

VI.

BAVLI SANHEDRIN CHAPTER SIX

FOLIOS 42B-49A

6:1A-G

- A. [When] the trial is over, [and the felon is convicted], they take him out to stone him.
 - B. The place of stoning was well outside the court, as it is said, “Bring forth him who cursed [to a place outside the camp]” (Lev. 24:14).
 - C. One person stands at the door of the courthouse, with flags in his hand, and a horseman is some distance from him, so that he is able to see him.
 - D. [If] one [of the judges] said, “I have something to say in favor of acquittal,” the one [at the door] waves the flags, and the horseman races off and stops [the execution].
 - E. And even if [the convicted party] says, “I have something to say in favor of my own acquittal,” they bring him back,
 - F. even four or five times,
 - G. so long as there is substance in what he has to say.
- I.1** A. *Now was the place of stoning merely outside the court and no farther?*
- B. *And has it not been taught on Tannaite authority,*
 - C. *The place of stoning was outside the three camps?*
 - D. *Yes, it is as you say. But the reason that the author of the passage has stated matters this way is to indicate that if the court should go into session outside of the three camps, they establish a place of stoning outside the court, so that it will not appear as if the court is committing murder, or so that there may be the possibility of saving the man [by establishing some distance between the place at which the verdict is handed down and the place of stoning].*
- I.2** A. *What is the scriptural basis [for the rule that the place of stoning must be outside the three camps]?*
- B. *It is as our rabbis have taught on Tannaite authority:*
 - C. “Bring forth him who cursed [to a place] outside the camp” (Lev. 24:14).
 - D. That is, outside the three camps.

- E. You say that it is outside the three camps. But perhaps it means only outside a single camp?
- F. Here the phrase, "outside the camp" is used (Lev. 24:14) and elsewhere, with regard to bulls that were burned up [as whole offerings], it is said, "Outside the camp" (Lev. 12:21).
- G. Just as in that context, it means outside the three Israelite camps, so the same rule applies here.
- H. *And how do we know that is the case in that context?*
- I. *It is as our rabbis have taught on Tannaite authority:*
- J. "The whole bullock he shall carry away outside the camp" (Lev. 12:12).
- K. That means, outside the three camps.
- L. You say that it is outside the three camps.
- M. But may it not mean outside one camp?
- N. When, with respect to the bull offered for the community [in case of an unwitting public transgression], Scripture says, "Outside the camp," there is no need for Scripture to say so explicitly, for lo, it already has been stated, "And he shall burn it as he has burned the first bullock" (Lev. 12:12). Accordingly, the statement requires carrying it beyond the second camp.
- O. And when it says, with respect to the ashes [Schachter, p. 276, n. 12: beyond which the burning is to take place], "Outside the camp," which Scripture also need not make explicit, since it already has been stated, "Where the ashes are poured out shall it be burned" (Lev. 4:12), the statement further requires carrying it beyond the third camp.
- P. But why not interpret [the phrase, "without the camp" (Lev. 24:14), in the sense imputed to that phrase] in the context of sacrifices slaughtered outside [of the proper location, the Temple]? Just as, in that context, the meaning is "outside the one camp," so there the meaning would be, "outside the one camp"? [Hence the requirement is outside one camp, not all three].
- Q. It is more logical [to derive the meaning of the phrase] from [its sense in the context of] the bullocks that are to be burned, for [Schachter:] they have the following points in common: [1] "Bring forth ... without the camp" (Lev. 12:12), [2] the bringing forth is a prerequisite to the act, and [3] atonement. [Schachter, p. 277, n. 3: In both cases there is a positive command, "Bring forth." Further, bringing forth without the camp is a prerequisite for the fitting performance of the act, whereas in the case of sacrifices slaughtered outside the Temple court it is a transgression. Moreover, the burning of the bullock is an atonement for the high priest and the whole congregation, and stoning likewise is an atonement for the malefactor; but that feature is absent in the case of sacrifices slaughtered without.]
- R. Quite to the contrary, [he should have derived the meaning of the phrase] from [its sense in the context of] sacrifices slaughtered outside the Temple, [Schachter:] since they have the following in common: [1] human being, [2] sinners, [3] life is taken and [4] the application of the rule that the sacrifice is rendered refuse by an improper attitude of the officiating priest. [Schachter, p. 277, n. 4: "Without the camp" in both places refers to a human being, the blasphemer was to be taken without the camp, and a human being slaughtered without the camp, while in

connection with the bullocks that are burned, the phrase speaks of animals. The blasphemer and the one who slaughters outside the camp both commit sins, while the bullock is not a sinner. In both cases the leading “outside the camp” occurs in order to take life, that of the blasphemer and the sacrifice yet to be slaughtered, while the bullocks already have been slaughtered, while “without the camp” with respect to the bullocks speaks only of the case after they have been slaughtered. Finally, the law of unfitness caused by the improper intention of the officiating priest has no application to the two items at hand, neither to stoning — by definition — nor to sacrifices slaughtered outside of the Temple.]

S. *It is better [to derive the meaning of the word as it occurs in one context relating to a prerequisite to proper performance from its meaning in another such setting [as above Schachter, p. 277, n. 3].*

I.3 A. *[Dealing with the same issue], R. Pappa said, “Where did Moses dwell? It was in the camp of the Levites. And the All-Merciful said to him, ‘Bring forth him that has cursed outside the camp’ (Lev. 24:14), meaning outside the camp of the Levites.*

B. *“‘And they brought him who had cursed outside the camp’ (Lev. 24:14), means outside the camp of the Israelites [since specifying, once more, ‘outside the camp’ must have been intended to supply another meaning.]”*

C. *[No,] it was necessary to indicate the carrying out [of what God had commanded].*

D. *[No,] the carrying out is stated explicitly: “[43A] “And the Children of Israel did as the Lord had commanded Moses” (Lev. 24:23).*

E. *Then how do you deal with the following verse: “And they stoned him with a stone” (Lev. 24:23). [Schachter, p. 278, n. 7: It was not needed to show how the execution was carried out, as that was already stated in the words quoted above; hence by analogy this too needs a distinctive interpretation.]*

F. *It was required to serve the purpose of the following teaching on Tannaite authority:*

G. *“And they stoned him with a stone” (Lev. 24:23) —*

H. *“Him,” — and not his clothing, [so the man is naked].*

I. *“A stone,” for if he died after being struck by a single stone, [the rite] has been properly carried out.*

J. *And it was necessary to write both “stone” and “stones” [at Num. 15:36, the gatherer of woods is stoned with stones]. For had the All-Merciful written only, “stone,” I might have supposed that when the guilty party did not die from a blow by a single stone, we should not bring other stones with which to kill him. The All-Merciful had to write, “stones.” And if the All-Merciful had written only, “stones,” I might have supposed that in the first place, one has to bring two stones. So the All-Merciful wrote, “stone.”*

K. *Now [why does] the Tannaite authority at hand invoke the notion that “it is written” [that is, referring to the*

argument from analogy worked out in unit II] [while Pappa deduces the matter in a different way]?

- O. *This is what he meant to say, “If it had not been written, that is, even if the verse [cited by Pappa] were not available, I should have been able to derive the rule by analogy. Now that we are able to derive the rule from a verse of Scripture, of course there is no need to invoke an argument by analogy,”*

I.4 A. *R. Ashi said, “Where did Moses dwell? It was in the camp of the Levites. And the All-Merciful said to him, ‘Bring forth him that has cursed outside the camp’ (Lev. 24:14), meaning outside the camp of the Levites.*

B. *“‘Outside the camp’ — outside the camp of the Israelites.*

C. *“‘And they brought him who had cursed outside the camp’ (Lev. 24:14) this serves to indicate the carrying out [of what God had commanded].”*

D. *But the carrying out is stated explicitly: “And the children of Israel did as the Lord had commanded Moses” (Lev. 24:23).*

E. *That was necessary for two purposes, first to indicate [that the participants in the rite] lay hands [on the guilty party], and second to indicate [that the execution is carried out by pushing the man [off a high place].*

F. *The rabbis said to R. Ashi, “In your view, then, concerning all these references to ‘he shall take out,’ that are noted in the context of the bullocks that are to be burned, how do you interpret them?”*

G. *This is a problem.*

II.1 A. One person stands ... [M. 6:1C]:

B. *Said R. Huna, “It is obvious to me that the same rule applies to the stone which is used for the stoning, the tree on which the corpse is hung, the sword with which the criminal is put to death, and the scarf with which he is strangled. All of them are [paid for by the funds] of the community. What is the reason? Because we cannot say to a man to go and supply his own property so that he may be put to death.”*

C. *But, R. Huna asked, “As to the flag with which they wave and the horse that runs and holds up the execution [M. 6:1C], to whom do they belong? Since they serve to save the man himself, should they come from his own property? Or perhaps since the court is obligated to provide for saving the man, should these things come from public funds?”*

D. *And further, with regard to what R. Hiyya bar R. Ashi said R. Hisda said, “As to him who goes forth to be put to death, they give him a glass of wine containing a grain of frankincense, so as to distract him, as it is said, ‘Give strong drink to him who is ready to perish and wine to the bitter in soul’ (Pro. 31: 6).”*

E. *And it has also been taught on Tannaite authority,*

F. *The aristocratic women in Jerusalem would voluntarily provide it.*

G. *But if the aristocratic women had not voluntarily provided it, who would have done so?*

H. *Surely it comes from public funds, since it is written, "Give" — of what is theirs.*

III.1 A. [If one of the judges said, "I have something to say in favor of acquittal:] R. Aha bar Huna asked R. Sheshet, "If one of the disciples said, 'I have an argument to make in behalf of a verdict of innocence,' and then the disciple was struck dumb, what is the law?"

B. *R. Sheshet blew into his hands, "If someone was struck dumb? Even on the other side of the world [there may be someone who has an argument to give]! [Obviously, we deal with realities.]"*

C. *But in that case, no such statement has been made, while here, such a statement has been made.*

D. *What is the rule?*

E. *Come and take note of what R. Yosé bar Hanina said, "If one of the disciples who voted for acquittal died, they regard him as if he were living and taking a position on the case."*

F. *If he voted to acquit, that is so, but if he did not vote to acquit, that is not so.*

G. *That is obvious to me. Where there is a question for you is if he had said [that he would do so]. [Schachter, p. 280, n. 7: When R. Yosé states, "argued for acquittal," did he mean that he must have given reasons for his statement, or that he merely said he could do so, even if he was subsequently prevented from giving his reasons?]*

IV.1 A. And even if the convicted party says [M. 6:1E]:

B. *[Must there be substance in what he has to say] even the first and the second time? Has it not been taught on Tannaite authority:*

C. **[And even if the convicted party says, "I have something to say in favor of my own acquittal," they bring him back (M. 6:1E)], one time, two times, [T: Even three times],**

D. whether or not there is substance in what he has to say, they bring him back [T: pay attention to him]. From that point on, if there is substance in what he has to say, they bring him back [pay attention to him], and if not, they do not [pay attention to him] [T. San. 9:4H-J].

E. *Said R. Pappa, "Explain the passage, From the second time onwards, [that is, the third time and beyond]."*

IV.2. A. How do [the judges] know [whether or not there is substance]?

B. *Said Abbaye, "They send along a pair of rabbis. If there is substance in what he says, they affirm it, if not, they do not."*

C. *And let them send [a pair of rabbis] along with him to begin with?*

D. *Because he is frightened, he may not be able to say everything that he wants [so twice he is allowed to speak in his own behalf without preliminaries].*

The Talmud fairly systematically works its way through the Mishnah's rulings.

6:1H-J

- H. [If] they then found him innocent, they dismiss him,
- I. And if not, he goes out to be stoned.
- J. And a herald goes before him, crying out, “Mr. So-and-so, son of Mr. So-and-so, is going out to be stoned because he committed such-and-such a transgression, and Mr. So-and-so and Mr. So-and-so are the witnesses against him. Now anyone who knows grounds for acquittal — let him come and speak in his behalf!”

I.1 A. *Said Abbayye, “And it is necessary to say [at M. 6:1J], ‘On such and such a day, at such and such an hour, in such and such a place.’ Perhaps there are people who have knowledge of the matter and they will come and prove the witnesses against the man to be perjurers.”*

II.1 A. A herald goes before him [M. 6:1J]:

B. *Just before [the execution], but not prior to that time.*

[Schachter, p. 281-2, supplies a full translation of the following, which is omitted in censored editions of the Talmud and is not found in the standard printed text, translated here. What follows is verbatim Schachter’s translation.]

C. This implies, only immediately before [the execution], but not previous thereto. [In contradiction to this] it was taught: On the eve of the Passover Yeshu was hanged. For forty days before the execution took place, a herald went forth and cried, ‘He is going forth to be stoned because he has practiced sorcery and enticed Israel to apostasy. Any one who can say anything in his favor, let him come forward and plead on his behalf.’ But since nothing was brought forward in his favor he was hanged on the eve of the Passover!

D. Ulla retorted: Do you suppose that he was one for whom a defense could be made? Was he not a Mesith [enticer], concerning whom Scripture says, Neither shalt thou spare, neither shalt thou conceal him (Deu. 13: 9)? With Yeshu however it was different, for he was connected with the government [or royalty, i.e., influential].

E. Our Rabbis taught: Yeshu had five disciples, Matthai, Nakai, Nezer, Buni and Todah. When Matthai was brought [before the court] he said to them [the judges], Shall Matthai be executed? Is it not written, Matthai [when] shall I come and appear before God? (Psa. 42: 3). Thereupon they retorted: Yes, Matthai shall be executed, since it is written, Matthai [when] shall [he] die and his name perish (Psa. 41: 6). When Nakai was brought in he said to them: Shall Nakai be executed? It is not written, Naki [the innocent] and the righteous slay thou not (Exo. 23: 7)? Yes, was the answer, Nakai shall be executed, since it is written. In secret places does Naki [the innocent] slay (Psa. 10: 8). When Nezer was brought in, he said: Shall Nezer be executed? Is it not written, And Nezer [a twig] shall grow forth out of his roots (Isa. 11: 1). Yes, they said, Nezer shall be executed, since it is written, But thou art cast forth away from the grave like Nezer [an abhorred offshoot] (Isa. 14:19). When

Buni was brought in, he said: Shall Buni be executed? Is it not written, Beni [my son], my first born (Exo. 4:22). Yes, they said, Buni shall be executed, since it is written, Behold I will slay Bine-ka [thy son] thy first born (Exo. 4:23). And when Todah was brought in, he said to them: Shall Todah be executed? Is it not written, A psalm for Todah [thanksgiving] (Psa. 100: 1)? Yes, they answered, Todah shall be executed, since it is written, Whoso offereth the sacrifice of Todah [thanksgiving] honoreth me. (Psa. 50:23)

- II.2** A. **[43B]** Said R. Joshua b. Levi, “Whoever sacrifices his impulse to do evil and confesses on that account is regarded by Scripture as though he had honored the Holy One, blessed be he, in the two worlds, this world and the world to come, for it is written, ‘Who offers the sacrifice of confession honors me’ (Psa. 50:23).”
- B. R. Joshua b. Levi said, “When the Temple stood, a person would offer a burnt offering, and the reward of a burnt offering would go to his credit, or he would do the same with a meal offering, and the reward of a meal-offering would go to his credit.
- C. “But he who is humble is regarded by Scripture as though he had offered up all sacrifices.
- D. “For it is said, ‘The sacrifices of God are a broken spirit’ (Psa. 51:19).
- E. “And his prayers are not rejected, for it is written, ‘A broken and contrite heart, O God, you will not despise’ (Psa. 51:19).”
- Unit I complements M. 6:2J, and unit II.1 (in Schachter’s translation of the Munich manuscript) illustrates the law. Unit II.2 is attached because of the exegesis of Psa. 50:23.

6:2

- A. **[When] he was ten cubits from the place of stoning, they say to him, “Confess,” for it is usual for those about to be put to death to confess.**
- B. **For whoever confesses has a share in the world to come.**
- C. **For so we find concerning Achan, to whom Joshua said, “My son, I pray you, give glory to the Lord, the God of Israel, and confess to him, [and tell me now what you have done; hide it not from me.] And Achan answered Joshua and said, Truly have I sinned against the Lord, the God of Israel, and thus and thus I have done” (Jos. 7:19). And how do we know that his confession achieved atonement for him? For it is said, “And Joshua said, Why have you troubled us? The Lord will trouble you this day” (Jos. 7:25) — This day you will be troubled, but you will not be troubled in the world to come.**
- D. **And if he does not know how to confess, they say to him, “Say as follows: ‘Let my death be atonement for all of my transgressions.’”**
- E. **R. Judah says, “If he knew that he had been subjected to perjury, he says, ‘Let my death be atonement for all my sins, except for this particular sin [of which I have been convicted by false testimony]!’”**
- F. **They said to him, “If so, then everyone is going to say that, so as to clear himself.”**

I.1 A. *Our rabbis have taught on Tannaite authority:*

- B. The word, "I pray you," [at Jos. 7:19] means only supplication.
- C. When the Holy One, blessed be he, said to Joshua, "Israel has sinned" (Jos. 7:11), he said to him, "Lord of the world, Who sinned?"
- D. He said to him, "Am I a squealer? Go and cast lots."
- E. He went and cast lots, and the lot fell on Achan. He said to him, "Joshua, by lot are you going to accuse me? You and Eleazar the priest are the two great figures of the generation. If I were to cast lots concerning you, the lot would come up on one of you."
- F. He said to him, "I ask you not to cast doubt on the lots, for the Land of Israel is destined to be divided up by lot, as it is said, 'The land shall be divided by lot' (Num. 26:55). So make confession."
- G. *Said Rabina, "He enticed him in words: 'We are not we going to ask anything more from you than a mere confession. Confess to him and be exempt [from further penalty].'"*
- H. Forthwith: "Achan answered Joshua and said, Of a truth, I have sinned against the Lord, the God of Israel, and thus have I done" (Jos. 7:20).
- I. Said R. Assi said R. Hanina, "This teaches that Achan committed sacrilege on the occasion of three *herems*, twice in the time of Moses, and once in the time of Joshua, for it is written, 'I have sinned, and thus and thus have I done' (Jos. 7:20)."
- J. R. Yohanan said in the name of R. Eleazar b. R. Simeon, "It was five times, four in the days of Moses, and once in the days of Joshua, as it is said, 'I have sinned and thus and thus have I done' (Jos. 7:20) [a sentence containing five words in Hebrew (Schachter)]."
- K. What is the reason that he was not punished until that time?
- L. Said R. Yohanan in the name of R. Eleazar b. R. Simeon, "Because concealed transgressions were not punished until the Israelites had crossed the Jordan."

I.2 A. This matter is subject to dispute among Tannaite authorities:

- B. "The hidden things belong to the Lord our God, but the things that are revealed belong to us and our children for ever" (Deu. 29:28):
- C. Why [in the Hebrew version] are the words "to us and to our children" as well as the first letter of the word "for ever" dotted on the top?
- D. "This teaches that punishment was not inflicted on account of hidden sins until Israel had crossed the Jordan," the words of R. Judah.
- E. Said to him R. Nehemiah, "And is punishment ever [even afterward] inflicted on account of hidden sins? And has it not been stated, 'Until eternity' [but not before]?"
- F. "But just as punishment was not inflicted for hidden sins, so punishment was not inflicted for infractions committed in public, until the Israelites had crossed the Jordan."
- G. *Then [44A] why was Achan punished [prior to that time]?*
- H. *It was because his wife and children knew about it.*
- I. "Israel has sinned" (Jos. 7:11):

- J. Said R. Abba bar Zabeda, "Even though it has sinned, it remains Israel."
- K. *Said R. Abba, "This is in line with what people say: 'A myrtle standing among reeds is still a myrtle and still called a myrtle.'"*
- I.3 A.** "Yes, they have even transgressed my covenant which I have commanded them, yes, they have even taken of the devoted thing and have also stolen it, and dissembled also, and they have even put it among their own property" (Jos. 7:11):
- B. Said R. Ilai in the name of R. Judah bar Misparta, "This teaches that Achan violated all five books of the Torah, for the word 'yes' ['even'] is used five times."
- C. And said R. Ilai in the name of R. Judah bar Misparta, "Achan had covered up the sign of his circumcision. Here it is written, 'They have even transgressed my covenant' (Jos. 7:11), and elsewhere it is stated, 'He has broken my covenant' (Gen. 17:14). [So 'covenant' refers to the mark of circumcision.]"
- D. *That is perfectly obvious.*
- E. *What might have you maintained? [Achan] would not have violated a religious duty that fell upon his own body. So we are informed [that that was not the case and he violated even that requirement].*
- I.4 A.** "And because he has wrought a wanton deed in Israel" (Jos. 7:19):
- B. Said R. Abba bar Zabeda, "This teaches that Achan had sexual relations with a betrothed girl. *It is written here, 'Because he has wrought a wanton deed,' and it is written elsewhere, 'For she has wrought a wanton deed in Israel' (Deu. 22:21).*"
- C. *That is perfectly obvious.*
- D. *What might you have maintained? [Achan] would not have permitted himself to violate the law to such an extent. So we are informed [that that was not the case, and he did violate that rule as well].*
- E. *Rabina said, "His punishment is like that of a betrothed girl [who had committed adultery], that is, execution by stoning."* [Schachter, p. 287, n. 1: He should legally have been burned for taking of the things under the ban, cf. Jos. 7:15.]
- I.5 A.** *Said the exilarch to R. Huna, "It is written, 'And Joshua took Achan the son of Zerah and the silver and the mantle and the wedge of gold and his sons and his daughters and his oxen and his asses and his sheep and his tent and all that he had' (Jos. 7:24). While he had sinned, how had his sons and daughters sinned?"*
- B. *He said to him, "And by the same reasoning, we must ask, If he had sinned, how had all Israel sinned?"*
- C. "It is written, 'And all Israel with him' (Jos. 7:24).
- D. "But [Joshua took all Israel to the execution] in order to impose his rule on them, and here too it was for the same purpose. [But they were not in fact executed.]"
- I.6 A.** "And they burned them with fire and stoned them with stones" (Jos. 7:25):
- B. By two modes [of inflicting the death penalty]?
- C. Said Rabina, "What was suitable for burning was burned, what was suitable for stoning was stoned."
- I.7 A.** "And I saw among the spoil a goodly mantle of Shinar and two hundred shekels of silver" (Jos. 7:21):
- B. *Rab said, "It was [Schachter:] a silk mantle."*

C. *Samuel said, "It was a cloak dyed with alum."*

I.8 A. "And they laid them down before the Lord" (Jos. 7:23):

B. Said R. Nahman, "He came and threw them down before the Lord. He said, 'Lord of the world, on account of these will [as many people as constitute] a majority of the great sanhedrin [thirty-six of seventy-one] be put to death?

C. "For it is written, 'And the men of Ai smote of them about thirty six' (Jos. 7: 5)."

D. *And it has been taught on Tannaite authority, "It was actually thirty-six,"* the words of R. Judah.

E. Said to him R. Nehemiah, "Were they thirty six? And is it not stated, 'about thirty six'? But this refers to Jair, son of Manasseh, who was reckoned as equivalent in value to the majority of a sanhedrin."

I.9 A. Said R. Nahman said Rab, "What is the sense of the verse of Scripture, 'The poor uses entreaties, but the rich answers insolently' (Pro. 18:23)?

B. "'The poor uses entreaties' refers to Moses.

C. "'The rich answers insolently' refers to Joshua."

D. *What is the scriptural basis for that view? Should we say that it is because it is written, "And they laid them down before the Lord" (Jos. 7:23),* R. Nahman said "He came and threw them down before the Lord"?

F. Phineas did it that way, for it is written, "Then Phineas stood up and laid out prayer, and so the plague was stayed" (Psa. 106:30), and R. Eleazar said, "It is not said, 'And he prayed,' but 'And he laid out prayer,' teaching that he behaved contentiously with his creator.

G. "He came and cast [Zimri and Cozbi, Num. 25:7ff.] before the omnipresent, and said before him, 'Lord of the world, on account of these should twenty-four thousand Israelites fall?'

H. "For it is written, 'And those that died by the plague were twenty-four thousand' (Num. 25: 9)."

I. *But [it derives] from the following [that Joshua spoke in an insolent way,]* "[And Joshua said, Alas, O Lord,] why have you brought this people over the Jordan" (Jos. 7: 7).

J. Moses also spoke in that way, "Why have you dealt ill with this people?" (Exo. 5:22).

K. *Rather, [proof derives] from here:* "Would that we had been content to dwell beyond the Jordan" (Jos. 7: 7)!

I.10 A. "And the Lord said to Joshua, Get you up" (Jos. 7:10):

B. R. Shila expounded this verse, "Said the Holy one blessed be he to him, 'Your [sin] is more weighty than theirs. For I commanded, "And it shall be when you have passed over the Jordan you shall set up [these stones]" (Deu. 27: 4), but you went a distance of sixty miles [to Gerizim and Ebal after crossing the Jordan before setting them up].'"

C. *After he had gone out, Rab appointed an Amora [to deliver his message to those assembled], and interpreted [matters in this way]:* "'As the Lord commanded Moses his servant, so did Moses command Joshua, and so did Joshua; he left nothing undone of all that the Lord had commanded Moses' (Jos. 11:15).

- D. “What then do the words, ‘Get you up’ (Jos. 7:10) mean?
- E. “He said to him, ‘You were the one who caused them [to sin]’ [Schachter: p. 289, n. 3: by forbidding them the spoil of Jericho].
- F. “So [God] said to him in regard to Ai, ‘And you shall do to Ai and her king as you did to Jericho and her king, [only the spoil thereof and the cattle thereof shall you take as a prey].’ (Jos. 8: 2) [But Joshua was not to proclaim a ban of herem on Ai, as he had done on Jericho].”

- I.11** A. “And it came to pass when Joshua was by Jericho that he lifted up his eyes and looked ... And he said, No, but I am captain of the host of the Lord, I am now come. And Joshua fell on his face to the earth and bowed down” (Jos. 5:13-14):
- B. *How did he do this?* And has not R. Yohanan said, “It is forbidden for someone to greet his fellow by night, *for we take account of the possibility that it might be a shade*”? [*So how did Joshua greet the man and talk with him?*]
 - C. *That case is different, for [the man] had said to him,* “I am captain of the host of the Lord, I am now come ...” [thus identifying himself].
 - D. *But maybe he was lying?*
 - E. *We have a tradition that [a being such as this] will not express the Name of heaven in vain.*
 - F. **[44B]** [The stranger] said to him, “Last night you neglected the daily whole offering of the evening and now you have neglected the study of Torah. [Schachter, p. 289, n. 10: The conversation took place during the night when fighting was at a standstill, and they should have been studying the law.]
 - G. “On which account have you come?” [said Joshua.]
 - H. He said to him, “I have now come [on account of your failure to study Torah].”
 - I. Forthwith: “And Joshua lodged that night in the midst of the vale” (Jos. 5:13).
 - J. And R. Yohanan said “This teaches that he spent the night in the depths of the law.”
 - K. Said Samuel bar Onia in the name of Rab, “Study of the Torah is more important than offering the daily whole-offerings. For it is said, ‘I have now come ...’ (Jos. 5:13).”

- I.12** A. *Said Abbayye to R. Dimi, “How in the West do you apply this verse: ‘Go not forth hastily to strife, for what will you do in the end of it, when your neighbor has put you to shame. Debate your cause with your neighbor, but do not reveal the secrets of another’ (Pro. 25: 8-9)?”*
- B. [He said to him,] “When the Holy One, blessed be he, said to him, ‘Go and tell Israel, An Amorite was your father, and a Hittite was your mother’ (Eze. 16: 3), the [Schachter:] intercessory spirit [Gabriel] said before the Holy One, blessed be he, ‘Lord of the world, if Abraham and Sarah come and stand before them, will you speak this way to them and humiliate them?’
 - C. ““Debate your cause with your neighbor, but do not reveal the secret of another!”“
 - D. *And does [Gabriel] have so much freedom [to speak to God in this way]?*
 - E. Indeed so, for said R. Yosé b. R. Hanina, “He bears three names: intercessor, sealer, and locker — intercessor, because he intercedes and argues against the

Most High, sealer, because he seals off the sins of Israel, locker, because once he has closed [discourse on those sins], no one again can reopen discourse about them.”

- F. “Had you prepared your prayer before your trouble came” (Job. 36:19):
- G. Said R. Eleazar, “A person should always get his prayer ready for trouble, for had Abraham not gotten his prayer for trouble ready between Beth El and Ai [Gen. 12:8] not a single one of (the wicked of) Israel should have been left as a remnant and survivor [in the time of Joshua, when the battle of Ai was fought].”
- H. R. Simeon b. Laqish said, “Whoever puts forth great effort in prayer down below will have none to oppose him up above.”
- I. R. Yohanan said, “A person should always seek mercy that all [the heavenly beings] may strengthen his power, so that he will not have opposition up above.”

II.1 A. And how do we know that his confession achieved atonement for him [M. 6:2C]?

- B. *Our rabbis have taught on Tannaite authority:*
- C. And how do we know that his confession achieved atonement for him?
- D. For it is said, “And Joshua said, Why have you troubled us? The Lord will trouble you this day” [Jos. 7:25].

III.1 A. “This day you are troubled, but you will not be troubled in the world to come” [M. 6:2C].

- B. And it is written, “And the sons of Zerah are Zimri, Ethan, Heman, Calcol, Darda, five in all” (1Ch. 2: 6).
- C. *What is the sense of “five in all”?*
- D. **They are five in all destined for the world to come [cf. T. San. 9:5D-F].**
 - E. *Here it is Zimri, but elsewhere Achan [Jos. 7:24].*
 - F. Rab and Samuel:
 - G. One said, “His name was Achan, and why was he called Zimri? Because he acted like Zimri.”
 - H. The other said, ‘His name was Zimri, and why was he called Achan? Because he [Schachter:] wound the sins of Israel about them like a serpent [Achan = snake in Greek, echidna].”

IV.1 A. And if he does not know how to confess ... R. Judah says ... so as to clear themselves [M. 6:2D-F]:

- B. And why not let them clear themselves?
- C. It is so as not to discredit the court and the witnesses.

IV.2 A. *Our rabbis have taught on Tannaite authority:*

- B. **There was the case of a man who went out to be executed. He said, “If I have committed this sin, then let my death not be atonement for all my sins. But if I did not commit this sin, let my death be atonement for all my sins, and the court and all Israel are guiltless, but let the witnesses against me not enjoy forgiveness forever.”**

- C. **Now when sages heard this statement, they said, “It is not possible to bring him back, because the verdict had already been decreed. But let him be put to death, and let [Schachter] the chain [of responsibility] ever hang on the neck of the witnesses” [T. San. 9:5C].**
- D. *It is self-evident [that he cannot by his confession retract the court’s decree], for he surely has not got the power to do so.*
- E. *It is indeed necessary to indicate that fact, to deal with a case in which the witnesses retract.*
- F. *But if the witnesses retract, what difference does it make?*
- G. *Once a witness has made his statement, he cannot then go and retract and make some other statement.*
- H. *It is necessary to deal with a case in which [the witnesses give a reason for what they have said, as in the case of Baya the tax collector].*

[Schachter, pp. 292-3, n. 6: In the case in question he had denounced the tax defaulters to the Government, an act which, of course, aroused the enmity of the people. According to Rashi, the subject matter of the text is connected with this name as follows: The funeral of the said collector coincided with that of a very pious man, but accidentally the coffins were exchanged, so that the honor intended for the Rabbi was paid to the other, and vice versa. An explanation of the happening was given by the Rabbi in a dream to one of his pupils who was disturbed at the occurrence, and he also informed him that severe punishment lay in store for Simeon b. Shetah in the world to come for the neglect of his duty in tolerating eighty women in Ashkelon guilty of sorcery. Simeon, on being informed about it, took a serious view of the matter and had them executed. The relatives of these women, however, inflamed with a passion for revenge, plotted against his son, charging him with a capital crime, as a result of which he was sentenced to death. On his way to the place of execution the condemned man protested his innocence so vehemently that even the witnesses were moved to admit the falsity of their evidence, giving as ground for their former act their feelings of enmity against Simeon b. Shetah. Yet their latter statement was not accepted, according to the law expounded in the text, that a witness is not to be believed when he withdraws a former statement.]

The Mishnah’s reference to Achan explains why the former of the Talmud has developed a sizable conglomerate of materials on that subject.

6:3

- A. **[When] he was four cubits from the place of stoning, they remove his clothes.**
- B. **“In the case of a man, they cover him up in front, and in the case of a woman, they cover her up in front and behind,” the words of R. Judah.**
- C. **And sages say, “A man is stoned naked, but a woman is not stoned naked.”**
- I.1** A. **[45A] Our rabbis have taught on Tannaite authority:**
- B. **[“When he was four cubits from the place of stoning, they remove his clothes.]**

- C. **“In the case of a man, they cover him up in front [M. 7:3A-B] in part, and in the case of a woman, in front and in back in part.**
- D. **“For a woman is wholly subject to licentious thoughts,” the words of R. Judah [T. adds: which he said in the name of R. Eliezer].**
- E. **And sages say, “A man is stoned naked, but a woman is not stoned naked” [M. 7:3C] [T. San. 9:6B-D].**
 - F. *What is the scriptural basis for the view of rabbis?*
 - G. Scripture says, “And stone him” (Lev. 24:14).
 - H. *What is the sense of “him”?*
 - I. *If I maintain, “him” but not “her,” is it not written, “You shall bring forth that man or that woman” (Deu. 17: 5)? But the sense must be him without clothing, but her with clothing.*
 - J. R. Judah says, “‘... him’ — without his clothing, and there is no difference between a man and a woman [in this regard]. [Schachter, p. 294, n. 1: Since the emphatic word, ‘him,’ serves for one exclusion, that of clothes, it cannot serve as excluding women from that requirement.]”

- I.2 A.** *Does this then imply that rabbis take account of licentious thoughts, while R. Judah does not? Lo, we have heard the traditions in exact reverse, for so we have learned in the Mishnah: And a priest grabs her clothes. If they tear, they tear, and if they are ripped up, they are ripped up. He does so until he bares her breast. And he tears her hair apart [Num. 5:18]. R. Judah says, “If she had pretty breasts, he did not let them show, and if she had pretty hair, he did not pull it apart” [M. Sot. 1:4E-G].*
- B. *Said Rabbah, “The reason for the other rule is this: the woman may go forth vindicated in court, and [if beforehand they saw her nude] the junior priests will lust after her. In the present case, lo, the woman is stoned. [No one takes account of necrophilia.]”*
- C. *And should you maintain that by looking at her nude, the men will think lustful thoughts about some other woman [which we should want to forestall], has not Rabbah stated, “We have learned that the sexual desire is aroused only by what the eyes actually see.”*
- D. *Said Raba, “[Shall we then say that] the statement by R. Judah contradicts another statement of R. Judah, while the statement of rabbis at hand does not contradict another statement of rabbis? [Surely not!]”*
- E. *Rather, said Raba, “The statement of R. Judah does not contradict another statement of R. Judah, as we have just explained, and the statement of rabbis likewise does not contradict another statement of rabbis. Here what is the scriptural basis [for rabbis’ view that one must humiliate the woman, even if she is not unclean]? ‘So that all women may be taught not to do after your lewdness’ (Eze. 23:48). [Accordingly, there is no consideration shown to the accused woman.] But in that other instance, [namely, stoning the woman to death], you have no greater warning than that.”*
- F. *Now should you wish to propose that both be done to her [namely, humiliation as well as stoning], said R. Nahman said Rabbah bar Abbuha, “Said Scripture, ‘You*

shall love your neighbor as yourself' (Lev. 19:18). Select for him a praiseworthy form of death [and do not needlessly humiliate him in the process]."

- G. *May I propose that Tannaite authorities differ with regard to the view of R. Nahman?*
- H. *No, all parties concur with the view of R. Nahman. But here the dispute at hand is that one authority [rabbis] holds the position that humiliation is worse than the pain of death, and the other party [Judah] holds that the pain of death is worse than humiliation.*

Unit I.1 provides a scriptural basis for the Mishnah-paragraph's rule, and unit I.2 then compares the present rulings of the named authorities with positions taken by them in a parallel case.

6:4A-G

- A. **The place of stoning was twice the height of a man.**
- B. **One of the witnesses would push him over from the hips, so [hard] that he turned upward [in his fall].**
- C. **He turned him over on his hips again [to see whether he had died].**
- D. **[If] he had died thereby, that sufficed.**
- E. **If not, the second [witness] would take a stone and put it on his heart.**
- F. **[If] he died thereby, it sufficed.**
- G. **And if not, stoning him is [the duty] of all Israelites, as it is said, "The hand of the witnesses shall be first upon him to put him to death, and afterward the hand of all the people" (Deu. 17: 7).**

I.1 A. *It has been taught on Tannaite authority:*

- B. **And with his own height, lo, the place of stoning was three heights of a man [T. San. 9:6F].**
- C. *Do we require such a height? And an objection was raised on the basis of the following: [It is all the same whether one digs a pit, a trench, cavern, ditches, or channels: he is liable. Why then is it written, A pit (Exo. 21:33)]? Just as a pit [under discussion] is one which is [sufficiently deep] to cause death, namely, ten handbreadths in depth, so anything which is [sufficiently deep] to cause death will be at least ten handbreadths in depth [M. B.Q. 5:5F-H].*
- D. [The reason that three times a human being's height is required here], said R. Nahman said Rabbah bar Abbuha, "is that Scripture has said, 'You will love your neighbor as yourself' (Lev. 19:18), [meaning,] select for him a pleasant form of death [and do not inflict needless suffering]."
 - G. *If so, let it be even higher?*
 - H. *That would cause disfigurement [of the corpse].*

II.1 A. **One of the witnesses would push him over [from the hips] [M. 6:4B]:**

- B. *Our rabbis have taught:*
- C. How do we know that [the death penalty is executed] by throwing someone down?
- D. Scripture says, "And he shall be cast down" (Exo. 19:13).
- E. And how do we know [that the death penalty is executed] by stoning?

- F. Scripture says, “He shall be stoned” (Exo. 19:13) [Cf. Deu. 22:24].
- G. And how do we know that [it is executed] both by stoning and by throwing down?
- H. Scripture says, “Stoning, he shall be stoned or thrown down” (Exo. 19:13).
- I. And how do we know that if he died after being thrown down, the matter is accomplished?
- J. Scripture says, “...or cast down” (Exo. 19:13).
- K. And how do we know that that is to be done in the generations to come?
- L. **[45B]** Scripture says, “And stoning, he shall be stoned” (Exo. 19:13).

III.1 A. And if not, the second witness would take a stone [and puts it on his heart] [M. 6:4E]:

- B. Takes it? [All by himself?!] *And has it not been taught on Tannaite authority:*
- C. **R. Simeon b. Eleazar says, “There was a stone there, [a load so heavy that] it was a burden for two to carry. One would take it and put it on his heart. If he died thereby, it sufficed” [T. San. 9:6G-H].**
- D. *But from your viewpoint, the cited passage poses a problem, for it states that while [it was a load so heavy that] it was a burden for two to carry, nonetheless, one takes it and puts it on his heart.*
- E. *But the point is that he lifts it up with his friend’s help and he himself throws it, so that it may drop with force.*

IV.1 A. And if not, stoning him is the duty of all Israelites [M. 6:4G]:

- B. *But has it not been taught on Tannaite authority:* It was never necessary for someone to do it a second time?
- C. *Did I say that anyone did it? I said that if necessary, [that is how it would be done].*
- E. Said a master, “A stone was there...! *But has it not been taught on Tannaite authority:*
- F. **All the same are the stone with which [a person] is stoned, the tree on which he is hung, the sword with which he is killed, and the scarf with which he is strangled — all of them are buried with him [T. San. 9:8A II].** [So how can we say that a particular stone was used regularly for this purpose?]
- G. *The sense is that they make ready and bring others to take their place.*
- H. They are buried with him?
- I. *But has it not been taught on Tannaite authority:*
- J. **They are not buried with him [cf. T. San. 9:8A]?**
- K. *Said R. Pappa, “What is the sense of ‘with him?’ In the area affected by his [corpse].”*

IV.2 A. Said Samuel, “If [after they have testified], the hand of the witnesses should be cut off, the condemned is exempt from the penalty of stoning.

- B. *“What is the scriptural basis for this rule? We require that ‘the hand of the witness shall be first upon him to put him to death’ (Deu. 17: 7), and [that condition] would not be [fulfilled in the present case].”*
- C. *In that case, how would you deal with the testimony of witnesses who are without hands to begin with? In such a case would they be ineligible to testify?*

- D. *That case is different, for Scripture has said, “The hand of the witnesses” (Deu. 17: 7), with the sense of the “hand that they had already possess.” [Schachter, p. 1 297, n. 12: But if they lack hands at the outset they are eligible to testify.]*
- E. *An objection was raised [based on the following passage]:*
- F. **[He whose trial ended and who fled and was brought back before the same court — they do not reverse the judgment concerning him and retry him].**
- G. **In any situation in which two get up and say, “We testify concerning Mr. So-and-so that his trial ended in the court of such-and-such, with Mr. So-and-so and Mr. So-and-so as the witnesses against him,”**
- H. **lo, this one is put to death [M. Mak. 1:10A-D].** [Schachter, p. 297, n. 14: He is executed even in the absence of the original witnesses. This proves that the injunction in Deu. 17:7 is not indispensable but only desirable when possible.]
- I. *Samuel interpreted the case to speak of a situation in which the witnesses were the ones who had originally testified.*
- J. *But do we require that every verse be carried out just as it is written?*
- K. *And has it not been taught on Tannaite authority:*
- L. *“He who killed him shall surely be put to death, he is a murderer” (Num. 35:21).*
- M. *I know only that he is to be put to death with the mode of execution that is stated in Scripture in that regard.*
- N. *How do we know that, if you cannot put him to death in the mode of execution prescribed by Scripture, you may put him to death in any other means by which you can do so?*
- O. *Scripture says, “He who killed him shall surely be put to death” — by any means.*
- P. *But that case is different because Scripture has made it explicit, “He shall surely be put to death....”*
- Q. *Then let us construct an argument from that case [Schachter, p. 298, n. 6: that just as there, where he should be decapitated, he is nevertheless executed by any means possible, so here too, where he should be hurled down by the hands of the witnesses, he is still to be executed even if their hands have been cut off].*
- R. *It is because you have references to “murderer” and “avenger of blood,” that is, two verses of Scripture that serve to make the same point, and in any case where two verses of Scripture serve to make the same point, one cannot derive [any further arguments from them].*
- S. *As to the murderer, it is just as we said now.*
- T. *As to the avenger of the blood, what is [the source of the same lesson]?*
- U. *It is as it has been taught on Tannaite authority:*
- V. *“The avenger of blood shall himself put the murderer to death” (Num. 35:19).*
- W. *It is the religious duty that the avenger of the blood do it.*
- X. *But how do we know that if there is no avenger of the blood, the court appoints an avenger of the blood for [the deceased]?*

- Y. As it is said, “When he meets him” (Num. 35:19) — under all circumstances. [Schachter, p. 298, n. 12: This shows that the provisions of an avenging kinsman are not limited to the precise statement of the Bible.]
- Z. *Said Mar Kashisha, son of R. Hisda, to R. Ashi, “And do we not require that the verse of Scripture be carried out in exactly the manner in which it is written?”*
- AA. *“And have we not learned in the Mishnah:*
- BB. **[If] one of them was maimed in the hand, lame, dumb, blind, or deaf,**
- CC. **he is not declared a rebellious and incorrigible son,**
- DD. **since it is said, “Then his father and his mother will lay hold of him” (Deu. 21:20) — so they are not maimed in their hands;**
- EE. **“and bring him out” — so they are not lame;**
- FF. **“and they shall say” — so they are not dumb;**
- GG. **“This is our son” — so they are not blind;**
- HH. **“He will not obey our voice” — so they are not deaf [M. San. 8:4 F-L].**
- II. *“What is the reason for this rule?”*
- JJ. *“Is it not because we have to carry out the verse exactly as it is written?”*
- KK. *No, that case is different, because the entire verse of Scripture is superfluous [and so has to be carried out literally, but in other cases that would not be the rule].*
- LL. *Come and take note:*
- MM. If the apostate city does not have a street [to which to carry out the goods of the people], it cannot be condemned as an apostate city,” the words of R. Ishmael.
- NN. R. Aqiba says, “If it has no street, they make a street for it [for that purpose].”
- OO. *The dispute up to this point is only that one authority maintains that we require the street to be there to begin with, and the other authority takes the view that a street made just now falls into the category of one that has been there from the beginning. But all parties surely concur that we require that the verse be carried out just as it is written.*
- PP. *It is a [principle subject to] Tannaite dispute.*
- QQ. *For we have learned in the Mishnah:*
- RR. [With respect to Lev. 14:14, which has the priest daub blood on the thumb, big toe, or right ear of the leper as part of the rite of purification,] **if the leper did not have a thumb, big toe, or right ear, he can never have purification.**
- SS. **R. Eliezer says, “One puts the blood on their place, and has carried out his obligation.”**
- TT. **R. Simeon says, “If he put it on the left side [instead of on the right], he has carried out his obligation” [M. Neg. 14:9E-G].**

The Talmud works its way through the Mishnah-paragraph’s statements, unit I.1 takes up M. 6:4A, unit II.1, M. 6:4B, unit III.1, M. 6:4E. unit IV.1, M. 6:4G.

Then unit IV.2 introduces a speculative question, invited by the topic of the Mishnah-paragraph but hardly demanded by it.

6:4H-M

- H. “All those who are stoned are hung on a tree [afterward],” the words of R. Eliezer.
 - I. And sages say, “Only the blasphemer and the one who worships an idol are hung.”
 - J. “As to a man, they hang him facing the people, and as to a woman, her face is toward the tree,” the words of R. Eliezer.
 - K. And sages say, “The man is hung, but the woman is not hung.”
 - L. Said to them R. Eliezer, “And did not Simeon b. Shetah hang women in Ashkelon?”
 - M. They said to him, “He hung eighty women, and they do not judge even two on a single day.”
- I.1** A. *Our rabbis have taught on Tannaite authority:*
- B. “And if he be put to death, then you shall hang him on a tree” (Deu. 21:22).
 - C. Might one not think that all those who are put to death are hung?
 - D. Scripture states, “For he is hanged because of a curse against God” (Deu. 21:23).
 - E. “Just as the one who blasphemes [is executed] by stoning, so all who are subject to execution by stoning [are hung],” the words of R. Eliezer [=M.6:4H].
 - F. Sages say, “Just as the blasphemer is one who has denied God’s rule, so all who have denied God’s rule [are hung],” [=M.6:4I].
 - G. *What is at issue?*
 - H. *Rabbis interpret scripture in accord with the rule of the general and the particular, and R. Eliezer interprets it in accord with the rule of extension and limitation.*
 - I. *Rabbis interpret scripture in accord with the rule of the general and the particular, thus:*
 - J. “And if he be put to death, then you shall hang him” (Deu. 21:22) *constitutes a general rule.*
 - K. “Because of a curse against God” (Deu. 21:23) *constitutes a particularization [of that general rule].*
 - L. *Now if the two clauses had been stated side by side, we should have reached the conclusion that the general rule is limited to what is made explicit in the particularization [of the rule].*
 - M. *So only this one [who has cursed God] but no one else [would have been encompassed]. [46A] But seeing that they are given separately from one another, the formulation serves to encompass one who commits idolatry, for such a one is parallel to [the blasphemer] in every aspect.*
 - N. *And R. Eliezer interprets the passage in accord with the rule of extension and limitation, thus:*
 - O. “And if he be put to death, then you shall hang him” (Deu. 21:22) *constitutes an extension.*

- P. “Because of a curse against God” (Deu. 21:23) *then constitutes a limitation on the foregoing extension.*
- Q. *If the two phrases had been stated side by side, they would together have served to encompass only the one who is guilty of idolatry, who falls into the same category in every aspect.*
- R. *But seeing that the two are given separately from one another, the construction serves to encompass all others who are put to death by stoning.*

II.1 A. As to a man, they hang him ... [M. 6:4J].

- B. *What is the scriptural basis for the position of rabbis?*
- C. Scripture states, “And you shall hang him” (Deu. 21:22) — him but not her.
- D. And R. Eliezer? “Him” — without his clothing.
- E. *And rabbis? That is indeed the case. But Scripture has said, “And if a man has committed a sin” (Deu. 21:22 — a man but not a woman.*
- F. *And how does R. Eliezer interpret the phrase “And if a man has committed a sin”?*
- G. *Said R. Simeon b. Laqish, “In his view that serves to exclude the stubborn and rebellious son [meaning that a man may be dealt with in this way, but not a son who has not reached manhood. Furthermore, a son cannot be declared rebellious once he has reached manhood at thirteen].*
- H. *But has it not been taught on Tannaite authority:*
- I. “A stubborn and rebellious son first is stoned and then hanged,” the words of R. Eliezer. [This excludes Simeon’s thesis on Eliezer’s reading of the cited verse.]
- J. Rather, said R. Nahman bar Isaac, “It serves [in Eliezer’s view] to encompass a stubborn and rebellious son.
- K. “What is the scriptural basis for this view? Scripture has said, ‘And if a man has committed a sin’ — a man and not a son.
- L. “Sin — referring to one who is put to death on account of his [already committed] sin — excluding a stubborn and rebellious son, who is put to death on account of what he will become [not what he now has done].
- M. “Accordingly, you have one exclusionary phrase after another such phrase, and when there is one exclusionary phrase after another such phrase, it serves only to encompass [what the two phrases on their face would exclude. Hence the stubborn and rebellious son is subject to the stated law, just as Eliezer maintains in the Tannaite teaching.]”

III.1 A. Said to them R. Eliezer, “And did not Simeon b. Shetah hang women in Ashkelon?” [M. 6:4L]

- B. Said R. Hisda, “That teaching applies only when there are two different modes of inflicting the death penalty, but if it is a single mode of inflicting the death penalty, they do judge [any number of capital cases in a single day].
- C. *But lo, the case of Simeon b. Shetah involved a single mode of inflicting the death penalty, and lo, they have said to him, that they judge only [one capital case a day].*
- D. *Rather, if the matter was stated, this is how it was stated:*
- E. [Said R. Hisda.] “That teaching applies only in the case of a single form of the death penalty that looks like two different forms of the death penalty.

- F. *“What would such a case be? For example, if there were two transgressions [punishable by death].*
- G. *“But if it is a single form of the death penalty and a single transgression, they do judge [any number of capital cases on one day].”*
- H. *R. Adda b. Ahbah objected, “**They do not judge two [capital] cases in one day, even an adulterer and an adulteress [T. San. 7:2A].**”*
- I. *R. Hisda interpreted this passage [H] to speak of the daughter of a priest and her lover [executed by different means], or of the daughter of a priest and the witnesses who come to prove that the witnesses against her are conspiratorial perjurers [in which, again the witnesses and the girl are punished in different ways].*

III.2 A. *It has been taught on Tannaite authority:*

- B. R. Eliezer b. Jacob says, “I heard that a court may inflict floggings and penalties not in accord with the law of the Torah.
- C. “But this is not so as to violate the teachings of the Torah, but so as to establish a fence around the Torah.
- D. “And there is the precedent concerning one who rode a horse on the Sabbath in the time of the Greeks, and they brought him to court and stoned him, not because it was appropriate, but because the times required it.
- E. “And there was another precedent concerning a man who had sexual relations with his wife under a date tree, and they brought him to court and flogged him, not because it was appropriate, but because the times required it.

Unit I takes M. up M. 5:3H-I, providing the expected scriptural basis for the Mishnah’s rulings. Unit II moves on to M. 6:4J and does the same. Units III.1, 2 deal with the extra-legal penalties imposed by Simeon b. Shetah, M. 6:4M. So the entire composition is constructed around the Mishnah’s statements.

6:4N-S; 6:5-6

- N. **How do they hang him?**
 - O. **They drive a post into the ground, and a beam juts out from it, and they tie together his two hands, and thus do they hang him.**
 - P. **R. Yosé says, “The post leans against a wall, and then one suspends him the way butchers do it.”**
 - Q. **And they untie him forthwith.**
 - R. **And if he is left overnight, one transgresses a negative commandment on his account, as it is said, “His body shall not remain all night on the tree, but you will surely bury him on the same day, for he who is hanged is a curse against God” (Deu. 21:23).**
 - S. **that is to say, On what account has this one been hung? Because he cursed the Name, so the Name of Heaven turned out to be profaned.**
- M.6:4N-S**
- A. **Said R. Meir, “When a person is distressed, what words does the Presence of God say? As it were: ‘My head is in pain, my arm is in pain’.**

- B. “If thus is the Omnipresent distressed on account of the blood of the wicked when it is shed, how much the more so on account of the blood of the righteous?”
- C. And not this only, have [sages] said, but whoever allows his deceased to stay unburied overnight transgresses a negative commandment.
- D. But [if] one kept [a corpse] overnight for its own honor, [e.g.,] to bring a bier for it and shrouds, he does not transgress on its account.
- E. And they did not bury [the felon] in the burial grounds of his ancestors.
- F. But there were two graveyards made ready for the use of the court, one for those who were beheaded or strangled, and one for those who were stoned or burned.

M. 6:5

- A. When the flesh had rotted, they [they do] collect the bones and bury them in their appropriate place.
- B. And the relatives [of the felon] come and inquire after the welfare of the judges and of the witness.
- C. As if to say, “We have nothing against you, for you judged honestly.”
- D. [46B] And they did not go into mourning.
- E. But they observe a private grief, for grief is only in the heart.

M. 6:6

I.1 A. *Our rabbis have taught on Tannaite authority:*

- B. Had Scripture stated, “If he has sinned, then you shall hang him,” I might have maintained that first the felon is hung, and then he is put to death, just as the government does it.
- C. Scripture accordingly says, “And he be put to death, then you shall hang him” (Deu. 21:22).
- D. The felon is put to death and afterward hung.
- E. How so?
- F. They delay matters until close to sunset, then they complete the court process and put him to death, then they hang his body.
- G. One person ties him up and then another unties him, so as to carry out the religious duty of hanging [the body].

I.2 A. *Our rabbis have taught on Tannaite authority:*

- B. “[Then you shall hang him on] a tree” (Deu. 21:22).
- C. May I suppose that that would apply whether the tree is cut down [from the ground] or whether it is attached to the ground?
- D. Scripture says, “You shall surely bury him” (Deu. 21:22).
- E. That applies to [a tree] that now lacks only burial, excluding use of one that lacks both felling and burial. [So the tree has to have been cut down before it is used.]
- F. R. Yosé says, “It refers to one that lacks only burial, excluding this one, which lacks both uprooting and burial. [Thus the post should not be driven into the ground.]”
- G. *And rabbis? They treat uprooting as of no consequence.*

II.1 A. That is to say, On what account has this one been hung? Because he cursed the Name [M. 6:4S]:

B. *It has been taught on Tannaite authority:*

C. R. Meir says, ["T.: Why does Scripture say, 'For one who is hanged is cursed by God' (Deu. 21:23)?"]

D. "The matter is comparable to two brothers, who were identical twins in one town. One was made king [over the whole world], and the other joined a gang of thieves.

E. "[T.: After a while this one who had gone out to join the thieves was caught, and] the king commanded to crucify him on a cross.

F. "And everyone who saw him said, 'It looks as though the king is being crucified.' The king commanded them to cut him down.

G. "[T.: Therefore it is said, 'For one who is hanged is a curse of God]." [T. San. 9:7A-E].

III.1 A. R. Meir said, "[When a person is distressed...]" [M. 6:5A]:

B. *What is the basis [of Meir's interpretation of the word 'a curse of ...' (QLLT)]?*

C. *Said Abbaye, "It is as if he said, 'It is not light' (QL LYT)."*

D. *Said Raba to him, "If so, what he should have said, is, 'My head is heavy for me, my arm is heavy for me.'"*

E. *Rather, said Raba, "It is like one who said, 'Everything is light for me (QYL LY).'" [Schachter, p. 306, n. 11: Euphemistically for 'heavy,' as no one is inclined to speak evil in connection with his own person.]*

F. *But the word under discussion [a curse of ...] is needed to make its own point [and is not available for exegetical purposes].*

G. *If so, Scriptural should have said, "One who curses." Why state matters as "a curse of ..."?*

H. *And might I say that the whole verse serves for that one purpose?*

I. *If so, [in line with Raba's view] the passage should have said "lightness of" (QLT). Why [write the word with two L's] (QLLT)? It is to indicate that two [meanings are to be derived from the word].*

IV.1 A. And not this only have sages said, [but whoever allows his deceased to stay unburied overnight transgresses a negative commandment] [M. 6:5C]:

B. Said R. Yohanan in the name of R. Simeon b. Yohai, "How on the basis of Scripture do we know that one who keeps his deceased overnight violates a negative commandment? Because Scripture says, 'You shall surely bury him' (Deu. 21:23).

C. "On the basis of the cited verse [we learn that] one who keeps his deceased overnight violates a negative commandment."

D. *There are those who say:*

E. Said R. Yohanan in the name of R. Simeon b. Yohai, "Where in the Torah do we find an allusion to burial [as the required way of dealing with the deceased]?"

F. "Scripture says, 'You shall surely bury him' (Deu. 21:23).

- G. “On the basis of the cited verse we derive an indication in the Torah concerning the requirement of burial.”

Burial as the Preferred Mode of Disposition of the Deceased

- IV.2** A. *Said King Shapur to R. Hama, “When in the Torah is there proof that one has to bury the deceased?”*
- B. *He remained silent and said nothing.*
- C. *Said R. Aha bar Jacob, “The world is handed over to idiots. He should have said to him, ‘For you shall surely bury’ (Deu. 21:23) [which surely indicates burial is required]!”*
- D. *[But that passage may merely indicate] that one should make a casket [for the deceased].*
- E. *[But it is stated] “You shall surely bury him” (Deu. 21:23).*
- F. *[To King Shapur] that would not have carried [a general] meaning.*
- G. *Then he should have said to him that [Scripture reports that] the righteous are buried.*
- H. *[Shapur] could have said that that was the custom in general.*
- I. *Since the Holy One blessed be he buried Moses [it should have indicated to Shapur that Scripture requires burial].*
- J. *That too was so as not to diverge from accepted practice.*
- K. *Come and take note: “And all Israel shall make lamentation for him and bury him” (1Ki. 14:33).*
- L. *That too was so as not to diverge from accepted practice.*
- M. *“They shall not be lamented, nor shall they be buried; they shall be as dung upon the face of the ground” (Jer. 16: 4).*
- N. *That too was so as to diverge from accepted practice.*
- IV.3** A. *The question was raised: Is burial [performed] for [the purpose of avoiding] disgrace or for [the sake of] atonement?*
- B. *What difference does it make?*
- C. *It would matter in a case in which one said, “I do not wish to be buried.” If you say it is to avoid disgrace, he would not have the power [to inflict such a disgrace on his relatives]. But if you say it is for the sake of atonement, then he means that he does not want atonement [so even if he is buried, he does not attain forgiveness (Schachter, p. 308, n. 9)].*
- D. *What [then is the purpose]?*
- E. *Come and take note [of the fact] that the righteous are buried [so the biblical narrative indicates]. Now if you say [that the reason is] to afford atonement, do the righteous need atonement?*
- F. *Indeed they do, for it is written, “For there is not a righteous man upon earth who does good and sins not” (Qoh. 7:20).*
- G. *Come and take note: “And all Israel shall make lamentation for him, and they shall bury him, [for only he of Jeroboam shall come to the grave]” (1Ki. 14:13).*
- H. *Now if you should maintain that it was so that he should have atonement, this proves that the others also should be buried so that they should have atonement.*

- I. *This one, who was a righteous man, is the one who should have atonement. But this proves that those should not have atonement.*
- J. *Come and take note: "They shall not be lamented, neither shall they be buried" (Jer. 16: 4). [Schachter, p. 309, n. 1: If burial is a means of expiation, why should they too not attain it?]*
- K. *It is so that they should not have atonement [for their sins].*
- IV.4 A.** *The question was raised: Is the eulogy for the sake of the living or for the sake of the dead?*
- B. *What difference does it make?*
- C. *It helps us to deal with a case in which someone said before dying, "Do not pronounce a eulogy for me." Or it may serve to require the fee for the eulogy to be paid by the heirs, [for they will have to do so if it is for the deceased, but they may dispense with it if it is for their sake].*
- D. *Come and take note: "And Abraham came [from afar] to mourn for Sarah and to weep for her" (Gen. 23: 2).*
- E. *If you say it is for the honor of the living, then for the honor of Abraham did they hold up Sarah's burial?*
- F. *Sarah herself wanted it that way so as to honor Abraham on her account.*
- G. *Come and take note: "And all Israel shall make lamentation for him and they shall bury him" (1Ki. 14:13).*
- H. *If you say it is for the sake of the living, is his family worthy for such honor to be paid on their account?*
- I. *The righteous want people to be honored on their account.*
- J. *Come and take note: "They shall not be lamented, nor shall they be buried" (Jer. 16:14).*
- K. *The righteous do not want evil-doers to be honored on their account.*
- L. *Come and take note: "You [Zedekiah] shall die in peace and with the burnings of your fathers, the former kings who were before you, so shall they make a burning for you, and they shall lament you, saying, Ah! Lord" (Jer. 34: 5).*
- M. *Now if you say that it is for the honor of the living, what difference did they make to him [since Zedekiah would be the last king of Judah]?*
- N. *This is the sense of what he said to him: "Through you will Israel be honored, as they were honored through your fathers."*
- O. **[47A]** *Come and take note: "In whose eyes a vile person is despised" (Psa. 15: 4). This speaks of Hezekiah, King of Judah, who dragged the bones of his father on a bier of ropes. Now if it is for the sake of the living, why [did he do it]? [Schachter, p. 310, n. 4: Surely he had no right to deprive the living of their due.]*
- P. *It was so that his father might be have atonement.*
- Q. *And on account of atonement for his father, did he deprive Israel of honor?*
- R. *The Israelites themselves were pleased to give up honor for the sake of [his atonement].*
- S. *Come and take note: [Judah the Patriarch] said to [his testators], "Do not hold eulogies for me in the various towns [but only before large audiences in cities]."*

Now if you say that is for the sake of the living, what difference did it make [to Judah the Patriarch]?

- T. *It was so as to give greater honor to the Israelites [by having large audiences gathered for his sake.]*
- U. *Come and take note of the following: But if one kept the corpse overnight for its own honor, for example, to bring a bier for it and shrouds, he does not transgress on its account [M. 6:5D].*
- V. *Is not the sense of “for its honor,” “for the honor of the deceased]?”*
- W. *No, it is for the honor of the living.*
- X. *And for the honor of the living do people keep the deceased overnight?*
- Y. *Indeed so. When the All-Merciful said, “His body shall not remain all night upon the tree” (Deu. 21:22), that rule applies to a case in which it would be humiliating. But here, where there is no intent to humiliate the corpse, it is not objectionable.*
- Z. *Come and take note: If [a mourner] kept the body overnight for the deceased’s honor, to let word get out to the small towns, to bring professional mourners, to bring a casket and shrouds, then he does not violate the rule, for whatever he does is only for the honor of the deceased. [Hence the oration is for the sake of the deceased.]*
- AA. *This is the sense of the passage: Whatever one does for the honor of the living does not constitute a disgrace for the deceased.*
- BB. *Come and take note: R. Meir says, “This is a good sign for the deceased, indicating that penalty is exacted from him in this world when he dies [and not afterward]: that he is not given a eulogy; that he is not buried; that a wild beast drags his carcass; or that it rains on his bier. This would be a good omen for the deceased.” This proves that it is for the sake of the deceased [that the eulogy is spoken].*
- CC. *It does indeed prove it.*

V.1 A. They did not bury [the felon in the burial grounds of his ancestors] [M. 6:5E-F]:

- B. *Why such arrangements [as having two burial grounds, M. 6:5F]/*
- C. *It is because people do not bury a wicked person next to a righteous person.*
- D. *For R. Aha bar Hanina said, “How [on the basis of Scripture] do we know that people do not bury a wicked person next to a righteous person? As it is said, ‘And it came to pass as they were burying a man that behold, they spied a band and they cast the man into the sepulchre of Elisha, and as soon as the man touched the bones of Elisha he revived and stood up on his feet’ (2Ki. 13:21). [This was the old prophet of Beth El, so the wicked man was not to be buried with a righteous one (Schachter, p. 311, n. 9)].”*
- E. *Said R. Pappa to him, “But perhaps it was to carry out [the request of Elisha to Elijah], ‘Let a double portion of your spirit be upon me’ (2Ki. 2: 9)? [Since Elijah had raised one person from the dead, Elisha wanted to raise two, but he had only raised the son of the Shunamite. Then the desired proof is not at hand.]”*

- F. *He said to him, "If that is the case, what is the sense of the following, that is taught on Tannaite authority: 'He rose on his feet but he did not go home'?"*
- G. *"Then how do you deal with, 'Let a double portion of your spirit be upon me'? Where did he resurrect [two people]?"*
- H. *He said to him, "Said R. Yohanan, 'It is that he healed the leprosy of Naaman, which is accounted as equivalent to death. 'For it is said, "Let her not, I pray you, be as one who is dead"' (Num. 12:12)."*
- K. *And just as they do not bury a wicked person next to a righteous person, so they do not bury a grossly wicked person next to a mildly wicked person.*
- V.2** A. *And why not set up four burial grounds [to cover the four modes of execution]?*
- B. **Two burial grounds** *is what has been learned as the tradition in this case.*
- V.3** A. *Said Ulla said R. Yohanan, "If one [inadvertently] ate forbidden fat, and, [in penance,] set aside an animal for an offering, but [before actually sacrificing the beast] apostatized, and then repented, once the sacrifice has been put off, it has been put off [it is invalidated since apostates cannot offer sacrifices], and remains so. [It cannot now be used for the original, inadvertent sin]."*
- B. *It has been stated on Amoraic authority along these same lines:*
- C. *Said R. Jeremiah said R. Abbahu said R. Yohanan, "If one [inadvertently] ate forbidden fat and in penance set aside an animal for an offering, but then lost his sanity, and then regained his sanity, once the sacrifice that has been put off, it has been put off [it is invalidated, since the man, when not in command of his senses, cannot bring the offering], and remains so [and cannot now be used for the original, inadvertent sin]."*
- D. *And it is necessary [to have both teachings]. For had we learned only the former, we might have concluded that, because the man himself is responsible, through his own actions, for the sacrifice's being put off, [the animal cannot again be used], but here, where the animal has been set aside in the natural course of events, I might say that it is as if the man who had set it aside was merely sleeping [and in no way bears responsibility for the postponement of the use of the animal in expiation for his sin]. [So the beast may be used.] And if we had learned only the present case, it is because the man has not the power to recover, but in the first case, where the man has the power to revert, one might hold [that the animal has] not [been permanently invalidated]. Accordingly, it is necessary to have both rulings.*
- E. *Said R. Joseph, "We too have learned on Tannaite authority [the same point as has just now been made, namely]: **If in [the apostate city] there were offerings intended for use on the altar, they are left to die. Things which are consecrated for the upkeep of the house are to be redeemed [T. San. 14:5A-B].** And in that connection we reflected as follows: Why should they be left to die? If [the inhabitants of the apostate town] are put to death, do they not have atonement? So let the animals [afterward] be offered to the Most High! Then [the reason that they are not offered up] surely is that, once they have been put off [and not offered up, the animals at the moment belonging to the apostate*

town], they are permanently put off [and may not be offered at all, just as Yohanan has said in the foregoing].”

- F. *Said Abbaye to him, “And do you think that if a wicked person dies in his wicked state, he gains atonement through his death? If he dies in his wicked state, he does not gain atonement through his death. For R. Shemaiah taught, ‘Is it possible [to suppose] that, if a priest’s parents left the ways of the community, he should contract corpse uncleanness [in order to bury them, although he otherwise may not contract corpse-uncleanness]? Scripture states, ‘Among his people,’ Lev. 21: 2). The rule [that the priest may contract corpse-uncleanness in connection with the burial of his parents] applies to [a parent] who had performed deeds appropriate to his people.’ [This would indicate that merely because a person has died, he does not gain expiation for his sins. The parent after death remains a sinner. There has to be penitence.]”*
- G. *Said Raba to [Abbaye], “And you will compare the case of one who is put to death in his wicked state to that of one who died in his wicked state? In the case of the one who dies in his wicked state, since he dies in a natural way, he does not have atonement on that account. By contrast, if he is put to death in his wicked state, he does have atonement on that account. You may know that that is the case, for it is written, ‘A psalm of Asaph. O God, the heathen are come into your inheritance, they have defiled your holy temple, they have given the dead bodies of your servants to be food for the fowl of the heaven, the flesh of your saints to the beasts of the earth’ (Psa. 79:1-2). Who are these servants and saints? Is the meaning of ‘saints’ not those who actually are your saints? Those who are referred to as ‘your servants’ are those who to begin with were liable to be put to death, and, once they have been put to death, are now called ‘servants’?”*
- H. *Said Abbaye to [Raba], “Do you propose to compare [47B] those who have been put to death by the government to those who have been put to death by an [Israelite] court? As to those who have been put to death by the government, since they have been put to death without a proper trial, [their death] serves as atonement for them. But those who have been put to death by an Israelite court, since they have received a proper trial, when they are put to death, [their death] does not serve as atonement for them. You may know that that is the case, for we have learned in the Mishnah: **They did not bury the felon in the burial grounds of his ancestors [M. 6:5E].** Now if you maintain that once such a one has been put to death, it serves as atonement, then let him be buried [in the family burial plot]!”*
- I. *[He replied] “We require both execution and [shameful] burial [to attain atonement].”*
- J. *R. Ada bar Ahbah objected, “**And they did not go into mourning. But they observe a private grief, for grief is only in the heart [M. 6:6D-E].** Now if you maintain that once [the felon] has been buried [in a shameful manner], that serves as suitable atonement, then let the relatives mourn!”*
- K. *[He replied] “We require that the flesh rot [before we concede that there has been expiation of sins], for note that the passage goes on: **When the flesh had rotted, they then collect the bones and bury them in their appropriate place [M. 6:6A].**”*

L. *That is decisive proof of the proposition.*

V.4 A. R. Ashi said, “At what point do the rites of mourning commence? It is from when the grave is closed with the grave-stone.

B. *“When is atonement achieved? When the body has seen a bit of the pain of the grave.*

C. *“Therefore, if [the rites] have been suspended [as in the case of the convicted felon], they are suspended [and not required].*

D. *“If so, why must the flesh be consumed [before secondary burial]? [as stated at M. 6:6A]?”*

E. *“Because to do otherwise is not possible. [One cannot get at the bones before the flesh is destroyed.]”*

V.5 A. *As to the grave of Rab, people would take dirt from it for an attack of fever on the first day.*

B. *They came and informed Samuel. He said to them, “They do quite properly. It is ordinary dirt, and ordinary dirt does not become forbidden [as something belonging to the dead,] for it is written, ‘And he cast the dust thereof on the graves of common people’ (2Ki. 23: 6).*

C. *“The dirt of the grave of ordinary people is compared to idolatry. Just as, when an idol is attached to the ground, it is not forbidden, for it is written, ‘You shall utterly destroy all the places where the nations that you are to dispossess served their gods, upon the high mountains’ (Deu. 12: 2), meaning, gods upon the high mountains, but not mountains which themselves serve as their gods,*

D. *“so here too what is attached [to the ground] is not forbidden.”*

E. *An objection was raised [based on the following]: He who digs a grave for his father and who then went and buried him elsewhere — lo, this one [who dug the grave] may never be buried in [that grave]. [The grave was prepared for a particular corpse and cannot be used for someone else. It is then assumed that the dirt of the grave is subject to the same prohibition and may not be used for any other purpose. That would represent an objection to Samuel, C-D].*

F. *Here, with what sort of case do we deal? With a grave that is built up [and is not part of the ground at all. The reason the grave is prohibited at E is simply that it was prepared by the man for his father. It would be disrespectful to use it for some other purpose.]*

G. *Come and take note: A new grave [not assigned to any particular corpse] is permitted [to be used] for benefit. But if an abortion has been placed there, it is forbidden [to be used] for benefit. [And the parallel is that even natural soil is forbidden in this context (Schachter, p. 316, n. 1)].*

H. *Here too we deal with a grave that is built up [and not part of the ground at all].*

I. *Come and take note. **It comes out that one may say, there are three kinds of graves: a grave that is discovered, a grave that is known, and a grave that inconveniences the public. A grave that is discovered — one may empty it out. [Once] one has emptied it out, its place is clean, and it is permitted for benefit. A grave that is known — one may not empty it out. [If] one has emptied it out, it is unclean, and it is forbidden [to be used] for benefit [T.***

Oh. 15:9]. A grave that inconveniences the public — one may empty it out. Once one has emptied it out, its place is clean, but it is forbidden for benefit.

[This proves that natural soil can also be forbidden (Schachter, p. 316, n. 11)].

N. *Here too we deal with a grave that is built up.*

O. *But is it permitted to empty out a grave that is discovered? It may be that a neglected corpse is buried there, and a neglected corpse takes possession of the place in which it is buried.*

P. *The case of a neglected corpse is different, because it is subject to public knowledge [once it is found and buried].*

V.6 A. *It has been stated on Amoraic authority:*

B. *He who weaves a shroud for a corpse —*

C. *Abbaye said, “It is forbidden [to use for some other purpose].”*

D. *Raba said, “It is permitted.”*

E. *Abbaye said, “It is forbidden [to use for some other purpose, because] designating [an object for a given purpose] matters. [Schachter, p. 316, n. 15: Mere designation for the dead subjects it to the same law as though it has actually been employed for the purpose].”*

F. *Raba said, “It is permitted, [because] designating [an object for a given purpose] does not matter.”*

G. *What is the scriptural basis for the view of Abbaye?*

H. *He establishes an analogy based on the use of the word “there” both here [in connection with the deceased, “And Miriam died there and was buried there” (Num. 20: 1)] and there, in the case of the heifer whose neck was broken [on account of the discovery of a neglected corpse, Deu. 21:4, “And he shall break the heifer’s neck there”]. Just as in the case of the rite of the heifer whose neck is to be broken, once the act of designation [for the present purpose] has taken place, a prohibition [affects whatever has been designated, e.g., the heifer], so in the case of what is designated [for the dead, the mere act of designation] imposes a prohibition [so that what is designated for the dead cannot be used for some other purpose.]*

I. *And Raba derives the meaning of the word, “there,” [used with reference to Miriam, Num. 20:1], from the meaning of the use of the word “there” in connection with idolatry. [In the latter case it is as follows: “You shall surely destroy all the places there where the nations which you are to dispossess serve their gods” (Deu. 12: 2).] Just as, in the case of what is used for idolatry, mere designation for that purpose does not impose a prohibition on what is designated, so here the mere act of designation does not impose a prohibition.*

J. *And what is the reason that Raba does not derive the sense of the word from the case of the heifer whose neck is to be broken?*

K. *He will say to you, “[48A] We derive the rule governing objects that are actually used, and not merely designated, from the rule covering equivalent objects [and objects designated for idolatry are not affected by the designation, but are affected only by actual use], so we must exclude the case of the heifer whose neck is to be broken, which itself [by mere designation] falls into the category of what is sanctified.”*

- L. *And what is the reason that Abbayye does not derive the sense of the word from the case of idolatry?*
- M. *He will say to you, “We derive the rule for ordinary usage from a matter of ordinary usage, and we do not derive the rule for ordinary usage from idolatry, which is uncommon. [Ordinary usage involves what is permitted by law, and that would include both the preparation of shrouds for the dead and also the rite of breaking the heifer’s neck, but it would not include idolatry.]” [Schachter, p. 317, n. 7: Mere designation in connection with idolatry does not impose a prohibition, because, since it is abnormal (forbidden), one may repent and never use it for the purpose. But in the case of the other two, if permitted (and certainly if obligatory), once they are designated for that purpose they will certainly be used, unless unforeseen circumstances intervene. Therefore the mere designation suffices to give them the same status as though they had actually been used.]*
- N. *An objection was raised on the basis of the following: **A head-wrap, which is susceptible to become unclean with midras-uncleanness [imparted through pressure of standing, lying, or sitting upon an object by a person afflicted with the modes of uncleanness specified at Lev. 15], and which [a woman] put on a scroll [and so will not be used for sitting, lying, or standing, by such a person and therefore serves a different purpose entirely] is then rendered insusceptible of midras-uncleanness [by the shift in the use to which the object is put] but falls into the category of susceptibility to uncleanness [on account of corpse-uncleanness or other uncleanness]. [The head-wrap will no longer serve for sitting, so it loses its former susceptibility. But it remains susceptible to other forms of uncleanness.] [M. Kel. 28:5A].** [What this proves is that designation of an object for a given purpose does matter, and that supports Abbayye’s view and contradicts Raba’s.]*
- O. *[Raba] may reply, [That is the case if she actually assigned it and also put it on [tied it around] the scroll.*
- P. *Why both assigning it and tying it around the scroll? [Why not merely the former of the two actions?]*
- Q. *The answer is in accord with what R. Hisda said. For R. Hisda said, “As to a scarf which one designated for use in tying up phylacteries, if one tied up phylacteries in it, it is forbidden to tie up coins in it. If one designated it for that purpose but did not tie anything up in it, or tied something up in it but did not designate it for that purpose, [it is permitted for to use it for coins].*
- R. *As to the position of Abbayye, who holds that an act of designation matters, if one designated it for use for phylacteries, even though he did not tie something up in it, or if he tied something up in it, [and] if he also designated it for that purpose, it is indeed forbidden. But if he did not designate it for that purpose, it is not forbidden.*
- S. *Come and take note: As to a sepulchre which one built for a person still alive — it is permitted to derive benefit from it. If one added to it a single row of stones for a deceased person, it is forbidden to derive benefit from it. [The row of stones is not of consequence, hence the original designation mattered.]*
- T. *Here with what case do we deal? With a case in which the corpse was actually buried.*

- U. *If so, what does it matter that one added a row of stones? Even if he had not added a row of stones, one could not make use of the sepulchre.*
- V. *It is necessary to indicate that item, to show that even if the body was removed, [the prohibition remains valid].*
- W. Rafram b. Papa said R. Hisda said, "If one can pick out that particular row of stones, he takes away the stones and it is permitted to use the tomb again."
- X. *Come and take note:* He who digs a grave for his father and went and buried him in another grave — lo, this person may not be buried there ever. [This shows that mere designation matters.]
- Y. *The reason is [not designation but] the honor owing to the father. That is surely reasonable, for are not the concluding lines of the same passage:* Rabban Simeon b. Gamaliel says, "Even in the case of one who hews stones for the burial of his father and then goes and buries him somewhere else — lo, this one may not be buried in a grave using those stones ever." *Now if you say that the operative consideration is the honor owing to the father, there are no problems. But if you say that it is because of the principle that designation matters [and so affects the stones at hand], would someone take the view that yarn spun for weaving a shroud [is forbidden? Surely not!]* [Schachter, p. 319, n. 10: For Abbayye only maintains that if a shroud is actually woven and so fit for its purpose, it is forbidden through mere designation. But what yarn is spun, although its ultimate destiny is to be woven into a shroud, is not forbidden, since, as yarn, it is useless for its purpose. Similarly, when stones are prepared for building a tomb, they should not become forbidden. Hence the prohibition must be on account of filial respect, not designation.]
- Z. *Come and take note:* As to a newly-dug grave, it is for permitted [to be used] for benefit [in some other context]. If one placed an abortion in it, it is forbidden [to be used] for benefit. If one placed an abortion there, it is indeed [forbidden], but if one did not do so, it is not forbidden. [Hence mere designation for use as a grave does not make any difference.]
- AA. *[No, that is not the correct conclusion]. The same law applies if one has not placed an abortion in the grave. But matters are so formulated to exclude the view of Rabban Simeon b. Gamaliel, who has said, "Abortions do not take possession of the grave into which they are placed." Thus, matters are so formulated as to make clear that they do.*
- BB. *Come and take note:* **The surplus of money collected for burying the dead is used for the dead. The surplus of money collected for a particular deceased person is used for his heirs [M. Sheq. 2:5/O-P].** [The surplus funds collected for burying a poor man must be used for other poor deceased. What is collected for a specific person may be used by the heirs for any other purpose, once the costs of the funeral are met. Hence designation does not matter.]
- CC. *Here with what case do we deal? With a case in which the funds were collected while the man was yet alive.*
- DD. *But the Mishnah-passage at hand does not say so, [for it says:* **The surplus of money collected for burying the dead is used for the dead. The surplus of money collected for a particular deceased person is used for his heirs [M. Sheq. 2:5/O-P].**

- EE. *But it was taught on Tannaite authority in that connection:* If they collected for the dead without further specification, this would constitute the surplus of funds collected for the dead, which is assigned to other deceased in need. If they collected for a particular deceased person, this is money the surplus of which goes to the heirs.
- FF. *But in accord with your reasoning, let me cite the concluding passage [which shows that designation does make a difference]:* **R. Meir says, “The surplus of money collected for a particular deceased person is left over until Elijah comes.” R. Nathan says, “With surplus of money collected for a particular deceased person, they build a sepulchre on his grave. [M. Sheq. 2:5Q-R]. Or they sprinkle perfume before his bier” [T. Sheq. 1:120].**
- GG. *But Abbaye explains [this passage] in accord with his view, and Raba explains [this passage] in accordance with his view.*
- HH. *Abbaye explains this passage in accord with his view, maintaining that all parties concur that designation makes a difference. The first of the three authorities holds that what is needed by the deceased falls into the domain of the deceased, and what is not needed by the deceased does not fall into the domain of the deceased. [And, Abbaye continues,] R. Meir is in doubt whether or not that latter money falls into the domain of the deceased, on which account no one should touch that money until Elijah comes. And R. Nathan finds it self-evident that the excess does fall into the domain of the deceased, on which account one builds a sepulchre on his grave.*
- II. *Raba explains matters in accord with his basic principle. All parties concur that designation makes no difference. The first of the three authorities maintains that while [the people who collect the funds] have humiliated [the deceased] [by making a public collection for burying him], he forgives the embarrassment for the sake of his heirs [so they may benefit from the surplus]. R. Meir is in doubt about whether or not the deceased forgives the humiliation [of a public collection for his burial], on which account no one should touch the money until Elijah comes. R. Nathan finds it self-evident that the deceased does not forgive the humiliation, on which account one should purchase a sepulchre for his grave or perfume to scatter before his bier.*
- JJ. *Come and take note:* If the deceased’s father and mother were putting clothing on the corpse [as an expression of grief] it is a religious duty for others to save them [so that they not go to waste]. [But here we have designation of the objects for the corpse, and as we see, it does not make a difference].
- KK. **[48B]** *[But that is not really designation at all,] because what they did in that case they did out of grief.*
- LL. *If so, take account of that which is taught in this regard on Tannaite authority:* Rabban Simeon b. Gamaliel said, “Under what circumstances? In a case in which the clothing has not actually touched the bier. But if the clothing has actually touched the bier, it is forbidden [to remove it].” [If the act occurred only because of grief, there has been no formality of designation at all. Why should they be forbidden? This challenges the explanation just now offered.]

- MM. *Ulla explained the passage, “This statement speaks of a bier that is buried with the corpse, [and the clothing is forbidden] because it might be confused with the shrouds of the deceased.”*
- NN. *Come and take note:* In the case of a bag which one made for phylacteries, it is forbidden to put money into it. If one put phylacteries into [a bag not made for that purpose], it is permitted to put money into it. [Designation makes a difference in the former case.]
- OO. *Read the passage to mean,* If he made it and put phylacteries in it, then it is forbidden to put money into it, and this accords with the position of R. Hisda [requiring both designation and actual use].
- PP. *Come and take note:* If one says to a craftsman, “make me coverings for a [holy] scroll or a bag for phylacteries, before one has made use of them for the Most High, one is permitted to make secular use of them. Once one has made use of them for the Most High, one is no longer permitted to make secular use of them. [Mere designation makes no difference, contrary to Abbaye’s view.]
- QQ. *In point of fact, there is a dispute among Tannaite authorities, for it has been taught on Tannaite authority:* If one covered phylacteries with gold or attached to them the hide of an unclean beast, the phylacteries are invalid. If one attached to them the hide of a clean beast, they are valid. That is the case, even though one did not tan the hide for that purpose. Rabban Simeon b. Gamaliel says, “Even in the case of the hide of a clean beast, the phylacteries are invalid unless one tanned the hide for the purpose of the use of phylacteries. [In the mind of the anonymous authority, designation makes no difference, so there is no reason to require it. That would be Raba’s position. Simeon b. Gamaliel takes the view that designation does make a difference, and that is Abbaye’s view.]
- RR. *Said Rabina to Raba, “Is there any locale in which people set the corpse aside while weaving shrouds for it?”*
- SS. *He said to him, “Indeed so, in the case, for example, of the deceased of Harpania.”*
- TT. *Maremar gave an exposition, “The decided law accords with the view of Abbaye.”*
- UU. *And rabbis say, “The decided law accords with the view of Raba.”*
- VV. *And the decided law accords with the view of Raba.*

V.7 A. *Our rabbis have taught on Tannaite authority:*

- B. Those put to death by the court — their property goes to their heirs.
- C. But those put to death by the king — their property goes to the king.
- D. And R. Judah says, “Those put to death by the king — their property goes to their heirs.”
- E. They said to R. Judah, “It says, ‘Behold he [Ahab] is in the vineyard of Naboth, where he has gone down to take possession’ (1Ki. 21:18).”
- F. He said to them, “It was because he was the son of his father’s brother, [and] it was appropriate [to come] to him as an inheritance.”
- G. “And did [Naboth] not have many children?”

- H. He said to them, “And did he not kill both him and his children, as it is said, ‘Surely I have seen yesterday the blood of Naboth and the blood of his sons, says the Lord; and I will requite you in this plat, says the Lord’ (2Ki. 9:26).”
- I. *And as to rabbis [how do they deal with the statement that they were killed]?*
- J. *That refers to the sons who would have come forth from him.*
- K. *Now from the viewpoint of him who has said that their property goes to the king, that is in line with the following verse of Scripture: “Naboth cursed God and the king” (1Ki. 21:13). [Schachter, p. 324, n. 1: This points to his culpability for treason to the king in addition to blasphemy, which is punished by the court; hence his estate would fall to the crown]. But from the viewpoint of him who has said that their property goes to the heirs, why specify that he cursed the king too?*
- L. *And in accord with your reasoning, why mention that he had cursed God? But it was to outrage [the judges], and here too, it was to outrage [the judges] [Schachter, p. 324, n. 8: to make the crime appear more heinous].*
- M. *From the viewpoint of him who has said that the estate goes to the king, that is in line with the following verse of Scripture: “And Joab fled to the tent of the Lord and caught hold of the horns of the altar” (1Ki. 2:28), and it is said, “And he said, No, but I will die here” (1Ki. 2:30). [Schachter, p. 324, n. 10: He declined to be tried by the king so that his estate might not be confiscated]. But from the position of him who says that the estate goes to the heirs, what difference did it make to him?*
- N. *It would be to gain time. [Schachter, p. 324, n. 11: He wished to gain the time which it would require to take his message to the king and bring back an answer.]*
- O. “And Benaiah brought back word to the king saying, Thus said Joab and thus he answered me” (1Ki. 2:30):
- P. He said to him, “Go tell him, ‘You will not do two things to this man [me]. If you kill me, you have to accept the curses with which your father cursed me [for the murder of Abner, 2Sa. 3:29. That curse then was to be Joab’s punishment (Schachter, p. 324, n. 14)].
- Q. “But if you [Schachter:] are unwilling to submit thereto, you must let me live and suffer from your father’s curses against me.”
- R. “And the king said to him, Do as he has said, and fall upon him and bury him” (1Ki. 2:21). [Solomon thus accepted the curses (Schachter)].

- V.8 A.** Said R. Judah said Rab, “All of the curses that David issued against Joab were carried out on David’s own descendants.
- B. “‘Let there not fail from the house of Joab one who has an issue or is a leper or leans on a staff or falls by the sword or lacks bread’ (2Sa. 3:29).
- C. “‘One who has an issue’ pertains to Rehoboam, for it is written, ‘And king Rehoboam made the effort to get up on his chariot to flee to Jerusalem’ (1Ki. 12:18), and it is written, ‘And what chariot one who has an issue rides on shall be unclean’ (Lev. 15: 9).
- D. “‘A leper’ pertains to Uzziah, for it is written, ‘But when he was strong, his heart was lifted up so that he did corruptly and he trespassed against the Lord his God, for he went into the Temple of the Lord to burn the incense

upon the altar of incense' (2Ch. 26: 6) and it is written, 'And the leprosy broke forth on his forehead' (2Ch. 26:19).

- E. "“He who leans on his staff” refers to Asa [2Ki. 15:8], for it is written, ‘Only in the time of his age he suffered from his feet’ (1Ki. 15:23).”
- F. In this regard R. Judah said R. Said, “He had gout.”
- G. *Mar Zutra, son of R. Nahman, asked R. Nahman, “What is it?”*
- H. He said to him, “It is like a needle in raw flesh.”
- I. *How did he know it?*
- J. *If you wish, I may propose that he had personally felt it; and if you wish I shall say that he had learned it from his master; and if you wish, I shall say, because “The secret of the Lord is with those who fear him, and his covenant to make them know it” (Psa. 25:14).*
- K. [Resuming Judah’s statement in Rab’s name,] ““Josiah, as it is written, ‘And the archers shot at king Josiah’ (2Ch. 35:23).”
- L. In this regard said R. Judah said Rab, “They turned his entire body into a sieve.”
- M. [Resuming Judah’s statement in Rab’s name,] ““Who lacks bread’ refers to Jechoniah. For it is written, ‘And for his allowance, there was a continual allowance given him by the king’ (2Ki. 25:30).”
- N. *Said R. Judah said Rab, “This is in line with what people say: ‘[49A] Be cursed but do not curse [someone else].’”*

V.9 A. [Reverting to V.7R:] *They brought Joab to court. [Solomon] said to him, “Why did you kill Abner?”*

- B. *He said to him, “I was redeemer of the blood [shed by him] of Asahel [his brother]. [Schachter, p. 326, n. 5: Joab’s brother, who pursued Abner when he fled for his life, after having been defeated by Joab at Gibeon while fighting for Ishbosheth, Saul’s surviving son, 2Sa. 2:23].”*
- C. He said to him, “Asahel was in pursuit, [since Abner killed him in self-defense, 2Sa. 2:8-32 (Schachter)].”
- D. He said to him, “He should have saved himself by cutting off one of his limbs, [but he did not have to kill him.]”
- E. He said to him, “He could not do it.”
- F. *He said to him, “Now if at exactly the fifth rib he had the capacity [to take aim], as it is written, ‘Abner with the hinder end of the spear smote him at the waist’ (2Sa. 2:23),*
- G. *(on which R. Yohanan said, “It was at the fifth rib, where the gall bladder and liver are suspended” [Schachter]),*
- H. *“should he not have been able to aim at one of his limbs [instead of killing him]?”*
- I. *[Solomon] said, “Let us move on from the case of Abner. Why did you kill Amasa [2Sa. 17:25, 19:14]?”*

- J. *He said to him, "Amasa had rebelled against the throne, for it is written, 'Then said the king to Amasa, Call me the men of Judah together within three days ... So Amasa went to call the men of Judah together, but he tarried' (2Sa. 20)."*
- K. *[Solomon] said to him, "Amasa made an exegetical basis out of the particles 'but' and 'only.' [How so?] He came upon them as they commenced their study of a tractate. He said, 'It is written, "Whoever he be that shall rebel against your commandments and shall not hearken to your words in all that you command him shall be put to death' (Jos. 1:18). 'Is it possible that that is the case even with respect to study of the Torah [so that the violation of the king's commandment incurs death even if it is ignored so as to continue Torah-study]? 'Scripture says, "Only be strong and of good courage" (Jos. 1:18). [Schachter, p. 327, n. 2: Hence the duty to fulfill the king's command does not apply where one is engaged in the study of the Torah. According to the view held by Amasa, God's law seemed more important to him than the will of the king, and no transgression was involved in waiting until they had finished their study.]"*
- L. *"But you yourself are the one who rebels against the king, for it is written, 'And the tidings came to Joab, for Joab had turned after Adonijah, though he had turned not after Absalom' (1Ki. 2:28)."*
- M. *What is the sense of "though he had turned not ..."?*
- N. *Said R. Judah, "He proposed to turn after him but did not do so."*
- O. *What is the reason that he did not turn after him?*
- P. *Said R. Eleazar, "David was still vigorous."*
- Q. *R. Yosé b. R. Hanina said, "The star of David still was ascendant."*
- R. *For R. Judah said Rab said, "David had four hundred sons, all children of beautiful captive women. They all had long locks and would march at the head of retinues. They were the influential men in David's regime."*
- S. *[What has been said about Joab] contradicts what was said by R. Abba bar Kahana. For R. Abba bar Kahana said, "Were it not for David, Joab could not have made war, and were it not for Joab, David could not have engaged in the study of Torah. For it is written, 'And David executed justice and righteousness for all his people, and Joab, the son of Zeruiah, was in charge of the host' (2Sa. 8:15-16). What is the reason that 'David executed justice and righteousness for all his people'? It was because 'Joab, son of Zeruiah, was in charge of the host.' And what is the reason that 'Joab was in charge of the host'? It was because 'David executed justice and righteousness for all his*

people.’ ‘When Joab was come out from David, he sent messengers after Abner and they brought him back from Bor-Sira’ (2Sa. 3:26).”

T. *What is “Bor Sira”?*

U. Said R. Abba bar Kahana, “Bor [a well, hence, a pitcher of water] and a ‘thorn bush’ caused Abner to be killed.” [Schachter, p. 328, n. 4: The explanation of this statement is found in J. Sotah I, where one of the reasons given for Abner’s death was his indifference to the effecting of a reconciliation between Saul and David, instead of seeking which, he rather endeavored to increase their hatred. He did not take advantage of the following two occasions when he might have brought about the reconciliation: One, when Saul entered the cave of En-Gedi where David and his band were hidden, and the latter, though he could have destroyed his pursuer, contented himself with merely cutting of the skirt of his robe (1Sa. 24: 4). The second time, in the wilderness of Ziph, when David found Saul sleeping and took the spear and jug of water from beside his head (ibid. 24:12ff.) subsequently reproaching Abner for not watching better over the King. Abner, however, made nought of this generous treatment of Saul by David, contending that the jug of water might have been given to David by one of the servants, whilst the skirt of the robe might have been torn away by a thorn-bush, and left hanging. These two incidents are hinted at in the words Bor (well, i.e., a jug of water), and Sira (a thorn-bush)].

V. “And Joab took him aside into the midst of the gate to speak with him quietly” (2Sa. 3:27):

W. Said R. Yohanan, “He judged him in accord with the rule of the sanhedrin.

X. *“He said to him, ‘Why did you kill Asahel?’*

Y. *““Asahel was in pursuit.’*

Z. *““You should have saved yourself from him through one of his limbs.’*

AA. *“‘I could not do it to him that way.’*

BB. *“‘Now you were able to aim directly at the fifth rib, yet could you not aim at one of his limbs?’”*

CC. “To speak with him quietly” (2Sa. 3:27):

DD. Said R. Judah said Rab, “It concerned the pulling off of the shoe.”

- EE. [Schachter, p. 328, n. 8: The word is here derived from NSL, to draw or pull off. Joab is supposed to have inquired from Abner in what way a one-armed woman would loosen the shoe in the ceremony of halisah (v. Deu. 25: 9). On his replying that she would do it with her teeth (cf. Yeb. 105a), he asked him to demonstrate it, and as he stooped low to do so, he smote him. This incident is hinted at in David's words of farewell to Solomon: "He (sc. Joab) shed the blood of war in peace, — and put the blood of war in the shoes that were on his feet" (1Ki. 2: 3)].
- FF. "And he smote him there at the waist" (2Sa. 3:27):
- GG. Said R. Yohanan, "At the fifth rib, where the gall-bladder and liver are suspended."
- HH. "And the Lord will return [Joab's] blood upon his own head, because he fell upon two men more righteous and better than he" (1Ki. 2:32):
- II. "Better" because they interpreted the particles that indicate "but" and "only" while he did not interpret those particles.
- JJ. "Righteous" because they were commanded by word of mouth [to kill the priests of Nob], and they did not do it, while he was commanded only in a letter, and he did it.
- KK. "But Amasa did not beware of the sword that was in Joab's hand" (2Sa. 20:10):
- LL. Said Rab, "Because he was not suspicious of him."
- MM. "'And he was buried in his own house in the wilderness'" (1Ki. 2:23):
- NN. *Was his house a wilderness?*
- OO. Said R. Judah said Rab, "It was like a wilderness. Just as the wilderness is free for everyone, so Joab's house was free for everyone [who wanted hospitality].
- PP. "Another interpretation: 'Like a wilderness'. 'Just as the wilderness is free of robbery and fornication, so the house of Joab was clean of robbery and fornication.'"
- QQ. "And Joab kept alive the rest of the city" (1Ki. 11: 8):
- RR. *Said R. Judah, "Even fish soup and fish hash he would taste and then divide up [to the poor]."*

There are two sizable, autonomous discussions, imparting to the Talmud at hand special interest. The first is on the principle of whether merely designating something for a given purpose produces concrete consequences. The second is the rather lengthy discourse on Joab. While both constructions certainly came into being independent of any interest in Mishnah-exegesis, the latter, at least, hardly gives the appearance of being merely tacked on. The exegesis of the Mishnah-paragraphs at hand is carried out systematically. But as to the discussion on whether or not designation makes a difference, I see no obvious point of intersection with the Mishnah-paragraphs before us. The composition itself is

sustained and completely persuasive, but I am puzzled on why it was found appropriate here. My best guess is that the theme of burial rites satisfied the redactor who chose it for the present Talmud. The basic issue of the disposition of the estates of those put to death by the court accounts for the inclusion of the massive unit at the end.