָצ וְגו' עַד וְאֶפְבְּדָהּ. וְאֶפְבְּדָהּ כְּתוּב חֲסַר ה"א. אֵילֵי ה' דְּבָרִים שְׁחָסַר מִקְדָּשׁ אַחֲרוֹן מִמִּקְדָּשׁ רִאשׁוֹן. וְאֵילֵי הָן. אֵשׁ. אֶרֶן. אֲוִרִים וְתוֹמִים. שְׁמֹן הַמִּשְׁחָה וְרוּחַ הַקּוֹדֶשׁ.

¹²⁰[Just as the city grants asylum, so does its domain grants asylum.]

¹²¹“Three cities did Moses designate in Transjordan. When they came to the Land they designated another three. In the future there will be another three, as it is said *three, three, three*¹²². This makes nine. Abba Shaul says, *three*. Three of three times three makes nine. *Additional* makes twelve. Rabbi Nehorai says, *three, three, three* make nine. *Additional* makes twelve. *To these three* makes fifteen.” It is written¹²³: *Six cities of refuge there shall be for you*, that all six of them give asylum simultaneously. And you say so¹²⁴? It follows what Rabbi Samuel [ben Aina]¹²⁵ said in the name of Rabbi Aha: Five things was the last Temple missing which were in the first Temple, as it is written¹²⁶: *Go to the mountain, bring wood, etc., up to I may be honored*. It is written *I shall be honored*, without the letter *he*¹²⁷. These are the five things which the last Temple was missing which were in the first Temple. They are: The fire¹²⁸, the Ark¹²⁴, Urim and Tummim¹²⁹, anointing oil¹²⁴, and the Holy Spirit¹³⁰.

120 Reference to Mishnah 12, found only in G.

121 Tosephta 3:10, *Sifry Deut.* 185. The Tosephta credits Abba Shaul with the statement quoted here for R. Nehorai. *Sifry* quotes R. Nehorai and (Rebbi) Shaul, in inverse order.

122 *Deut.* 19:9. It is written there in v. 7, “three cities you shall designate”. Since it is already reported in *Deut.* 4:41-43 that Moses designated three cities in Transjordan, v. 19:7 must refer to the three cities which Joshua designated. Therefore 19:9 must refer to another three cities situated in the Northern part of the Land of Promise (*Num.* 34:1-15) that never was part of the historical Land of Israel. In the

opinion of Abba Shaul this Northern part, promised only if the *entire* people keep *all* biblical commandments, was as wide as the Cis- and Transjordan parts of the Land of Israel, and therefore needed not three but six additional cities of refuge. It is difficult to make sense of R. Nehorai’s statement.

In the text probably one should read *three* (*Deut.* 19:7), *three, the three* (*Deut.* 19:9). The words עַד “additional”, עַל אֵלֶּה “to these” are in *Deut.* 19:9. In the Constantinople edition, the argument of Abba Shaul for the first 9 is identical to that of the anonymous Tanna; this might be *lectio facilior*.

123 *Num.* 35:13.

124 If this refers to the previous statement,

then it is pointed out that *Num.* 35:13, which limits the number to six, cannot be squared with *Deut.* 19:9 which suggests nine. The question can be directed only at the anonymous Tanna who requires 9, and R. Nehorai who requires 15 cities, but not at Abba Shaul who envisages two pairs of six cities each.

Another interpretation (*Pene Moshe*) has this sentence starting a new paragraph, referring to Mishnah 9, and wonders why a High Priest of Second Temple times, who was not anointed with the holy oil compounded by Moses (*Ex.* 30:22-33) should have the power to free the exiled homicide. It is stated there in v. 23 that only Moses himself could compound this oil and in v. 31 that it should be used for all subsequent generations. By tradition, Josiah buried the oil flask together with the Ark of

the Covenant in the Temple Mount (*2Chr.* 35:3) after the prophetess Hulda informed him of the imminent destruction of the Temple.

125 Added from G (and the parallels, *Ta'anot* 2:1, *Horaiot* 3:2, as well as the Babli, *Yoma* 21b). Only R. Samuel bar Aina is known as student of R. Aha.

126 *Hag.* 1:8.

127 *Ketib* וְאֶבְדָּה *Qere* וְאֶבְדָּה. Both spellings make sense. The missing ה is interpreted in the Alexandrian system of numeration as "5".

128 The Heavenly fire (*2Chr.* 7:1).

129 Which are mentioned as worn by the High Priest (*Ex.* 28:30) but for which no description or instructions are given.

130 The spirit of prophecy.

(32a line 10) [אֵילָן שֶׁהוּא עוֹמֵד בְּתוֹךְ הַתְּחוֹם וְנוֹפֵא נֹטֶה חוּץ לַתְּחוֹם]. אָמַר [רַבִּי] אֲבִי. תִּלְמִיד חָכָם צָרִיד לְפָרֶסֶם אֶת עֲצָמוֹ. הִיד בְּרֵשׁ דְּחָכָם חָדָא מִיכְלָה וְאִזֵּיל לְאַתֵּר וְאִינוּן מִיִּקְרוּי לֵיהּ בְּדִ הָהּ חָכָם תִּרְיוּ מִיכְלָה צָרִיד מִימֵר לֹן חָדָא מִיכְלָה אֲנָא חָכָם. רַב הוּנָא אָמַר. אוֹמֵר בְּשִׁפְהָ רַפָּה וְהִזְמִין פְּשׁוּטָה לְקַבֵּל.

¹³¹[If a tree stands inside the domain but its crown is outside the domain.] [Rebbi]¹³² Abbai said, a scholar has to make his qualifications known. ¹³³If he knows one collection and he comes to a place where they honor him as if he knew two, he has to tell them, I know one collection. ¹³⁴(Rav Huna said, he says it in a soft voice and his right hand is stretched out to receive.)

131 From G, a quote from Mishnah 13. The discussion refers to Mishnah 14 which also is Mishnah *Ševi'it* 10:8 (Note 67), viz., the case that a homicide is honored.

132 From G. In *Ševi'it* 10:8 the speaker is R. Yose (the Amora).

133 Halakhah *Ševi'it* 10:8, Note 123. He

has memorized and completely mastered one collection of Tannaitic statements.

134 This does not belong here; it has been copied from *Ševi'it* 10:7. If a lender is offered repayment of a loan in a Sabbatical, when it should be forgiven, he may say softly that he observes the Sabbatical,

implying that he will not urge repayment voluntary liquidation of the debt.
while at the same time accepting the

(32a line 14) מה טעמא דרבי יודה. כי יחם לבבו.

אמר רבי אבהו. וחוזר במיתתו של שליש. אמר רבי אבהו. צרכו לדבר שולחין ומביאין אותו משם. אמר רבי יוסי. מתניתין לא אמרה כן. אלא אפילו ישראל צריכין לו. אפילו שר צבא כיוצא בן צרויה אין יוצא משם לעולם. שנאמר שמה. שם תהא דירתו כול.

What is Rabbi Jehudah's¹³⁵ reason? *For his blood is hot*¹³⁶.

Rebbi Abbahu said, but he returns upon the death of the third¹³⁷. Rebbi Abbahu said, if they need it¹³⁸, they send and bring him from there. Rebbi Yose said, our Mishnah does not say so, but "even if Israel needs him like Joab ben Seruya⁶², he cannot ever leave from there, as it is said *there*⁵⁵. There shall be his dwelling, etc."

135 In G: R. Huna. If the reference is to Mishnah 12, it should be "R. Yose the Galilean." If the reference is to the anonymous statement in Mishnah 8, the attribution to R. Jehudah might be correct.

136 Deut. 19:6.

137 In G: "the second." This reading has to be rejected since it is that of Mishnah 10. It rather seems to refer to Mishnah 11, about one who killed a High Priest, or a homicidal High Priest.

138 In G: If they (the High Court or the government) need *him* (the homicide.)

(32a line 18) [מעלות היו שָׂכָר לְלוֹיִם]. תִּנִּי רַבִּי יוֹדָה אוֹמֵר. לְמַחְלוֹקֶת נִיתְּנָה. רַבִּי יוֹסִי אוֹמֵר. לְבֵית דִּירָה נִיתְּנָה. וְתִיָּא דְרַבִּי יוֹסִי כְרַבִּי יוֹדָה. וְדַרְבִּי מֵאִיר כְּדַעְתִּיהָ. דִּתִּנִּין. מַעְלוֹת הֵיוּ שָׂכָר לְלוֹיִים דְּבָרֵי רַבִּי (מֵאִיר) [יְהוּדָה]. רַבִּי (יְהוּדָה) אוֹמֵר לֹא הֵיוּ מַעְלוֹת שָׂכָר לְלוֹיִם.

¹³⁹[They⁶⁸ were paying rent to the Levites.] ¹⁴⁰It was stated: Rebbi Jehudah says, they were given to be distributed. Rebbi Yose said, they were given as dwellings. It turns out that Rebbi Yose holds with Rebbi Jehudah, and Rebbi Meïr follows his own opinion as we have stated: "They⁶⁸ were paying rent to the Levites, the words of Rebbi (Meïr) [Jehudah]. Rebbi (Jehudah) [Meïr] said, they were not paying rent to the Levites."

139 The text in brackets is from G. Here starts the discussion of Mishnah 15. The text in parentheses is from the Leiden ms. The correct quote of the Mishnah is in G.

140 *Ma'aser Seni* 5:8, Notes 165-167. The question is whether individual houses in Levitic cities were private or tribal property, as explained there. Even though three

sources (the Leiden ms. here and in *Ma'aser Šeni* and G here) confirm the text “R. Yose said, they were given as dwellings” one must read “R. Meïr”, as shown. R. Yose holds with R. Jehudah in Mishnah *Ma'aser*

Šeni 5:9. In the Babli (13a) it is held that the six cities of refuge were tribal property; for the other 42 Levitic cities the dispute is not resolved.

(32a line 22) רָבָא בָּשֶׁם רַבִּי יוֹדָה רַבִּי זְעִירָא בָּשֶׁם מֵר עוֹקְבָא. אֵין מְקַדְדִין אֶלָּא בְּחֶבֶל שְׁלֶחֶם־שִׁשִּׁים אַמָּה. רַבִּי זִירָא בָּשֶׁם רַב חֲסָדָא אוֹמֵר. אֵין מְקַדְדִין לֹא בְּעָרֵי הַלְוִיִּם וְלֹא בַּמִּקְוֹת עֵגְלָה עֲרוּפָה. וְתֵינִיא כְּמֵאן דְּאָמַר. אֶלֶף אַמָּה מִגֶּרֶשׁ וְאַלְפִיִּים תַּחֲוִים שִׁבֶּת. בָּרַם כְּמֵאן דְּמַר. אֶלֶף מִגֶּרֶשׁ וְאַלְפִיִּים שְׂדוֹת וְכַרְמִים. כָּלִים לְמַדּוֹ לְתַחֲוִים שִׁבֶּת לֹא מִתַּחֲוִים עָרֵי לְוִיִּים. לְעִישָׁק אֵין מְקַדְדִין לְטַפִּילָה מְקַדְדִין.

וּמַנִּיין שְׁלֹא יְהוּ קוֹבְרִין בְּעָרֵי הַלְוִיִּים. רַבִּי אֲבָהוּ בָּשֶׁם רַבִּי יוֹסִי בַר חֲנִינָה. וּמִגֶּרֶשֶׁיהֶם יִהְיוּ לְבִהֶמְתָּם וְלִכְרוּשָׁם וְלִכָּל חַיֵּיהֶם: לַחַיִּים נִיתְּנוּ וְלֹא לְקַבְרָהּ נִיתְּנוּ.

¹⁴¹Rebbi Abba in the name of Rebbi Jehudah, Rebbi Ze'ira in the name of Mar Uqba: One strip-measures only with a rope of 50 cubits. Rebbi Ze'ira in the name of Rav Hisda: One strip-measures neither for the Levitic cities nor for the place of breaking the calf's neck. This would be acceptable for him who says, 1000 cubits of open space and 2000 cubits of Sabbath domain. But for him who says, 1000 cubits of open space and 2000 cubits of fields and vineyards, did they not learn the Sabbath domain from the Levitic cities? For the main thing one does not strip-measure; does one strip-measure for the derivative?

From where that one does not bury in Levitic cities? Rebbi Abbahu in the name of Rebbi Yose bar Hanina: *And their open spaces shall be for their animals, and their property, and all their lives*¹⁴². They were given for living; they were not given for burial.

141 This text is also in *Sotah* 5:5, explained in detail in Notes 120-123 and *Eruvin* 5 (22d l. 26). In these sources, the deviations from the text here and the inclusion of the remark about burial, irrelevant for the topics of the other quotes, make it clear that the text here is the source.

The problem is whether the 1000 or

2000 cubits of surrounding territory given to Levitic cities (*Num.* 35:4,5) have to be measured with a measuring rope hugging the terrain or with ropes following the terrain being held horizontally each time. This second way, called “strip-measuring” amounts to measuring the distances on a map onto which the geographic features

have been orthogonally projected. The Babli (*Eruvin* 58b) and also the Yerushalmi *Eruvin* (5, 22d l. 9) more reasonably require that strip-measuring be done by ropes four cubits long.

142 *Num.* 35:3. The Babli, 12a, exempts homicides from burial outside the town limits on the basis of Mishnah 11.