

# X.

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## BAVLI SANHEDRIN CHAPTER TEN

### FOLIOS 84B-90B

#### 10:1A-C

- A. These are the ones who are to be strangled:
  - B. he who hits his father and his mother [Exo. 21:15]; he who steals an Israelite [Exo. 21:16, Deu. 24:7]; an elder who defies the decision of a court, a false prophet, a prophet who prophesies in the name of an idol;
  - C. He who has sexual relations with a married woman, those who bear false witness against a priest's daughter and against one who has sexual relations with her.
- I.1** A. **He who hits his father and his mother:** *How on the basis of Scripture do we [know that such a one is strangled]?*
- B. It is in accord with the following verse of Scripture: "And he who hits his father or mother shall surely be put to death" (Exo. 21:15).
  - C. And any reference without further specification to "death" that is made in Scripture means only strangulation.
  - D. *But might I say that the one who smites the parents is liable only if he actually kills them.*
  - E. *Do you imagine that he would have to kill them? If he killed anyone else, he would be decapitated, while if he killed his father, would it be through strangulation [that is not likely. The same penalty would have to apply, and hence at issue here cannot be killing the parent, but only hitting him or her].*
  - F. *That poses no problem to him who maintains that strangulation is the less severe mode of execution. But in the view of him who has said that strangulation is the more severe mode of execution, what is to be said?*
  - H. Since it is written, "He who smites a man so that he dies shall surely be put to death" (Exo. 21:12), and it also is written, "Or in enmity smote him with his hand that he die" (Num. 35:21), it bears the implication that, *in any passage in which there is reference to smiting, without further specification, the implication is not that the one has killed the other.*

*[Hence, here too, the son has not killed the parent but only hit him or her.]*

- I.2 A.** *It was necessary for Scripture to state, “He who smites a man” (Exo. 21:12), and it also was necessary for Scripture to state, “Who kills any soul” (Num. 35:30).*
- B. *For if the All-Merciful had written, “He who smites a man that he die” (Exo. 21:12), I might have maintained that that rule pertains to smiting by an adult, who is subject to the obligation to carry out the commandments, but it would not apply to smiting by a minor, who is not.*
- C. *Accordingly, the All-Merciful found it necessary to state, “Whoso kills any soul” (Num. 35:30).*
- D. *Had the All-Merciful written only, “Whoso kills any soul” (Num. 35:30), I might have concluded that under the law are included even such classifications as abortions or fetuses produced at eight months of conception. [But they are not included.] It was therefore necessary to make both statements.*
- I.3 A.** *And might I propose that [one who smites his parents is put to death] even though he does not make a bruise on them?*
- B. *Wherefore do we learn in the Mishnah: **He who hits his father and his mother is liable only if he will make a lasting bruise on them [M. 10:1D]**?*
- C. *Scripture has said, “And he who kills a beast [shall restore it] but he who kills a man [shall be put to death]” (Lev. 24:21). [This creates an analogy.]*
- D. *Just as he who smites a beast is liable only if he inflicts a bruise, as it is written, “soul” in that connection [at Lev. 24:18], so he who smites a man is liable only if he inflicts a bruise.*
- E. *To this proof R. Jeremiah objected, “How then deal with the following: If one injured the beast by loading stones on it, [and in this case there is no physical bruise], in such a case also is the person who injured the beast not liable to make it up? [Surely he is liable!]”*
- F. *Rather, since the reference [to soul] cannot speak of the soul of a beast, for if one injured the ox with heavy stones, he remains liable to make it up, apply the reference to the soul of a man. [Then it would mean, just as claimed, that one is liable only if he makes a wound.]*
- G. *If so, what need do I have for the analogy [constructed above, C-D]?*
- H. *It accords with what was taught by the house of Hezekiah [at 79B, with respect to whether we differentiate, in the case of injury to beasts, between doing so deliberately and accidentally].*
- I. *That poses no problems to him who accords with that which was taught on Tannaite authority for the house of Hezekiah.*
- J. *But for the one who does not accord with what was taught on Tannaite authority for the house of Hezekiah, what use is there for the analogy.*
- K. *Just as one who hits a beast in order to cure it is exempt [from paying damages], so he who hits a man in order to cure him is exempt from having to pay damages.*

**I.4 A.** *For the question was raised:*

- B. *What is the law on a son's letting blood for his father?*

- C. R. Mattena said, “‘And you shall love your neighbor as yourself’ (Lev. 19:18). [The son surely may do so, since he would do the same for himself.]”
- D. R. Dimi bar Hinena said, “‘He who smites a man ... he who smite smites a beast ...’: Just as the one who smites a beast for purposes of healing is exempt, so one who smites a man for purposes of healing is exempt.”
- E. *Rab would not allow his son to take a thorn out of his flesh.*
- F. *Mar, son of Rabina, would not allow his son to open a boil for him, lest he make a bruise and so be guilty of inadvertently violating a prohibition.*
- G. *If so, then even an outsider also should be prohibited [for a person may not wound someone else].*
- H. *If so, it would be an inadvertent violation of a mere prohibition, while in the case of his son, it is the inadvertent violation of a law penalized by strangulation.*
- I. *And lo, we have learned in the Mishnah: [One may handle] a small needle for removing a thorn [M. Shab. 17:2G].*
  - J. *And should one not take account of the possibility that the needle will make a bruise, in which case there will be a matter of inadvertent violation of a law for which [a deliberate violation is penalized by] stoning?*
  - K. *In the case [of the Sabbath] the person does damage, [which is not penalized on the Sabbath, even when done deliberately].*
  - L. *That poses no problem to the one who maintains that one who does damage on the Sabbath is exempt from all penalty.*
  - M. *But in the view of him who says that he is liable, what is there to be said?*
  - N. *And whom have you heard who takes the view that one who does damage by inflicting a wound is liable [for violating the Sabbath]?*
  - O. *It is R. Simeon!*
  - P. **[85A]** But R. Simeon also is the one who said, “Any form of labor which is done not for its normal purpose leaves one exempt from having violated the Sabbath.” [Freedman, p. 560, n. 5: When a thorn is extracted and wound made, even intentionally, no punishment is involved, because the purpose of the work is extraction, not wounding.]

- I.5 A.** *The following question was addressed to R. Sheshet: “What is the law on appointing a son to be an agent of a court as to his own father, to inflict a flogging on him or to curse him?”*
- B. *He said to them, “And have they permitted an outsider to do so except for the honor owing to heaven? It is a superior obligation, and here too, the honor owing to Heaven is a superior obligation. [So a son may act for the court.]”*
- C. *An objection was then raised: Now if in the case of one whom it is a religious duty to smite [namely, one specified by a court as subject to flogging], it is a religious duty in point of fact not to smite [in that a son may not be agent of a court to flog his own father], one whom it is a religious duty not to smite, is it not a matter of*

logic that it is a religious duty not to smite such a one [namely, one's father]? *Is the sense, then, not that in both instances we deal with a religious duty, but one refers to one's son, the other to an outsider?* [Thus, as is clear, if one who is subject to flogging may not be flogged by his son as agent of the court, how much the more so may one who is not subject to a flogging, not be flogged by his son.] [Freedman, p. 561, n. 2: Thus by ad majus reasoning, a formal prohibition is deduced against a son's striking his father. For Exo. 21:15 merely prescribes the punishment; but it is a general principle that no punishment can be inflicted unless a prohibition is either stated or deduced from elsewhere. On this interpretation Sheshet's ruling is contradicted.]

- D. *No, in both this case and that case there is no difference between one's son and an outsider. But there is no problem, for the one statement speaks of a case in which it is a religious duty, and the other speaks of a case in which it is not a religious duty. And this is the sense of the passage:* Now if in a case in which there is a religious duty to be done, for it is a religious duty to inflict the flogging, it still is a religious duty not to inflict a flogging [in any but the prescribed manner, e.g., with too many lashes], in a case in which no religious duty is involved, in which it is not a religious duty to flog, is it not a matter of reason that it is a religious duty not to inflict a flogging? [So what the teaching at hand tells us is that one may flog only at the order of a court.]
- E. *Come and take note:* he who was being taken out to be executed, and his son came along and hit him and cursed him — the son is liable. If another party came along and hit him and cursed him, the other party is exempt. *And we reflected on the matter, asking what the difference is between one's son and a third party. And R. Hisda said, "We deal with a case in which the court forces the man to go forth and he does not wish to go forth [so the court may not have the son come along and drive the man to his execution, and this contradicts Sheshet's judgment]."*
- F. *R. Sheshet interprets the passage to speak of a case in which the court is not forcing the man to go forth.*
- G. *If so, another party also [should be liable for reviling the condemned man].*
- H. *[So far as] the other party in this case is concerned, the condemned man is already a dead man. [But the son has to honor the man even after death.]*
- I. And did not R. Sheshet say, "If people humiliated a sleeping man and he died [in his sleep], they nonetheless are liable." [Why should mistreating the condemned man be treated any differently?]
- J. *With what sort of a case do we deal here?* It is a case in which one hit the condemned man with a blow which is not worth a perutah [so that is why there is no penalty for the third party's action].
- K. But did not R. Ammi say R. Yohanan said, "If one smote [another party] with a blow that is not worth a perutah, he is nonetheless flogged"?
- L. *What is the sense of "exempt" stated earlier? One is exempt from having to pay a financial reparation.*
- M. *Would it then follow that his son is liable for monetary compensation?! [But what would he pay, since the injury is not worth a perutah!] Rather, [he is liable]*

*in accord with the law that applies to him [which is, in the case of the son, the death penalty].*

- N. *Then [the stranger should be exempt from the law] applying to him, [which is flogging] [so what is the difference between the act of the son and the act of a third party]?*
- O. *Rather, as to the outsider [who hits the condemned man], the reason that he is exempt is because Scripture has said, “You shall not curse a prince among your people” (Exo. 22:27), which applies to one who carries on in the manner of your people. [Freedman, p. 562, n. 7: But to transgress is not fitting for “your people,” and hence the prohibition against cursing does not apply to such a case.]*
- P. *Now that settles the matter of the curse, but how do we know that that is the case of the actual blow?*
- Q. *We draw an analogy between hitting and cursing.*
- R. *If so, then the son also should be subject to the same rule.*
- S. *It accords with what R. Phineas said, “We deal with a case in which he repented.” So here too, we deal with a case in which the criminal repented.*
- T. *If so, then the outsider also [should be prohibited from cursing or hitting the condemned man]. [So, again, what is the difference between the son and the outsider?]*
- U. *Said R. Mari, “‘Among your people’ means ‘among those who are permanently established among your people [and not a condemned criminal, who may be cursed].”*
- V. *If so, his son also [should be allowed to curse or hit him]!*
- W. **[85B]** *The same rule after death applies [that the son may not curse the father].*
- X. *What is the upshot of the matter?*
- Y. *Said Rabbah bar R. Huna, and so a Tannaite authority of the house of R. Ishmael taught, “In all cases a son may not serve as an agent of a court in flogging or cursing his father, except in the case of one who entices a town to apostasy, in which case it is written, Neither shall you spare nor conceal him’ (Deu. 13: 9).”*  
The entire opening discussion deals only with the matter of hitting the father or mother. Unit I.1 proves that the penalty is strangulation, as M. 10:1A states. Unit I.2 carries forward the exegesis begun in Unit I.1. Unit I.3 then takes up a speculative question, relevant in a general way to the Mishnah-paragraph, and units I.4, 5 take up further speculative questions along the same lines.

### **10:1D-G**

- D. He who hits his father and his mother is liable only if he will make a lasting bruise on them.**
- E. This rule is more strict in the case of the one who curses than the one who hits them.**
- F. For the one who curses them after they have died is liable.**
- G. But the one who hits them after they have died is exempt.**
- I.1 A.** *Our rabbis have taught on Tannaite authority:*
- B. *“His father or his mother he has cursed” (Lev. 20: 9).*

- C. This applies even after they have died.
- D. For one might have thought [to the contrary] that since one is liable for hitting them and also liable for cursing them, just as one who hits them is liable only if he does so while they are alive, so the one who curses them is liable only if he does so while they are alive.
- E. And furthermore there is an argument a fortiori:
- F. If in the case of one who hits his parents, in which the law treats [a parent] “who is not of your people” as equivalent to one who is “of your people,” [so that if the father is a condemned criminal, one still must not hit him], and yet one is not liable after the death of the parents [for hitting them], in the matter of cursing, in which the law has not treated [a parent] who has not conducted himself as if he were “one of your people” as equivalent to one who has conducted himself as if he is “one of you people,” is it not a matter of logic that one should not be liable if he curses the parents after death?
- G. Accordingly, Scripture [is required to] state, “He has cursed his father or his mother” (Lev. 20: 9), and this applies to the time after they have died [so one is liable on that account as well].
- H. *This interpretation poses no problems to the principle of R. Jonathan, who regards as superfluous the verse, “His father or his mother he has cursed.”*
- I. *But in the view of R. Josiah, what is there to be said? [He makes use of the verse at hand for another purpose entirely, as we shall now see.]*
- J. *For it has been taught on Tannaite authority:*
- K. “[For any man that curses his father or his mother shall surely be put to death; his father and his mother she has cursed; his blood shall be upon him’ (Lev. 20: 9).]” Why does Scripture say ‘any man’?
- L. “It serves to encompass a daughter, one of undefined sexual traits, and one who exhibits the traits of both sexes.
- M. “‘Who curses his father or his mother’ — I know only that the law covers his father and his mother. How do I know that it covers his father but not his mother, or his mother but not his father?
- N. “Scripture says, ‘His father and his mother he has cursed; his blood shall be upon him’ (Lev. 20: 9), that is, ‘he has cursed his father,’ ‘he has cursed his mother,’” the words of R. Josiah.
- O. R. Jonathan says, “The verse bears the implication that it speaks of the two of them simultaneously, and it bears the implication that it speaks of each by himself or herself, unless the text explicitly treats the two of them together.”
- P. *How then does [Josiah] prove the present matter?*
- Q. *He derives it from the verse, “And he who curses his father or his mother shall surely be put to death” (Exo. 21:17).*
- R. *And the other? [How does Jonathan interpret the same verse]?*
- S. *He requires that verse to encompass within the law a daughter, one of undefined sexual traits, and one who exhibits the sexual traits of both sexes.*
- T. *And why should he not derive that fact from the usage cited above [“Any man ...”]?*

U. The Torah speaks in the language of ordinary people, [and the usage bears no exegetical consequences whatsoever].

V. *And should not the framer of the passage teach in addition: “A more strict rule applies to one who hits parents than to one who curses them, for in the case of hitting them the law has treated in the same way a parent who does not conduct himself as “among your people” and the one who conducts himself as “among your people,” which is not the case for one who curses parents. [A parent who is a condemned criminal may be cursed by a son, as we saw earlier.]*

W. *The framer of the passage takes the view that we do draw an analogy between hitting and cursing, [so the latter also is forbidden, even in the case of a parent who does not conduct himself properly].*

**I.2** A. *May we say that the dispute at hand follows the course of the Tannaite dispute which follows?*

B. *For one Tannaite authority teaches:*

C. *As to a Samaritan, you are commanded against smiting him, but you are not commanded against cursing him. [The two are not treated as comparable.]*

D. *And another Tannaite authority holds:*

E. *You are not commanded either against cursing him or against hitting him.*

F. *Now if we take the view that all parties hold that the Samaritans are true proselytes is not at issue this simple proposition:*

G. *one party holds that we draw an analogy between hitting and cursing, and the other party maintains that we do not draw an analogy between hitting and cursing?*

H. *No, all parties take the view that we do not draw an analogy between hitting and cursing.*

I. *Here then what is at issue?*

J. *One party holds that Samaritans are true converts [so they are not to be hit], and the other party maintains that they converted merely because of fear of lions [in the Land of Israel] [so there is no precept against harassing them].*

K. *If that is all that is at issue, then what is the sense of the Tannaite teaching on the same passage:*

L. *And a Samaritan's ox is in the status of ownership of an Israelite's ox.*

M. *Rather, does that not bear the implication that at issue is whether or not we draw the stated analogy?*

N. *It does indeed prove the matter.*

Unit I;1 provides a proof-text for the proposition of the Mishnah, and this proof is subjected to a careful inspection and articulation. Unit I.2 continues the foregoing by introducing what are alleged to be parallel materials.

## 10:1H-P

**H. He who steals an Israelite is liable only when he will have brought him into his own domain.**



- I. R. Judah says, “Only if he will have brought him into his own domain and will have made use of him,
- J. “as it is said, ‘And if he deal with him as a slave or sell him’ (Deu. 24: 7).”
- K. He who steals his son —
- L. R. Ishmael, son of R. Yohanan b. Beroqah, declares him liable.
- M. And sages declare him exempt.
- N. [If] he stole someone who was half slave and half free —
- O. R. Judah declares him liable.
- P. And sages declare him exempt.

**I.1** A. *Does not the first of the two Tannaite authorities [at M. 10:1H-I] require utilization [of the victim as a prerequisite to liability for kidnapping]?*

B. *[Of course he does, but,] said R. Aha, son of Raba, “It is utilization of the victim to the extent of work less than a perutah in value that is at issue between the two authorities.”*

**I.2** A. *R. Jeremiah raised this question, “If one stole and sold a person while he was sleeping, what is the law?*

B. *“If one sold a woman for the sake of enslaving the foetus, what is the law?*

C. *“Do we maintain that there is an aspect of utilization in such a procedure, or do we not maintain that there is an aspect of utilization in such a procedure?”*

D. *And why not solve the problem by maintaining that there is no aspect of utilization whatsoever [in these actions]?*

E. *No, it is necessary to raise the issue, so far as the one who was asleep is concerned, to take account of a case in which the kidnapper leaned on the victim,*

F. *[and,] in the case of a woman, to take account of a case in which the kidnapper used the woman as a screen [against the wind, and if she is pregnant, she makes that much better a screen].*

G. *Does this constitute a mode of utilization or not?*

H. *What is the law?*

I. *The question stands over [there being no clear basis for an answer].*

**I.3** A. *Our rabbis have taught on Tannaite authority:*

B. *“If a man be found stealing any of his brethren of the children of Israel” (Deu. 24: 7):*

C. *I know only that the law applies to a man who stole someone.*

D. *How do I know that the law applies to a woman’s doing so?*

E. *Scripture says, “And any one who steals a man” (Exo. 21:16).*

F. *I know only that the law applies to a man who stole either a woman or a man, and to a woman who stole a man [as specified at Exo. 21:16].*

G. *How do I know that a woman who stole a woman [is covered by the law]?*

H. *Scripture states, “Then that thief shall die” (Deu. 24: 7) — under all circumstances [without regard to the gender of the thief or the victim].*

**I.4** A. *It has further been taught on Tannaite authority:*

B. *“If a man be found stealing any of his brethren” (Deu. 24: 7):*



- C. All the same are the one who steals a man and the one who steals a woman, a proselyte, a freed slave, and a minor. One is liable [on any of these counts].
- D. If one stole someone but did not sell him, sold him but he is yet within his domain, he is exempt [from liability].
- E. If he sold him to his father or his brothers or to any of his relatives, he is liable.
- F. He who steals slaves is exempt [T. B.Q. 8:1A-I].
- G. [86A] *A Tannaite authority repeated this statement before R. Sheshet.*
- H. He said to him, "I repeat [the matter as follows:] 'R. Simeon says, "[If a man be found stealing a person] from his brethren' [means that one is liable only if] he removes the victim from the domain of his brothers."
- I. "And do you say that he is liable? *Rather, repeat the matter on Tannaite authority as 'exempt.'*"
- J. *But what is the problem? Perhaps the version at hand is that of R. Simeon as against views of rabbis.*
- K. *Do not let that possibility come to mind, for R. Yohanan has stated, "An unassigned teaching of the Mishnah represents the view of R. Meir, an unassigned teaching in the Tosefta represents the view of R. Nehemiah, an unassigned teaching in the Sifra represents the view of R. Judah, an unassigned opinion in the Sifr  represents the view of R. Simeon, and all of them express their views in line with those of R. Aqiba. [The passage at hand, given anonymously in the Sifr , therefore must stand for the view of Simeon.]"*

## **II.1 A. He who steals his son [M. 10:1K]:**

- B. *What is the scriptural basis for the view of rabbis?*
- C. *Said Abbaye, "Scripture has said, 'If a man be found ...' (Deu. 24: 7) — excluding a case in which the victim is located [with the kidnapper to begin with]."*
- D. *Said R. Pappa to Abbaye, "Then how do you deal with the following: 'If a man be found with a woman married to a husband' (Deu. 22:22)? Here too do you maintain: 'If ... be found ...' — so excluding a case in which the woman is commonly found with the lover? For example, [a woman] in the house of Mr. So-and-so, in which women are ordinarily located. In such a case, too, will you regard the man as exempt from all penalty!?"*
- E. *He said to him, "I refer to the passage, '... and he be found in his hand ...' (Exo. 21:16). [Freedman, pp. 567-8, n. 7. This is redundant and therefore shows that the law applies only to a person who is found in his captor's hand as a result of abduction, and not to one who was to be found in his hand before too.]"*
- F. *Said Raba, "Therefore Scripture-teachers and Mishnah-reciters for [young] rabbis fall into the category of those who have [their charges] in their hand and would be exempt [were they to kidnap them]."*

## **III.1 A. If he stole someone who was half slave [M. 10:1N]:**

- B. *We have learned in the Mishnah: R. Judah says, "Slaves do not receive payment for being humiliated" [M. B.Q. 8:3G].*
- C. *What is the scriptural basis for the position of R. Judah?*

- D. Scripture has said, “When men strive together, a man with his brother” (Deu. 25:11) [yielding compensation for humiliation in the fight].
- E. [Scripture thus assigns compensation for humiliation] to one who is subject to bonds of brotherhood, excluding a slave, who is not subject to bonds of brotherhood.
- F. And rabbis?
- G. He indeed does fall into the category of “brother” so far as keeping the religious duties is concerned.
- H. *In the present case how does R. Judah interpret matters?*
- I. *He takes the view that the reference to stealing “any of his brothers” [at Deu. 24:7] serves to exclude slaves.*
- J. *“... of the children of Israel” serves to exclude one who is half-slave and half-free.*
- K. “Of the children of Israel” — that likewise serves to exclude one who was half-slave and half-free, so you have one exclusionary clause followed by another exclusionary clause, and in the case of one exclusionary clause followed by another exclusionary clause, the sole outcome is to encompass [what is putatively excluded].
- L. And rabbis?
- M. *“... of his brethren ...” serving to eliminate slaves is an interpretation that they do not find persuasive. For lo, he indeed is one’s brother so far as keeping the religious duties are concerned.*
- N. [Then the sense of] “... children of Israel ...,” “... of the children of Israel ...,” [in their view is such that] *one serves to exclude a slave, and the other serves to exclude one who is half-slave and half-free.*

**III.2** A. *Where in Scripture do we find an admonition against kidnapping [since Deu. 24:7 and Exo. 21:16 state only the penalty for doing so]?*

- B. R. Josiah said, “It is from, ‘You shall not steal’ (Exo. 20:15).”
- C. R. Yohanan said, “It is from, ‘They shall not be sold as a slave is sold’ (Lev. 25:42).”
- D. *And there is no dispute between them, for one authority takes into account the admonition against stealing, and the other takes into account the prohibition of selling.*

**III.3** A. *Our rabbis have taught on Tannaite authority:*

- B. “You shall not steal” (Exo. 20:15):
- C. Scripture speaks of kidnapping persons.
- D. You say that it speaks of kidnapping persons. But perhaps it speaks of stealing money.
- E. Do you then say so? Go and derive the matter from the thirteen principles by which the Torah is interpreted, including the one that says that a matter is interpreted in its own context.
- F. [In the present passage], of what subject does the Scripture speak? It deals with crimes against persons.
- G. So here too the commandment takes up capital crimes [such as violating the Sabbath or murder, and so too, kidnapping].

### III.4 A. *A further teaching on Tannaite authority:*

- B. “You shall not steal” (Exo. 20:15):
- C. Scripture speaks of stealing money.
- D. You say that it speaks of stealing money, but perhaps it speaks only of stealing persons?
- E. Do you say so? Go and derive the matter from the thirteen principles by which the Torah is interpreted, including the one that says that a matter is interpreted in its own context.
- F. [In the present passage], of what subject does the Scripture speak? It speaks of crimes against property [such as envy and false witness].
- G. So here too the commandment takes up property crimes.

### III.5 A. *It has been stated on Amoraic authority:*

- B. If [one set of] witnesses said that there had been a kidnapping and [another set of] witnesses said that there had been a sale of a kidnap-victim, and [both] were proved a conspiracy of perjurers —
- C. Hezekiah said, “They are not put to death.”
- D. R. Yohanan said, “They are put to death.”
- E. *Hezekiah accords with what R. Aqiba said, for he said, “[At the testimony of two witnesses or at the testimony of three witnesses shall] the matter [be established]’ (Deu. 19:15) — the whole of the matter, not part of it. [The two witnesses must testify to the entire crime, not only to part of the crime (Freedman, p. 569, n. 11)].” [Hence the witnesses to only part of the matter are not put to death.]*
- F. *And R. Yohanan rules in accord with the position of rabbis, who maintain, “... the matter ...,’ — and even part of the matter.”*
- G. But Hezekiah concedes that the second set of witnesses against a wayward and incorrigible son were proved to be a conspiracy of perjurers, they are put to death, for the first set of witnesses have the power to claim, **[86B]** “It was to see that he was flogged that we came to court [and on the basis of our testimony, he would have been flogged. Only if he then transgressed a second time, to which the later witnesses testify, would he be put to death.] Accordingly, the second set of witnesses are the ones who inflict on the son the complete penalty [of execution, and the former set of witnesses have no part in the matter].”
- H. *To this allegation R. Pappa objected, “If that is the case, then witnesses to the sale also should be subject to the death penalty, since the witnesses to the theft have the power to claim, ‘It was to see that he was flogged that we came to court, [and not to have him put to death].’ And should you claim that Hezekiah takes the view that, in such a case, the kidnapper is not flogged [for merely stealing the person] lo, it has been stated on Amoraic authority: As to witnesses to a kidnapping of a person, who were proved to be a conspiracy for perjury, Hezekiah and R. Yohanan: one said, “They are flogged,” and the other said, “They are not flogged.” And in that connection we maintained, “One should draw the conclusion that Hezekiah is the one who said that they are flogged, since it is Hezekiah who has ruled that they are not put to death. For so far as R. Yohanan is concerned, since he has maintained that they are put to death, he has in hand a violation of a negative commandment that is subject to the admonition against*

committing a crime that, in fact, is punishable by the death penalty inflicted by a court, and in the case of any violation of a negative commandment that is subject to the admonition involving a death penalty at the hands of a court, there is no further penalty of flogging. *If, therefore, the accused would not have been flogged [in accord with the principle just now stated], how can the witnesses against him be flogged? [Clearly, from Yohanan's viewpoint, they cannot be flogged. Thus we have shown that Hezekiah would have the false witnesses flogged. It follows that kidnapping produces the penalty of flogging, and the witnesses would under certain circumstances only be flogged.]*"

- I. *Rather, said R. Pappa, "In the case of witnesses to the sale of the victim, who are proved a conspiracy for perjury], all parties concur that such witnesses are put to death. Where there is a dispute, it concerns witnesses to the abduction. Hezekiah said, 'They are not put to death, for the act of kidnapping stands by itself, and the act of sale is treated by itself.' And R. Yohanan said, 'They are put to death, because the abduction is the beginning of the act of sale.' And R. Yohanan concedes in the case of the first set of witnesses against the wayward and incorrigible son who were proved to be a conspiracy for perjury, that they are not put to death, for, since they have the power to claim, 'It was to inflict a flogging on him that we came to court,' [they have not conspired to kill the accused and so they are not made victim to that penalty]."*
- J. *Said Abbaye, "All concur in one matter concerning the wayward and incorrigible son, all concur in a second matter regarding him, and there is a dispute in yet a third matter. All concur in one matter concerning a wayward and incorrigible son, that the first set of witnesses [proved perjurers] is not put to death, because they have the power to claim, 'It was to inflict a flogging on him that we came to court.' All concur in yet another matter concerning the wayward and incorrigible son, with respect to the second set of witnesses, that they are put to death [should they be proved a conspiracy of perjurers], for the first set of witnesses have the power to claim, 'We came to inflict a flogging on him, and these others are the ones who committed against the accused the entirety of the act of perjury. And there is a dispute concerning a third matter having to do with the wayward and incorrigible son: If two witnesses say, 'In our presence, he stole [the food],' and two witnesses say, 'In our presence he ate it,' [each set attests half of the offense]. Freedman, p. 571, n. 4: Hence according to Hezekiah, who agrees with Aqiba's dictum, 'the whole matter but not half the matter,' they are exempt; but in R. Yohanan's view, based on that of the rabbis, 'the matter and even half the matter,' they are liable.]"*

**III.6 A.** *Said R. Assi, "Witnesses against one on account of selling someone, who were proved to form a conspiracy for perjury, are not put to death.*

- B. *"For they have the power to claim, '[The one who sold him may say, 'I sold my own slave'" [Freedman, p. 571, n. 5: Hence he was not liable to death on their evidence, and therefore they in turn are also exempt.]"*
- C. *Said R. Joseph, "In accord with which authority is this tradition in the name of R. Assi?"*
- D. *"It accords with R. Aqiba, who has said, "'A matter ..." and not part of a matter.'"*

- E. *Said Abbayye to him, “But would they, on the view of rabbis, be put to death? Lo, he gives a reason, ‘Since ...,’ Rather, you may even say that the statement accords with rabbis’ view, and it pertains to a case in which no witnesses to the kidnapping came to court.”*
- F. *If that is the fact, then what value is there in making such an obvious statement?*
- G. *It was to deal with a case in which, later on, such witnesses [to the actual kidnapping] came, and even so, [the same ruling applies]. [Freedman, p. 572, n. 3: On the combines testimonies the accused was convicted. Yet, if the first witnesses of the sale were falsified, they are not punished, since they can plead, “We did not know that others would testify to the kidnapping.”]*
- H. *Nonetheless, what need is there to make such an obvious statement?*
- I. *It was indeed necessary, to deal with a case in which the witnesses made surreptitious gestures to one another.*
- J. *What might you have ruled? Such gestures are to be taken into account. So we are informed [by Assi] that a surreptitious gesture has no standing whatsoever.*

As usual, we move from the simplest exegesis of the Mishnah-passage, with special attention to scriptural proofs for its propositions, to rather complex theoretical problems. In the present case, unit I.1 clarifies the intent of one of the authorities at hand, M. **10:1H-I**. Unit I.2 raises a theoretical issue continuous with unit I.1. Unit I.3 then introduces the scriptural foundations for the topic as a whole. Work on this same matter continues at unit I.4. Units II.1 and III.1 take up the exposition of sentences of the Mishnah-paragraph, in order. III.2 then turns to the scriptural basis for an admonition, as distinct from a penalty, in the present crime. The remainder forms a secondary, theoretical exercise.

## 10:2

- A. **An elder who defies the decision of a court [M. 10:1B]**
- B. **as it is said, “If there arise a matter too hard for you in judgment, between blood and blood, between plea and plea” (Deu. 17: 8) —**
- C. **there were three courts there.**
- D. **One was in session at the door gate of the Temple mount, one was in session at the gate of the courtyard, and one was in session in the hewn-stone chamber.**
- E. **They come to the one which is at the gate of the Temple mount and say, “Thus I have explained the matter, and thus my colleagues have explained the matter.**
- F. **“Thus I have ruled in the matter, and thus my colleagues have ruled.”**
- G. **If they had heard a ruling, they told it to them, and if not, they come along to that court which was at the gate of the courtyard.**
- H. **And he says, “Thus I have explained the matter, and thus my colleagues have explained the matter.**

- I. “Thus I have ruled in the matter [lit.: taught], and thus my colleagues have ruled.”
- J. If they had heard a ruling, they told it to them, and if not, these and those come along to the high court which was in the hewn-stone chamber,
- K. from which Torah goes forth to all Israel,
- L. as it is said, “From that place which the Lord shall choose” (Deu. 17:12).
- M. [If] he went back to his town and again ruled just as he had ruled before, he is exempt.
- N. But if he instructed [others] to do it in that way, he is liable,
- O. as it is said, “And the man who does presumptuously” (Deu. 17:12).
- P. He is liable only if he will give instructions to people actually to carry out the deed [in accord with the now-rejected view].
- Q. A disciple of a sage who gave instruction to carry out the deed [wrongly] is exempt.
- R. It turns out that the strict ruling concerning him [that he cannot give decisions] also is a lenient ruling concerning him [that he is not punished if he does give decisions].

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

- B. “If a thing be outstandingly difficult for you” (Deu. 17: 8):
- C. **[87A]** Scripture speaks of an outstanding figure on a court [and not a disciple].
- D. “You” — this refers to a counsellor, and so it is said, “There is one come out from you, who imagines evil against the Lord, a wicked counsellor” (Nah. 1:11).
- E. “A thing” — refers to a law.
- F. “In judgment” — refers to a ruling based on an influential argument.
- G. “Between blood and blood” — refers to the difference among the types of blood produced by a menstruating woman, a woman in childbirth, and a person suffering flux.
- H. “Between ruling and ruling” — whether capital cases, property cases, or cases involving a flogging.
- I. “Between plague spot and plague spot” — refers to a diseased spot in a human being, a house, and clothing.
- J. “Matters” — refers to decisions on devoted objects and pledges of valuations as well as sanctification of objects to the Temple.
- K. “Contentions” — this speaks of the ordeal of the accused wife, the breaking of the neck of a heifer on the occasion of discovery of a neglected corpse, and decisions on the declaration of purification of a person suffering from saraat [the skin ailment described at Lev. 13-14].
- L. “In your gates” — this refers to gleanings, forgotten sheaves, and the corner of the field.
- M. “Then you shall arise” — from the session of the court.
- N. “And go up” — this teaches that the house of the sanctuary is higher than the rest of the Land of Israel, and the Land of Israel is higher than all other lands.



- O. "To the place" — this teaches that the place [in which the high court meets] is the decisive factor [in the authority of that court].
- P. *Now it is perfectly true that the house of the sanctuary is higher than the Land of Israel, for it is written, "And you shall go up" (Deu. 17: 8).*
- Q. *But how on the basis of Scripture does one know that the Land of Israel is higher than all other lands?*
- R. *As it is written, "Therefore, behold the days are coming, says the Lord, that they shall no more say, 'The Lord lives, which brought up the children of Israel out of the Land of Egypt;' but, 'the Lord lives, who brought up and led the seed of the house of Israel out of the north country and from all other countries whether I have driven them and they shall dwell in their own land' (Jer. 23: 7-8)."*

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

- B. "A presumptuous sage is liable only on account of a ruling concerning a matter, the deliberate violation of which is subject to the penalty of extirpation, and the inadvertent violation of which is subject to the penalty of bringing a sin-offering," the words of R. Meir.
- C. R. Judah says, "It involves a matter, the principle of which derives from the teachings of the Torah, and the elaboration of which derives from the teachings of scribes."
- D. R. Simeon says, "It involves even the most minor detail among the details contributed by scribes."
- E. *What is the scriptural basis for the position of R. Meir?*
- F. *He derives an analogy based on the meaning of the word "matter" as it occurs in two passages. In one passage it is written, "If there arises a matter too hard for you in judgment" (Deu. 17: 8). And in a second passage it is written, "[And if the whole congregation of Israel sin through ignorance,] the matter being hidden from the eyes of the assembly" (Lev. 4:13).*
- G. Just as, in this latter passage, "matter" refers to a rule, the deliberate violation of which is punishable by extirpation, and the inadvertent violation of which is punishable through the bringing of a sin-offering, so the word "matter" in the present context refers to a matter, the deliberate violation of which is subject to the penalty of extirpation, and the inadvertent violation of which is subject to the penalty of bringing a sin-offering.
- H. And of R. Judah?
- I. "According to the Torah which they shall teach you" (Deu. 17:11) — a matter that involves both Torah and what [scribes] shall teach you.
- J. And of R. Simeon?
- K. "[And you shall do according to the sentence] which they of that place shall show you" (Deu. 17:10) — even the most minor detail.

**I.3 A.** *Said R. Huna bar Hinena to Raba, "Explain to me the teaching on Tannaite authority [of unit I] in accord with the view of R. Meir [about what is at issue, that is, distinctions based on types of penalty]."*

- B. *Said Raba to R. Pappa, "Go out and explain it to him."*



- C. “‘If a thing be outstandingly difficult for you’ (Deu. 17: 8) — Scripture speaks of an outstanding figure on a court. This refers to a counsellor” — who knows how to intercalate years and designate the appearance of the new moon.
- D. *As we have learned in the Mishnah: They gave testimony that they intercalate the year at any time in Adar.*
- E. **For they had said, “Only up to Purim.”**
- F. **They gave testimony that they intercalate the year conditionally [M. Ed. 7:7F-H].**
- G. *[If the presumptuous elder should reject the ruling of the high court], then, if it is to the one side, he will permit the use of leaven on Passover, and, if it is to the other side, he will also permit the use of leaven on Passover.*

**I.4** A. “‘A thing’ — refers to a law.”

- B. This refers to the law of the eleventh day.  
[Freedman, p. 577, n. 2: According to Biblical Law, a niddah (menstruating woman) can cleanse herself when seven days have passed from the beginning of her menstrual flow, provided it ceased on the seventh day before sunset. During the following eleven days, which are called the eleven days between menses, she cannot become a niddah again, it being axiomatic that a discharge of blood in that period is not a sign of niddah, but may be symptomatic of gonorrhoea. A discharge on one or two days within the eleven days renders her unclean, and she is forbidden cohabitation until the evening of the following day, and must wait for the third to see whether another discharge will follow, rendering her a zabah, or not. Should another discharge follow on the third day, she becomes unclean as a zabah, and cannot become clean until seven days have passed without any issue at all. Should she, however, discharge on the tenth, eleventh, and twelfth days, she is not a zabah, for the twelfth day commences a new period wherein the issue of blood may make her a niddah.]

C. *For it has been taught on Amoraic authority:*

- D. As to the tenth day,
- E. R. Yohanan said, “The tenth day is in the category of the ninth day.”
- F. R. Simeon b. Laqish said, “The tenth day is in the category of the eleventh day.”
- G. R. Yohanan said, “The tenth day is in the category of the ninth day, *for just as the ninth day requires watchfulness [to see whether there is a discharge of blood on that day], so the tenth day requires watchfulness [for the same reason].*”
- H. R. Simeon b. Laqish said, “The tenth day falls into the category of the eleventh day, *just as the eleventh day does not require watchfulness [on account of a discharge of blood], so the tenth likewise does not require watchfulness.*”

[Freedman, p. 577-8, n. 6: Thus, in R. Yohanan’s opinion, there is only one traditional halakhah with respect to the eleventh day, viz., that a blood discharge thereon does not necessitate observation, and this is the only thing in which it differs from the preceding ten days. But if there was a discharge on the tenth, observation is necessary on the eleventh just as on

the other days. But according to Resh Laqish it differs in two respects: (i) that a discharge thereon necessitates no further observation, and (ii) that it does not become an observation day on account of the tenth day's discharge. Hence there were two halachoth for that day. This explains the use of the plural in this passage. Now to revert to the main subject, in the opinion of R. Johanan, if a woman had a discharge on the tenth, cohabitation on the eleventh is Biblically forbidden on pain of extinction, whilst according to Resh Laqish it is prohibited only by a Rabbinical ordinance, not by Biblical law; thus this too conforms to R. Meir's requirements.

- I. “‘In judgment’ — refers to a ruling based on an inferential argument.”
- J. **[87B]** [This is illustrated by the inferential argument concerning a man's incest with his daughter produced by a woman whom he has raped.
- K. *For Raba said, “R. Isaac bar Abodimi said, “‘The proof [that incest in such a case is punishable] derives from the common use of the word ‘they’ in two pertinent passages and also the common use of the word ‘wickedness’ in two related passages.’”*
- L. “‘Between blood and blood’ — refers to the difference among the types of blood produced by a menstruating woman, a woman in childbirth, and a person suffering flux.”
- M. “Blood produced by a menstruating woman” concerns the dispute of Aqabia b. Mehallel and rabbis.
- N. *For we have learned in the Mishnah:*
- O. Blood which is yellow —**
- P. Aqabia b. Mehallel declares it unclean.**
- Q. And sages declare it clean [M. Nid. 2:6E-G].**
- R. “A woman in childbirth” refers to the dispute of Rab and Levi.
- S. *For it has been stated on Amoraic authority: Rab said, “All blood comes from a single source, and the Torah has declared it unclean [for the first fourteen days after childbirth] and clean for the next sixty-six days.”*
- T. Levi said, “It comes from two different sources. When the source of the clean blood is closed, the source of the unclean blood is opened, and when the source of the clean blood is closed, the source of the clean blood is opened.”
- U. “The blood of a person suffering flux.”
- V. *This refers to the dispute of R. Eliezer and R. Joshua, for we have learned in the Mishnah:*
- W. [If] a woman was in hard travail for three days during the eleven days.**
- X. and [if] she enjoyed a respite for twenty-four hours and [then] gave birth —**
- Y. “lo, this one is one who has given birth as a Zabah [while in the status of one who has a flux],” the words of R. Eliezer.**
- Z. R. Joshua says, “A night and a day, like the eve of the Sabbath and its day.”**

**AA. For she has had relief from the pain and not from the blood [M. Nid. 4:4B-F].**

BB. “‘Between ruling and ruling’ — whether capital or property cases or cases involving a flogging.”

CC. “Property cases:”

DD. *This refers to the dispute of Samuel and R. Abbahu.*

EE. For Samuel said, “If two judges decided a case, their decision is valid, but they are called a presumptuous court.”

FF. And R. Abbahu said, “In the view of all parties their decision is not valid.”

[Freedman, pp. 579-580, n. 3: Extinction may be involved therein in the following way: — If as a result of their decision money was withdrawn from A to B, on Samuel’s view, it rightfully belongs to B: on R. Abbahu’s, it does not. Now if B married a woman with this money as a token of betrothal, according to Samuel the marriage is valid, and cohabitation with another man is punishable by death or extinction in the absence of witnesses; but according to R. Abbahu, the a token of betrothal is invalid, for if one marries a woman with money or goods not belonging to him, his act is null. Hence, if the Beth din accepted Samuel’s view, whilst the rebellious elder accepted R. Abbahu’s, he declares a married woman free to others. Now further, if another man C also married the same woman, in Samuel’s opinion the second marriage is invalid, and if B subsequently died, she is a free woman. But on R. Abbahu’s view this second marriage is valid, since the first was null. Hence, if the Beth din ruled as R. Abbahu, and the rebellious elder as Samuel, he declares her free from C, when in reality she is married to him.]

GG. “Capital cases:”

HH. *This refers to the dispute between Rabbi and rabbis.*

II. *For it has been taught on Tannaite authority:*

JJ. Rabbi says, “‘And you shall give life for life’ (Exo. 21:23).”

KK. “This refers to a monetary compensation.

LL. “You say it refers to monetary compensation, but perhaps it means only that one literally takes a life?”

MM. “Here there is reference to ‘giving,’ and elsewhere there is a reference to ‘giving’ [at Exo. 21:22].”

NN. “Just as ‘giving’ in the latter passage refers to monetary compensation, so ‘giving’ in the former passage also refers to monetary compensation.”

OO. “Or cases involving a flogging” — *this refers to the dispute between R. Ishmael and rabbis.*

PP. *For we have learned in the Mishnah:*

**QQ. Cases involving flogging are judged by a court made up of three judges.**

**RR. In the name of R. Ishmael they have said, “A court made up of twenty three judges” [M. San. 1:2A-B].**

SS. “‘Between plague spot and plague spot’ — referring to a diseased spot in a human being, a house, and clothing:”

TT. “Plague spots in a human being” *refers to the dispute of R. Joshua and rabbis.*

UU. *For we have learned in the Mishnah:*

**VV. For they have said, If the bright spot preceded the white hair, he is unclean, and if the white hair preceded the bright spot, he is clean.**

**WW. And if there is doubt, he is unclean.**

**XX. And R. Joshua was doubtful [M. Nid. 4:11F-H].**

YY. *What is the meaning of “doubtful”?*

ZZ. Said Raba, “If it is subject to doubt, the man is ruled to be clean.”

AAA. “A diseased spot in a house” *refers to the dispute of R. Eleazar b. R. Simeon and rabbis.*

BBB. *For we have learned in the Mishnah:*

**CCC. R. Eleazar b. R. Simeon says, “Until [a spot the size of] two split beans will appear on two stones — on two walls in the corner.**

**DDD. “Its length is two split beans, and its width a split bean” [M. Neg. 12:3G-H].**

EEE. *What is the scriptural basis for the view of R. Eleazar b. R. Simeon?*

FFF. It is written, “wall,” and it is further written, “Walls” (at Lev. 14:37, 39). Where do we find one wall as two? It is at the angle.

GGG. “A diseased spot in clothing.”

HHH. *This refers to the dispute between R. Nathan b. Abetolomos and rabbis.*

III. *For it has been taught on Tannaite authority:*

JJJ. R. Nathan b. Abetolomos says, “How do we know [88A] that when there is a spreading of disease-signs in clothing, [if it covers the entire garment], it is ruled to be clean?

KKK. “The words ‘baldness on the back of the head’ and baldness on the front of the head are stated in respect to man, and ‘baldness on the back’ and ‘baldness on the front’ are mentioned in connection with clothing.

LLL. “Just as is in the former case, if the baldness spread throughout the whole, the man is clean, so here too, if the baldness spread throughout the whole, the garment is clean.”

MMM. “‘Matters’ refers to decision on devoted objects, pledges of valuations, as well as sanctification of objects to the Temple.”

NNN. “‘Pledges of valuations’ *refers to the dispute of R. Meir and rabbis, as we have learned on Tannaite authority:*

OOO. He who pledges the Valuation of an infant less than a month old —

**PPP. R. Meir says, “He pays his value [since there is no Valuation in Scripture].”**

**QQQ. And sages say, “He has not made a statement of any consequence at all [and pays nothing]” [cf. B. Arakhin 5a/1:1HIA-C].**

RRR. “... decisions on devoted objects.”

SSS. *This refers to the dispute of R. Judah b. Beterah and rabbis.*

TTT. *For we have learned in the Mishnah:*

UUU.R. Judah b. Betera says, “What is declared herem without further explanation is for the repair of the Temple house,

VVV.“since it is said, ‘Every devoted thing is most holy to the Lord’ (Lev. 27:28).”

WWW. And sages say, “What is declared herem without further explanation is for the priests,

XXX.“since it is said, As a field devoted to the possession thereof shall be the priest’s (Lev. 27:21).

YYY.“If so, why is it said, And every devoted thing is most holy to the Lord?

ZZZ. “That it applies to Most Holy Things and to Lesser Holy Thing” [M. [Ar. 8:6B-G](#)].

AAAA. “... as well as sanctification of objects to the Temple.”

BBBB. *This refers to the dispute of R. Eliezer b. Jacob and rabbis, for it has been taught on Tannaite authority:*

CCCC.R. Eliezer b. Jacob says, “The valuation even of a hook that has been declared sanctified requires the assessment of a court of ten judges so that it may be redeemed [by the payment of a monetary equivalent to the value of the hook].”

DDDD. “‘Contentions’ — this speaks of the ordeal of the accused wife, the breaking of the neck of a heifer on the occasion of discovery of a neglected corpse, and decisions on the declaration of purification of a person suffering from saraat [the skin-ailment described at Lev. 13-14]:”

EEEE. *“The ordeal of the accused wife” refers to the dispute of R. Eliezer and R. Joshua, for we have learned in the Mishnah:*

FFFF. **He who expresses jealousy to his wife [concerning her relations with another man (Num. 5:14) —**

GGGG. R. Eliezer says, “He expresses jealousy before two witnesses, and he imposes on her the requirement of drinking the bitter water on the testimony of a single witness or even on his own evidence [that she has been alone with the named man].”

HHHH. R. Joshua says, “He expresses jealousy before two witnesses, and he requires her to drink the bitter water before two witnesses” [M. [Sot. 1:1A-C](#)].

III. *“The breaking of the neck of a heifer ...” refers to the dispute between R. Eliezer and R. Aqiba, for we have learned in the Mishnah:*

JJJJ. **From what point did they measure?**

KKKK. R. Eliezer says, “From his belly-button.”

LLLL.R. ‘Aqiba says, “From his nose.”

MMMM. R. Eliezer b. Jacob says, “From the place at which he was turned into a corpse — from his neck” [M. [Sot. 9:4A-D](#)].

NNNN. *“Decisions on the purification of a person suffering from saraat [the skin-ailment described at Lev. 13-14]” refers to the dispute of R. Simeon and rabbis, for we have learned in the Mishnah:*

OOOO. If he did not have a thumb, a big toe, [or] a right ear he can never have purification.

PPPP. R. Eliezer says, “One puts it [the blood] on their place.”

QQQQ. R. Simeon says, “If he put it on the left [side instead of the right], he has carried out his obligation” [M. [Neg. 14:9E-G](#)].

RRRR. “In your gates” — this refers to gleanings, forgotten sheaves, and the corner of the field.”

SSSS. *As we have learned in the Mishnah:*

TTTT. “Two sheaves [of grain which are left side-by-side in a field] are [subject to the restrictions of] the forgotten sheaf.

UUUU. “But three [sheaves left side-by-side in a field] are not [subject to the restrictions of] the forgotten sheaf.

VVVV. “Two piles of olives or carob-[fruit which are left side-by-side in a field] are [subject to the restrictions of] the forgotten sheaf.

WWWW. “But three [such piles left side-by-side in a field] are not [subject to the restrictions of] the forgotten sheaf.

XXXX. But concerning all of them, the House of Shammai say, “Three [measures of produce left side-by-side in a field] belong to the poor, while four [measures] belong to the householder” [M. [Pe. 6:5A-D, L](#) (Brooks)].

YYYY. “... and the corner of the field.”

ZZZZ. *This refers to the dispute of R. Ishmael and rabbis.*

AAAAA. *For it has been taught on Tannaite authority:*

BBBBB. The religious duty of designating a corner of the field for the poor involves separating standing grain.

CCCCC. If one did not designate the portion out of standing grain, he should designate it out of grain in sheaves.

DDDDD. This should be done before he smoothed the stack.

EEEEE. If he had first smoothed the stack of grain, he should separate tithe and give it to [the poor man].

FFFFF. In the name of R. Ishmael they said, “One may separate [the share of the poor] even from the dough [of grain that has been processed].”

## **II.1 A. There were three courts there [M. [10:2C](#)]:**

B. [With reference to M. [10:2E-F](#)], said R. Kahana, [If] he says, “[I heard it] from tradition, and they say, ‘[We heard it] from tradition,’ he is not put to death.

C. “[If] he says, ‘Thus matters appear to me [on this basis of reasoning],’ and they say, ‘Thus matters appear to us [on the basis of reasoning],’ he is not put to death.

D. “And all the more so [if] he says, ‘I heard it from tradition,’ and they say, ‘Thus matters appear to us,’ he is not put to death.

E. “[He is put to death] only if he says, ‘Thus it appears to me,’ while they say, ‘[We have heard] on the basis of tradition.’

F. “You may know that that is the case, for lo, they did not put Aqabia b. Mehallel to death.”

- G. But R. Eleazar says, “Even if he says, ‘[I heard] from tradition,’ and they say, ‘Thus matters appear to us,’ he is put to death, so as to prevent dissension in Israel.
- H. “And should you say, On what account did they not put Aqabiah b. Mehallal to death, it was because he did not teach the law as a matter of practical conduct [but only as a theory].
- I. “You may know that that is the case, *for lo, we have learned in the Mishnah: Thus I have explained the matter and thus my colleagues have explained the matter, thus I have taught and thus my colleagues have taught* [M. 10:2H-I].
- J. *“Is this not a case in which he said, ‘[I heard it] on the basis of tradition,’ and they say, ‘Thus matters appear to us’?”*
- K. No, it is a case in which he says, “Thus it appears to me,” and they say, “[Thus have we heard] in tradition.”
- L. *Come and take note:* R. Josiah said, “Three things did Zeira tell me in the name of the men of Jerusalem: ‘A husband who retracted his expression of jealousy — his expression of jealousy is null [88B]. A disobedient son whom the father and mother wished to forgive is forgiven. A rebellious elder whom a court wished to forgive is forgiven. Now when I came to my colleagues in the south, they concurred with me in two items, but as to the rebellious elder they did not concur with me, so as not to permit the increase of dissension in Israel.”
- M. *This constitutes a valid refutation [of Kahana’s position and support of Eleazar’s].*

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

- B. **Said R. Yosé, “At first there were dissensions in Israel only in the court of seventy in the hewn-stone chamber in Jerusalem.**
- C. **“And there were other courts of twenty-three in the various towns of the land of Israel, and there were other courts of three judges each in Jerusalem, one on the Temple mount, and one on the Rampart.**
- D. **“[If] someone needed to know what the law is, he would go to the court in his town.**
- E. **“[If] there was no court in his town, he would go to the court in the town nearest his.**
- F. **“If they had heard the law, they told him. If not, he and the most distinguished member of that court would come on to the court which was on the Temple mount.**
- G. **“If they had heard the law, they told them. And if not, they and the most distinguished member of that group would come to the court which was on the Rampart.**
- H. **“If they had heard, they told them, and if not, these and those would go to the high court which was in the hewn-stone chamber.**
- I. **“The court which was in the hewn-stone chamber, even though it consists of seventy-one members, may not fall below twenty-three.**



- J. “[If] one of them had to go out, he looks around to see whether there would be twenty-three left [after he departs]. If there would be twenty-three left he goes out, and if not, he does not go out —
- K. “unless there would be twenty-three left.
- L. “And there they remained in session from the time of the daily whole-offering of the morning until the time of the daily whole-offering at twilight.
- M. “On Sabbaths and on festivals they came only to the study-house which was on the Temple mount.
- N. “[If] a question was brought before them, if they had heard the answer, they told them.
- O. “if not, they stand for a vote.
- P. “[If] those who declare unclean turn out to form the majority, they declared the matter unclean. [If] those who declare the matter clean form the majority, they declared the matter clean.
- Q. “From there did the law go forth and circulate in Israel.
- R. “From the time that the disciples of Shammai and Hillel who had not served their masters as much as was necessary became numerous, dissensions became many in Israel.
- S. “And from there they send for and examine everyone who is wise, prudent, fearful of sin, and of good repute, in whom people found pleasure.
- T. “They make him a judge in his town.
- U. “Once he has been made a judge in his town, they promote him and seat him on the Rampart’s court, and from there they promote him and seat him in the court of the hewn-stone chamber [T. [San. 7:1B-U](#)].

**II.3** A. They sent from there, “Who is someone who will inherit the world to come?

- B. “It is one who is meek and humble, *who bends when he comes and and bends when he goes out, who always is studying the Torah, but does not take pride in himself in on that account.*”
- C. *Rabbis gazed at R. Ulla bar Abba.*

**III.1** A. If he went back to his town and again ruled [just as he had ruled before he is exempt] [M. [10:2M](#)]:

- B. *Our rabbis have taught on Tannaite authority:*
- C. **He is liable only if he will act in accord with the instruction that he has given, or unless he instructs others to do so and they act in accord with his instruction [T. [San. 14:12](#)].**
- D. *Now there is no problem with the case of his teaching others who act in accord with his instruction. To begin with, he was not subject to the death penalty, but now [after the court has ruled] he is indeed subject to the death penalty. But if he should act in accord with his own instruction, [that is a different matter, for] to begin with, also, he was subject to the death-penalty. There is [to continue the exposition], moreover, no problem if the original ruling had to do with the prohibition of eating forbidden fat or blood, for to begin with he was not subject to the death penalty, while now he is subject to the death penalty. But in a case in which he had given instruction concerning matters on account of which the court*

*inflict the death penalty, to begin with he was subject to the death penalty [and it is not only now that the court has made its ruling].*

- E. *[No, that is not a problem, for] to begin with he required admonition [against teaching as he did; barring admonition, he would not be subject to the death penalty], while now, he does not require admonition [and is subject to the death penalty in any event].*
- J. *Then as to the case of one who incites [a whole town to commit idolatry], who does not require an admonition at all, what is to be said?*
- K. *If, [prior to the consultation with the high court], he had given reason for his action, we might have accepted it from him, but now even if he gave a reason, we should not accept it from him.*

The magnificent exposition of unit I.1 at unit I.4 should not distract attention from other impressive traits of systematic exegesis of the fine composition before us. Unit I.1 provides an explanation for the proof-text of Scripture cited by the Mishnah itself. Unit I.2 then defines the matter at issue in the Mishnah-paragraph. Then unit I.3 spells out the materials of unit I, in light of one of the three positions of unit I.2. That the whole is a unity cannot be doubted, a wonderful piece of composition. All of the matters spelled out involve the disjunctive penalty specified by Meir, though this requires explicit exposition only at a few points. From that point forward, the entire passage is laid out as a systematic exposition of the Mishnah.

### 10:3

- A. **A more strict rule applies to the teachings of scribes than to the teachings of Torah.**
  - B. **He who, in order to transgress the teachings of the Torah, rules, “There is no requirement to wear phylacteries,” is exempt.**
  - C. **[But if,] in order to add to what the scribes have taught, [he said,] “There are five partitions [in the phylactery, instead of four], he is liable.**
- I.1** A. Said R. Eleazar, said R. Oshaia, “The liability applies only to a case in which the principle derives from the teachings of the Torah, the amplification derives from words of scribes, there is a possibility of adding, but if, should there be addition, it constitutes diminution.
- B. “The only example of such a matter is the case of the phylacteries. [Freedman, p. 587, n. 6: The fundamental law of wearing phylacteries is biblical. By rabbinic interpretation, the phylactery for the head must contain four compartments, with inscriptions in each. Hence it is possible to rule that it should consist of a greater number. But if this is done, the phylactery is unfit, so that the addition amounts to subtraction of its fitness.]” *This [A] accords with the principle of R. Judah [at B. San. 87A, above, who holds that at issue must be both a teaching of the Torah and an amplification based on views of scribes].*
  - C. *But [as against B] there is the matter of the palm-branch [waved on the festival of Tabernacles], in which the principle of the matter derives from the teaching of the Torah [Lev. 23:40], and the amplification, from the teaching of scribes there is a possibility of adding, but if, should there be addition, it constitutes diminution in the case of the palm-branch.*

- D. *What is the basic thesis of the present proposal? Is it that it is not necessary to bind together the several components of the palm-branch [that is, the palm with the citron and myrtle]? Then this part is distinct from that [Freedman, p. 588, n. 5: so that the combination is quite valid]. [Adding further will make no difference.]*
- E. *If we take the view that the palm-branch does have to be bound together, then the [palm-branch] persists in being invalid [as soon as an additional species, beyond the three required, is bound together with the others]. [Freedman, p. 588, n. 6: But in the case of phylacteries, when four compartments are made, the head-phylactery is valid, while only when a fifth is added, does it become invalid.] [so this matter of the palm-branch does not constitute a further example to illustrate the conditions set forth at the outset.]*
- F. *And lo, there is the case of show-fringes, in which case the principle derives from a teaching of the Torah, while the amplification of the matter derives from teachings of scribes, and there is a possibility of adding, but if, should there be an addition [of a thread], it constitutes diminution.*
- G. *But what theory do we espouse in the case of show-fringes? If we take the view that the upper knot [on the show-fringes] does not derive from the requirement of the Torah, then this knot stands apart from that knot. [Freedman, p. 588, n. 10: The fringes are inserted through a hole and knotted near the edge of the garment. It is disputed whether this is really necessary by biblical law. If not, then even when made, the threads or fringes are regarded as hanging apart and distinct. Consequently, if five instead of four threads were inserted and knotted, four fulfill the precept, while the fifth may be disregarded entirely, without rendering the rest invalid.] And if we take the view that [89A] the upper knot does derive from the requirement of the Torah, then to begin with the show-fringes are invalid.*
- H. *[This same argument may now apply to the phylacteries, namely,] if so, in the case of phylacteries also, if one made four cubicles and then added a fifth and set it beside the four, [we also may say] that this one is regarded as distinct from the others. And if to begin with one made five cubicles [instead of four], then to begin with the phylactery was invalid [as soon as it was made], for has not R. Zira said, "In the case of a cubicle that is open to the next [the phylactery is unfit,]" [Freedman, p. 588, n. 12: not having been made according to rule, which requires that each compartment shall be entirely shut off from the next, so it is not a case of phylacteries have been rendered unfit, but of something that was never a phylactery to begin with.]*
- I. [Freedman supplies from the Munich MS: This must be taught only in the case of one who made a frontlet of four compartments, and then added a fifth thereto and joined it. (By this addition the original is impaired,) even as Raba said, "If the outset compartment does not look upon space, it is invalid..."]

The Talmud provides ample illustration of the Mishnah's principle.

## 10:4

- A. **"They put him to death not in the court in his own town or in the court which is in Yabneh, but they bring him up to the high court in Jerusalem.**

- B. “And they keep him until the festival, and they put him to death on the festival,
- C. “as it is said, ‘And all the people shall hear and fear and no more do presumptuously’ (Deu. 17:13),” the words of R. Aqiba.
- D. R. Judah says, “They do not delay the judgment of this one, but they put him to death at once.
- E. “And they write messages and send them with messengers to every place:
- F. ‘Mr. So-and-so, son of Mr. So-and-so, has been declared liable to the death penalty by the court.’”

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

- B. “They put him to death not in the court in his own town or in the court which is in Yabneh, but they bring him up to the high court in Jerusalem. And they keep him until the festival, and they put him to death on the festival, as it is said, ‘And all the people shall hear and fear and no more do presumptuously’ (Deu. 17:13),” the words of R. Aqiba [M. 10:4A-C].
- C. Said R. Judah to him, “And is it said, ‘They shall see and fear’? What is stated is only, ‘They shall hear and fear..’
- D. “So why delay the judgment of this one? Rather they put him to death at once, and they write messages and send them with messengers to every place:
- E. ““Mr. So-and-so has been declared liable to the death penalty by the court” [M. 10:4D-F].

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

- B. The condemnation of four classes of criminals requires public announcement:
- C. one who entices [a town to apostasy], a wayward and incorrigible son, a rebellious elder, and witnesses who have been proved to form a conspiracy for perjury.
- D. And in the case of all of them [except for the fourth], it is written, “And all the people ...,” or, “and all Israel ...”
- E. But in the case of a conspiracy of perjurers, it is written, “And those that remain shall hear and fear” (Deu. 19:20),
- F. *for not every body is fit to be a witness, [so the admonition is not to all Israel].*

Unit I provides a light gloss to the Mishnah’s formulation, giving an answer to the exegetical argument, and unit II likewise amplifies matters.

## 10:5-6

- A. A false prophet [M. 10:1B],
- B. one who prophesies concerning something which he has not actually heard or concerning something which was not actually said to him,
- C. is put to death by man.
- D. But he who holds back his prophesy, he who disregards the words of another prophet, or the prophet who transgresses his word words
- E. is put to death by heaven,
- F. as it is said, “I will require it of him” (Deu. 18;19).

- A. He who prophesies in the name of an idol [M. 10:1B5], and says, “Thus did such-and-such an idol say to me,”
- B. even though he got the law right, declaring unclean that which in fact is unclean, and declaring clean that which in fact is clean.
- C. He who has sexual relations with a married woman [M. 10:1C1]
- D. as soon as she has entered the domain of the husband in marriage, even though she has not had sexual relations with him
- E. he who has sexual relations with her — lo, this one is put to death by strangling.
- F. And those who bear false witness against a priest’s daughter and against one who has sexual relations with her [M. 10:1C2,3] —
- G. for all those who bear false witness first suffer that same mode of execution,
- H. except for those who bear false witness against a priest’s daughter and her lover.

M.10:6

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

- B. Three [false prophets] are put to death by man, and three are put to death by heaven.
- C. **He who prophesies concerning something which he has not actually heard or concerning something which was not actually said to him [M. 10:5B],**
- D. and one who prophesies in the name of an idol — such as these are put to death by man.
- E. **But he who holds back his prophecy, he who disregards the words of another prophet, or the prophet who transgresses his own words is not to death by heaven [M. 10:5D-F].**

**I.2** A. *What is the source of this rule?*

- B. Said R. Judah said Rab, “It is because Scripture has said, ‘But the prophet who shall presume to speak a word in my name’ (Deu. 18:20) — this refers to a prophet **who prophesies concerning something which he has not actually heard.**
- C. “‘Which I have not commanded him to speak’ (Deu. 18:20) — but lo, I have indeed commanded his fellow, [and accordingly], this refers to **one who prophesies concerning something which was not actually said to him** [but to someone else].
- D. “‘Or shall speak in the name of other gods’ (Deu. 18:20) — this refers to one who prophesies in the name of an idol.
- E. “And it is written, ‘Even that prophet shall die’ (Deu. 18:20), and in the case of a death penalty specified in the Torah which is left undefined, it is only through strangulation.
- F. **“But he who holds back his prophecy, he who disregards the words of another prophet, or the prophet who transgresses his own words is put to death by heaven,**
- G. “For it is written, ‘And it shall come to pass that whoever will not hearken...’ (Deu. 18:19).

- H. *“In regard to such a person applies the statement, ‘who will not make heard’ and in regard to such a person applies the statement also, ‘Who will not listen to my words.’*
- I. *“And it is written, ‘I shall require it of him’ (Deu. 18:19) — meaning, [he is put to death] by heaven.”*

## **II.1 A. One who prophesies concerning something which he has not actually heard [M. 10:5B].**

- B. **For example, Zedekiah b. Chenaanah [T. San. 14:14A-B],**
- C. *for it is written, “And Zedekiah, the son of Chenaanah, had made him horns of iron” (1Ki. 22:11).*
- D. *What ought he have done? For it was the spirit of Naboth that had confused him! For it is written, “And the Lord said, Who shall persuade Ahab that he may go up and fall at Ramoth-Gilead? And there came forth a spirit and stood before the Lord and said, I will persuade him...and the Lord said, You shall persuade him and prevail also, go forth and do so” (1Ki. 22:20ff.)?*
- E. *Said R. Judah, “What is the meaning of ‘go forth’? It is ‘go forth’ from my vicinity.”*
- F. *What is the meaning of “spirit”?*
- G. *Said R. Yohanan, “It was the spirit of Naboth, the Jezreelite.”*
- H. *[Reverting to the question of what else Zedekiah might have done, we answer:] He might have checked out [the predictions of the other prophets].*
- I. *That accords with what R. Isaac said. For R. Isaac said, “The same message reaches many prophets, but no two prophets prophesy in the same wording. Obadiah said, ‘The pride of your heart has deceived you’ (Oba. 1:3), while Jeremiah said, ‘Your terribleness has deceived you and the pride of your heart’ (Jer. 49:16), [and both referred to Edom, but expressed themselves differently.]. [And returning to the argument against Zedekiah:] Since all of these prophets together spoke in the same way, it indicated that they had nothing at all to say [that God had delivered to them as his message].”*
- J. *But perhaps [Zedekiah] did not know about this statement of R. Isaac.*
- K. *Jehoshaphat was there, and he spoke to them, for it is written, “And Jehoshaphat said, Is there not here a prophet of the Lord besides, that we may inquire of him?” (1Ki. 22:7).*
- L. *[Ahab] said to him, “Lo, there are all of these [prophets]. I have received a teaching from the house of my father’s father that the same message reaches many prophets, but no two prophets prophesy in the same wording.”*

## **III.1 A. He who prophesies concerning something which was not actually said to him [M. 10:5B]:**

- B. **for example, Hananiah b. Azor [T. San. 14:14D].**
- C. *For Jeremiah was standing in the upper market, and saying, “Thus says the Lord of hosts, Behold I will break the bow of Elam” (Jer. 49:35).*
- D. *Now Hananiah constructed an argument a fortiori on his own, “If concerning Elam, who came only to help Babylonia, the Holy One, blessed be he, has said,*



‘Behold, I will break the bow of Elam,’ the Chaldeans themselves, how much the more so [will the Lord break their bow]!’”

- E. *He came along to the lower market and said, “Thus says the Lord of hosts, the God Israel, saying, I have broken the yoke of the kingdom of Babylon: (Jer. 28: 2).*
- F. *Said R. Pappa to Abbaye, “[But this does not constitute violating the rule, for] that message also had not been given to his fellow [Jeremiah].”*
- G. *He said to him, “Since an argument a fortiori has been made available as an exegetical tool, it is as if it had been stated to him.*
- H. *“Accordingly, this falls into the category of saying something that had not been said to him [but had been said to his fellow prophet].”*

**III.2 A. He who prophesies in the name of an idol; : He who holds back his prophecy [M. 10:5D]:**

- B. **for example Jonah b. Amittai [T. San. 14:15B].**

**III.3 A. He who disregards the words of another prophet [M. 10:5D]:**

- B. **for example [89B] the friend of Micah,**
- C. *as it is written, “And a certain man of the sons of the prophets said to his fellow in the word of the Lord, Smite me I pray you, and the man refused to smite him” (1Ki. 20:35).*
- D. *And it is further written, “And he said to him, Because you have not obeyed [the voice of the Lord, behold as soon as you have departed from me, a lion will kill you]” (1Ki. 20:36).*

**III.4. A. Or the prophet who transgresses his own words [M. 10:5D]:**

- B. **for example, Iddo, the prophet [T. San. 15:15E],**
- C. *as it is written, “For so it was charged me by the word of the Lord, [saying, Eat not bread not drink water nor turn again by the same way that you come]” (1Ki. 13: 9).*
- D. *“And [the prophet] said to him, I am a prophet also as you are [and an angel spoke to me by the work of the Lord, saying, Bring him back with you to your house that he may eat bread and drink water” (1Ki. 13:18).*
- E. *“So he went back with him,” and “When he was gone, a lion met him by the way and slew him” (1Ki. 13:24).*

**III.5 A. A Tannaite authority repeated before R. Hisda, “He who holds back his prophecy is flogged.”**

- B. *He said to him, “He who eats dates out of a sieve is flogged! Who warned [the prophet who withheld his prophecy, since no one could have known about that fact]? [No admonition, no flogging!]”*
- C. *Said Abbaye, “His fellow prophets.”*
- D. *“How did they know about it?”*
- E. *Said Abbaye, “For it is written, ‘Surely the Lord will do nothing unless he reveals his secret to his servants, the prophets, (Amo. 3: 7).”*
- F. *“But perhaps [the heavenly messengers] retracted?”*
- G. *“If it were the case that they had retracted, they would have informed all the other prophets.”*



- H. *“And lo, there is the case of Jonah, in which heaven had retracted [its decision], but they had not notified Jonah.”*
- I. *“To begin with, Jonah was told that Nineveh would be turned, but he was not informed whether it was for good or for bad.”*

### **III.6 A. He who disregards the words of another prophet [M. 10:5D]:**

- B. *How does one know [that the other is a prophet], so that he should be punished?*
- C. *[The other] gives him a sign.*
- D. *And lo, there is the case of Micah, who did not give a sign, and yet [the other prophet] was punished.*
- E. *In a case in which one was already well established as a prophet, the law is different.*
- F. *For if you do not take that view, then in the case of Abraham at Mount Moriah, how could Isaac have listened to Abraham, and in the case of Elijah at Mount Carmel, how could the people have relied on him, so as [in both cases] to make an offering outside of the Temple?*
- G. *It must follow that in a case in which one was already well established, the law is different.*

### **III.7 A. “And it came to pass after these words that God tested Abraham” (Gen. 22: 1):**

- B. What is the meaning of “after”?
- C. Said R. Yohanan in the name of R. Yosé b. Zimra, “It was after the words of Satan.
- D. “For it is written ‘And the child grew and was weaned [and Abraham made a great feast the same day that Isaac was weaned]’ (Gen. 21: 8).
- E. “Said Satan to the Holy One, blessed be he, ‘Lord of the world, as to this old man, you have shown him grace by giving him the fruit of the womb at one hundred years. Now of the entire meal that he has made, he did not have a single pigeon or a single dove to offer before you.’
- F. “He said to him, ‘Has he done anything at all except to honor his son? [But] if I were to say to him, “Sacrifice your son before me,” he would sacrifice him immediately.’
- G. “Forthwith: ‘And God tested Abraham’ (Gen. 22: 1).”
- H. “And he said, Take, I pray you, your son” (Gen. 22: 2).
- I. Said R. Simeon b. Abba, “The word ‘I pray you’ bears the meaning only of supplication.
- J. “The matter may be compared to the case of a mortal king, against whom many wars were fought. He had one powerful leader, who won all his battles.
- K. “After a while a very difficult war was waged against him.
- L. “He said to him, ‘By your leave, stand up for me in this war too, so that people will not say that, as to the earlier wars, they really did not add up to much.’
- M. “So the Holy One, blessed be he, said to Abraham, ‘I tried you in a number of trials and you stood up to all of them. Now stand up for me in this trial

as well, so that people will not say that, as to he earlier trials, they really did not add up to much.”

- N. “Your son” (Gen. 22: 2) — “I have two sons.”
- O. “Your only son (Gen. 22: 2) — “This one is an only son for his mother, and that one is an only son for his mother.”
- P. “Whom you loved” (Gen. 22: 2) — “*I love them both.*”
- Q. “Isaac” (Gen. 22: 2).
- R. Why all this?
- S. So that he should not be confused.
- T. Satan met him on the way and said to him, “If we try to commune with you, will you be grieved? ... Behold you have instructed many, and you have strengthened weak hands. Your words have held up him who was falling, and you have strengthened feeble knees. But now it is come upon you, and you faint” (Job. 4:2-5).
- U. He said to him, “I will walk in my integrity.” (Psa. 26: 2).
- V. He said to him, “But should not your fear by your confidence” (Job. 4: 6).
- W. He said to him, “Remember, I pray you, whoever perished, being innocent?” (Job. 4: 6).
- X. *Since [Satan] saw that he would not listen to him, he said to him, “Now a thing was secretly brought to me”* (Job. 4:12).
- Y. “This I have heard from the other side of the curtain: ‘The lamb is for a burnt-offering (Job. 4: 7) — and Isaac is not for a burnt-offering.”
- Z. This is the penalty paid by a liar, that even when he tells the truth, people do not pay any attention to him.
- AA. [Explaining, “After these words” (Gen. 22: 1):] said R. Levi, “After the words between Ishmael and Isaac.
- BB. “Ishmael said to Isaac, ‘I am greater than you in the performance of religious duties, for you were circumcised on the eighth day, while I was circumcised in the thirteenth year.’
- CC. “He said to him, ‘And on account of one limb are you going to put me down? If the Holy One, blessed be he, were to say to me, ‘Sacrifice yourself before me,’ I should sacrifice myself immediately.’
- DD. “‘And God tried Abraham’ (Gen. 22: 1).”

**III.8 A.** [With reference to M. **10:6A-B**], *our rabbis have taught on Tannaite authority:*

- B. **A prophet who enticed [people to commit idolatry] is put to death through stoning.**
- C. **R. Simeon says, “It is through strangulation”**
- D. **Those who entice a whole town to commit idolatry are put to death through stoning.**
- E. **R. Simeon says, “Through strangulation” [cf. T. **San. 11:5D**].**
- F. *What is the scriptural basis for the position of rabbis?*
- G. They establish an analogy between the matter of the false prophet and the one who enticed a town to commit idolatry on the basis of the common usage of the word

“enticement” in both cases [for the prophet, at Deu. 13:6, and for the one who enticed the town to commit idolatry, at Deu. 13:11].

- H. Just as, in the latter case, the penalty is death through stoning, so in the present case, the penalty is death through stoning.
- I. *And R. Simeon? The penalty is death is ascribed to such a one, and in any case in which in the Torah death is prescribed without further specification, it is is through strangulation.*
- J. **Those who entice a whole town to commit idolatry are put to death through stoning:**
- K. *What is the scriptural basis for the position of rabbis?*
- L. [As before], they establish an analogy between the matter of the one who entices the town to commit idolatry and the prophet who enticed [people to commit idolatry], based on the common use of the word enticement.
- M. And R. Simeon? He derives the penalty applicable to the one who entices the town to commit idolatry from the penalty applicable to the prophet on the basis of the use of the word “enticement” in common to both.
- N. And why not derive the proof from the case of one who entices a community to commit idolatry [at which, at Deu. 13:11, the penalty of stoning is explicitly prescribed]?
- O. We draw an analogy from the case of one who entices the community at large from the case of one who entices the community at large, and we do not derive an analogy concerning the one who entices the community at large from the instance of one who entices an individual.
- P. On the contrary, we should derive an analogy for the penalty applying to a common person from the penalty that applies to another such common person, and we should not establish an analogy concerning a common person from the rule that applies to a prophet!
- Q. And R. Simeon?
- R. Since one has enticed [a community to commit idolatry], you have no more solid grounds than that for regarding one as a common person!
- S. Said R. Hisda, “[90A] The dispute concerns the case of one who uprooted the very principle that idolatry is forbidden, or who in part confirmed and in part annulled the principle of idolatry.
- T. “For the All-Merciful has said, ‘[To entice you]...from the way [which the Lord your God commanded you to walk in]’ (Deu. 13: 6) — that is, even part of the way.
- U. “But as to one who uprooted the very principle of other religious opinions in the opinion of all parties is put to death through strangulation, and as to one who upholds part and annuls part of any of the other commandments, all parties concur that such a one is exempt.”
- V. *R. Hammuna objected*, “[Because he has spoken ... to entice you from the way which the Lord your God has commanded you] to walk’ — this refers to commandments concerning positive deeds.
- W. “‘...in it’ — this refers to commandments concerning things not to do.

- X. *“Now if you take that view that at issue is idolatry, where do you find a commandment concerning a duty actually to carry out a deed in connection with idolatry?”*
- Y. *R. Hisda explained, “[You do indeed find such a positive commandment: ‘And you shall overthrow their altars’ (Deu. 12: 3).”*
- Z. *R. Hamnuna said, “The dispute concerns one who uproots the very principle of the law, whether with respect to idolatry or any other religious duties, or the partial fulfillment and the partial nullification of idolatry.*
- AA. *“For the All-Merciful has said, ‘...from the way...’ (Deu. 13: 6) — even part of the way.*
- BB. *“But if one a one confirms in part and annuls in part the matter of all other commandments, all parties concur that he is exempt.”*

**II.9** *A. Our rabbis have taught on Tannaite authority:*

- B. *He who prophesies in such a way as to uproot a teaching of the Torah is liable.*
- C. *[If he prophesies so as] to confirm part and annul part [of a teaching of the Torah],*
- D. *R. Simeon declares him exempt.*
- E. *But as for idolatry, even if one says, “Today serve it and tomorrow annul it,” all parties concur that he is liable.*
- F. *Abbaye reasons matters in accord with the view of R. Hisda and deals with the matter at hand in accord with the view of R. Hisda, and Raba reasons matters in accord with the view of R. Hamnuna and interprets the matter at hand with the view of R. Hamnuna.*
  - G. *Abbaye reasons matters in accord with the view of R. Hisda and deals with the matter at hand in accord with the view of R. Hisda:*
  - H. *As to him who prophesies in such a way as to uproot a teaching of the Torah, all parties concur that he is put to death through strangulation.*
  - I. *If he so prophesies as to confirm part and annul part, R. Simeon declares him exempt, and that is the view also of rabbis.*
  - J. *And as to a matter of idolatry, even if he said, “Today serve it and tomorrow annul it,” he is liable.*
  - K. *Each will condemn him to the death penalty in accord with his established position [so rabbis have him stoned, Simeon has him strangled.].*
  - L. *Raba reasons matters in accord with the view of R. Hamnuna and interprets the matter at hand in accord with the view of R. Hamnuna:*
  - M. *He who prophesies as to uproot a teaching of the Torah, whether it concerns idolatry or any of the other religious duties, it is liable.*
  - N. *Each will condemn him to the death penalty in accord with his established position.*

- O. If he so prophesies as to confirm part and annul part of another religious duties.
- P. R. Simeon declares him exempt, and that is the view of rabbis. [Freedman, p. 599, n.b. 1: In Hamnuna's view, Simeon is particularly mentioned to show that he is exempt even from strangulation, a more lenient death than stoning, hence certainly from stoning].
- Q. And as idolatry, even if he says, "Today serve it and tomorrow annul it," he is liable.
- R. Each will condemn him to the death penalty in accord with his established position.

**III.10** A. Said R. Abbahu said, R. Yohanan, "In any matter, if a prophet should say to you, 'Violate the teachings of the Torah,' obey him, except for the matter of idolatry.

- B. "For even if he should make the sun stand still for you in the middle of the firmament, do not listen to him."
- C. *It has been taught on Tannaite authority:*
- D. R. Yosé the Galilean says, "The Torah reached the ultimate depth of idolatry, therefore the Torah have [the false prophet] rule over it,
- E. "so that even if he should make the sun stand still for you in the midst of the firmament, you should not obey him."
- F. *It has been taught on Tannaite authority:*
- G. Said R. Aqiba, "Heaven forbid that the Holy One blessed be he should make the sun stand still in behalf of those who violate his will.
- H. "But it would be like one such as Hananiah, son of Azur, who to begin with had been a true prophet but in the end became a false prophet."

**IV.1** A. And those who bear false witness against a priest's daughter...[M. 10:F]:

- B. *What is the source in Scripture of this rule?*
- C. *Said R. Aha, son of R. Iqa, "It is in accord with that which has been taught on Tannaite authority:*
- D. "R. Yosé says, 'What is the meaning of the verse of Scripture, "Then you shall do to him as he had thought to have done to his brother" (Deu. 19:19)?
- E. "'Since all those in the Torah who are proved to be a conspiracy of perjury, those who prove them to be perjured and lovers are treated as they are [that is, as are the perjured witnesses, so to the death they sought to impose on the women and the lovers to that of the women they had dishonored (Freedman, p. 600, n. 1)],
- F. "'In the case of the priest's daughter, however, she is executed by burning, but her lover is not executed by burning.
- G. "'As to perjured witnesses against her, therefore, I do not know whether they are linked to him or to her [and so made to suffer the death they had conspired to bring upon her or upon him].
- H. "'When Scripture says, "to have done to his brother," it teaches, "to his brother and not to his sister" [Freedman, p. 600, n. 3: He is executed by her paramour's death, not her own]."

The Talmud once more follows the Mishnah's topics, systematically and in order. Unit I deals with M. 10:5B-F; units II.1-3 with M. 10:5B, units III.1ff. with M. 10:5D, and IV.1 with M. 10:5F, as indicated. The work is orderly and sensible, and even secondary amplifications are given in a balanced and orderly manner.