

II.

BABYLONIAN TALMUD MAKKOT CHAPTER TWO

FOLIOS 7A-13A

2:1A-L

- A. These are the ones who go into exile:
- B. he who kills someone accidentally.
- C. (1) [If] he was rolling [the roof] with a roller, and it fell down on someone and killed him,
- D. (2) [if] he was letting down a jar [from the roof], and it fell on [a man] and killed him,
- E. (3) [if] one was climbing down a ladder and fell down on someone and killed him —
- F. lo, this person goes into exile.
- G. But: (1) if he was pulling up a roller, and it fell on [a man] and killed him,
- H. (2) [if] he was drawing up a jar, and the rope broke, and [the jar] fell on a man and killed him,
- I. [7B] (3) [if] he was climbing up a ladder and fell on a man and killed him,
- J. lo, this one does not go into exile.
- K. This is the governing principle: Whatever happens en route downward — the person goes into exile.
- L. [And whatever happens] not en route downward — the person does not go into exile.

We begin with the scriptural basis for the distinction important in the governing principle and then backtrack to the issue of the distinction between manslaughter and murder, spelling out precisely how Scripture defines and sustains that distinction.

- I.1** A. [This is the governing principle: Whatever happens en route downward — the person goes into exile:] *What is the scriptural basis for these distinctions?*
- B. Said Samuel, “Said Scripture, ‘or..he let it fall upon him so that he died’ (Num. 35:22) — one goes into exile only if something fell in a downward movement.”

Now comes the broader issue of the distinction between manslaughter and murder, with special attention to the exegesis of the verses of Scripture that present that distinction.

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

- B. “That kills any person by error...unaware” (Deu. 19: 4) — this excludes one who did so deliberately.
- C. “That kills any person by error” — this excludes one who did so intentionally.
- D. ...this excludes one who did so deliberately — *that is obvious! Such a one is subject to the death penalty!*
- E. *Said Rabbah*, “Say, it excludes one who says, ‘I thought it was permitted to kill him.’”
- F. *Said to him Abbayye*, “If it is one who says, ‘I thought it was permitted,’ then he has acted under constraint.”
- G. *He said to him*, “*I claim*, ‘he who says, ‘I thought it was permitted,’ is close to one who does the deed deliberately.’”
- H. “unaware:” this excludes one who kills intentionally.
- I. *Intentionally?! That is obvious! Such a one is subject to the death penalty!*
- J. *Said Rabbah*, “I may say, it excludes one who intended to kill a beast but killed a human being, a Samaritan but killed an Israelite, a miscarriage but killed a viable foetus.”

The next two units continue the exposition of the relevant verses, now those in Numbers.

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

- B. “But if he thrust him suddenly, without enmity, or have cast upon him any thing without lying in wait for him” (Num. 35:22):
- C. “But if he thrust him suddenly:” this excludes a case in which one has killed [through unintended negligence, e.g.,] by rushing around a corner.
- D. “without enmity:” this excludes a long-time enemy.
- E. “he thrust him:” he pushed him with his body.
- F. “or have cast upon him:” this encompasses an accident that came about from a downward motion that was required for an upward motion.
- G. “without lying in wait for him:” this excludes a case in which one threw something in one direction which swerved to another direction.
- H. “without lying in wait for him:” this excludes a case in which one intended to throw an object two cubits but sent it four.

I.4. A. “and as a man goes into the wood with his neighbor” (Deu. 19: 5):

- B. just as the forest is public domain for the entry of the party who was injured and the one who did the injury, so any domain that is equally open to the entry of the injured party and the one who did the injury.

Now that the exegetical work is complete, we proceed to a theoretical, interstitial problem, which is to say, from exegesis we move on to analysis of the intersection of principles.

- I.5.** A. R. Abbahu raised this question of R. Yohanan: “If someone was climbing up a ladder, and a rung gave way under him so he comes down and kills someone — what is the law? *In such a case do we regard the death as the result of an upward movement of a downward movement?*”
- B. He said to him, “You have reached a case of going down which is required for going up.”
- C. *An objection was raised: **This is the governing principle: Whatever happens en route downward — the person goes into exile. [And whatever happens] not en route downward — the person does not go into exile.** Now what does the language, **And whatever happens] not en route downward,** mean to encompass? Is it not to encompass a case of just this kind?*
- D. *But in accord with your reasoning, what does the language, **Whatever happens en route downward,** mean to encompass? Is it not to encompass the case of a butcher? And that case is covered by the latter clause, for it has been taught on Tannaite authority:*
- E. “In the case of a butcher who was chopping meat [and killed someone]:
- F. “*One Tannaite authority said: ‘If he killed someone in front of him, he is liable to go into exile, if behind, he is exempt.’*
- G. “*A second Tannaite authority said: if he killed someone behind him, he does into exile, if not, he does not go into exile.’*
- H. “*A third Tannaite authority said: ‘If he killed someone, whether in front of him or behind him, he has to go into exile.’*
- I. “*A fourth Tannaite authority said: ‘If he killed someone whether in front of him or behind him, he is exempt from having to go into exile.’*
- J. “*And there is no contradiction among these rulings. In the first case [if he killed someone in front of him, he is liable to go into exile, if behind, he is exempt] if he killed someone in front of him by a downward stroke, he goes into exile, if behind by an upward stroke, he does not;.*
- K. “In the second case, if he killed someone in front of him by an upward swing, he is exempt, if behind him by a downward movement, he goes into exile.
- L. “In the third case, if he killed either in front or behind by the downward stroke, he goes into exile.
- M. “In the fourth case, if he killed either in front or behind by the upward swing, he is exempt.”

- I.6.** A. *May we say that the same is taught among a variety of Tannaite statements:*
- B. If he was climbing up a ladder and a rung fell out under him —
- C. *one Tannaite version states, “he is liable,”*
- D. *and another Tannaite version states, “he is exempt from liability to go into exile.”*
- E. *Is this not what is at stake between them? One authority maintains that the man on the ladder is classified as moving downward, the other, upward?*
- F. *No, all parties maintain that the man is classified as having killed while in an upward movement, but there is no problem here. The one statement refers to liability to damages, the other, to exile.*

- G. *And if you prefer, I shall say that both opinions refer to exile, but there still is no problem. The first authority speaks of a case in which the run was worm eaten, the other, it was not.*
- H. *And if you prefer, I shall say that the rung was not worm eaten, but there still is no problem. The second opinion speaks of a case in which the rung was fixed tightly, the first, not.* [Lazarus: this is a downward motion all the time and therefore entails exile.]
- I.1 finds a scriptural basis for the distinction important to the Mishnah, and Nos. 2, 3, 4 go over further scriptural passages relevant to our topic. No. 5, complemented at No. 6, then raises questions of clarification of the rule. It is not possible to find a more perfect Talmud than this, combining as it does respect for tradition — analysis of Scripture and the received Tannaite tradition — with sustained analytical independence.

2:1M-R

- M.** [If] the iron flew from the heft and killed someone,
- N.** Rabbi says, “He does not go into exile.”
- O.** And sages say, “He goes into exile.”
- P** [If] it flew from the wood which is being split,
- Q.** Rabbi says, “He goes into exile.”
- R.** And sages say, “He does not go into exile.”

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

- B. Said Rabbi to sages, “But is it stated, ‘and the iron slips from its wood’ (Deu. 19: 5)? What it says is, ‘from the tree.’ And ‘tree’ appears twice, just as in the first instance, the reference is to the tree that is being cut down, so in the second case, it is to the tree that is being cut down.”

I.2. A. Said R. Hiyya bar Ashi said Rab, “And both parties interpret the same verse of Scripture, namely, ‘and the iron slips from the tree’ (Deu. 19: 5).

- B. *“Rabbi maintains that the unvocalized letters of the text are determinative, so we jay read the word as ‘and was hurled away,’ and rabbis hold that the vocalization of the letters of the text is determinative, so we can only read ‘and slipped.’”*
- C. *But does Rabbi really maintain that the unvocalized letters of the text are determinative? [8A] And has not R. Isaac b. R. Joseph said R. Yohanan said, “Rabbi, R. Judah b. Roes, the House of Shammai, R. Simeon, and R. Aqiba, all take the view that we read Scripture in the way in which the supplied vowels direct it to be read”?*
- D. *Well, that is quite right, and that is why he gave them an additional argument.”*

I.3. A. Said R. Pappa, “Someone who threw a clod at a palm and knocked off some palm fruit, which in falling killed someone — that presents us with a case illustrative of the dispute between Rabbi and rabbis.”

- B. *So what else is new!*

- C. *What might you have argued? That the fruit in its fall killed the man is merely a secondary force [so banishment is not involved], and R. Pappa's statement informs us that that is not the conclusion that is drawn.*
 - D. *And what would be that secondary force within the framework of the view imputed to Rabbi?*
 - E. *If one threw a clod and hit a stem that precipitated a cluster of fruit, and the fruit dropped and killed someone.*
- I.1, 2 find a basis in Scriptural exegesis for the dispute at hand. No. 3 amplifies the given principle.

2:2

- A. **He who throws a stone into the public domain and so committed manslaughter — lo, this one goes into exile.**
- B. **R. Eliezer b. Jacob says, "If after the stone left the man's hand, the other party stuck out his head and took [the stone on the head], lo, this one is exempt."**
- C. **[If] he threw the stone into his own courtyard and killed him,**
- D. **if the victim had every right to go into there, [the other party] goes into exile.**
- E. **And if not, he does not go into exile,**
- F. **as it is said, "As when a man goes into the forest with his neighbor" (Deu. 19: 5) —**
- G. **just as the forest is a domain in which both the victim and the one who inflicted injury have every right to enter,**
- H. **so the courtyard belonging to the householder is excluded [from reference], since the victim had no right to go there.**
- I. **Abba Saul says, "Just as cutting wood is optional, so are excluded [from punishment those who do their duty, e.g.:] the father who hits his son, the master who strikes his disciple, and the court official [who committed homicide in the doing of their duty]."**

We begin with the obvious question of why throwing a stone into public domain is not classified as a deliberate action yielding not manslaughter but gross negligence.

- I.1 A. He who throws a stone into the public domain and so committed manslaughter — lo, this one goes into exile:**
- B. *[But if that is what he did,] then it is a deliberate action [so why allow the mere penalty of exile]?*
- C. *Said R. Samuel bar Isaac, "The Mishnah's rule refers to a case in which one was tearing down his shaky wall" [Lazarus: removing such possible danger to the public is commendable].*
- D. *But then he should have looked into the matter carefully [to see that no damage would result]!*
- E. *We deal with a case in which he was dismantling his wall at night.*
- F. *So if he was doing it at night, he still should have looked into the matter carefully [to see that no damage would result]!*

- G. We deal with a case in which he was clearing away the debris of his wall into the rubbish.
- H. *So what was the rubbish like? If the dump heap was located in a place in which passersby were frequent, then the man is negligent, and if it was not a place in which passersby were frequent, then he has acted inadvertently!*
- I. *Said R. Pappa, "The rule was required only to deal with the case of a rubbish heap that was commonly used for dumping by night, but not commonly used for dumping by day. Still, some people pass by and set there by day. In that case, the man who tossed the stone is not held to be negligent, because the place is not ordinarily used for convenience by day, but he also is not merely inadvertent in his action, because from time to time people pass by and set there by day."*

II.1 A. R. Eliezer b. Jacob says, "If after the stone left the man's hand, the other party stuck out his head and took [the stone on the head], lo, this one is exempt:"

- B. *Our rabbis have taught on Tannaite authority:*
- C. "And if it found the neighbor...he shall flee" (Deu. 19: 5) — excluding one who made himself available.
- D. On the strength of that reading, said **R. Eliezer b. Jacob**, **"If after the stone left the man's hand, the other party stuck out his head and took [the stone on the head], lo, this one is exempt."**

II.2. A. Does that reading bearing the implication that the sense of "find" is that it is finding something there to begin with ["shall have found"]? But the following contradicts that imputation of meaning:

- B. "And he found enough to redeem it" (Lev. 25:26) — excluding assets that were in hand already, so that one may not sell a distant property to redeem with the proceeds one that is more conveniently located, or an inferior property to redeem with the proceeds a desirable one.
- C. *Said Raba, "In this case, we deal with the verse of Scripture in context, and in the other case, we deal with the verse of Scripture in context. In that other case we deal with the verse of Scripture in context, in the following way: 'and 'found' means, what he has just now come across, so 'and found' in context must have the same meaning. Here too, the meaning of the word derives from its context: 'and if it found' must be understood along with its parallel, 'the wood.' Just as in the case of the wood, it was there to begin with, so 'and if it found' must mean, 'it found the victim who was there to begin with.'"*

The next clause takes for granted a fact that the Talmud wishes to examine as not a given but a problem.

III.1 A. Abba Saul says, "Just as cutting wood is optional, so are excluded [from punishment those who do their duty, e.g.:] the father who hits his son, the master who strikes his disciple, and the court official who committed homicide in the doing of their duty:"

- B. *Said one of the rabbis to Raba, "How come the cutting of wood in the present context is assumed to be optional? Maybe it was cutting wood for a tabernacle for the Festival of Tabernacles, or the cutting of wood for the wood pile on the altar in the Temple [which are religious duties]? Then it would follow that even*

under such conditions, the All-Merciful has said that the manslayer should go into exile!”

- C. *He said to him, “Since, if the wood cutter found wood already cut so that he did not have to do any chopping, the chopping itself would not form part of a religious duty, then to begin with, it is not classified as a component of the performance of a religious duty.”*
- D. *Objected Rabina to Raba, “...so are excluded [from punishment those who do their duty, e.g.:] the father who hits his son, the master who strikes his disciple, and the court official who committed homicide in the doing of their duty. But may we not say that if the son was already learned, striking him was not a component in the performance of a religious duty, so, here too, even to begin with, it should not be classified as a component of the performance of a religious duty?”*
- E. *“Even though the son was already learned, it is still a component of the performance of a religious duty, since it is written, ‘Correct your son and he will give you rest, yes, he will give delight to your soul’ (Pro. 29:17).”*
- F. *Retracting, said Raba, “What I said makes no sense. ‘When a man goes into the wood with his neighbor’ bears the sense [of an optional deed, specifically,] if he wants, he will go cut wood, and if he wants, he won’t go cut wood. But if you think that it is a religious duty in any terms, then has he got the option of not going to cut wood at all?”*
- G. *Said R. Ada bar Ahbah to Raba, “Then does the word translated as ‘when’ always bear the meaning of an optional deed? Take for example, ‘when a man is unclean and shall not purify himself, that soul shall be cut off..’ (Num. 19:13) — if it then to be assumed that if the man wants, he will contract corpse uncleanness, and if he wants, he won’t contract corpse uncleanness? Has he then got the option of not contracting corpse uncleanness at all, for instance, if he should find a neglected corpse? [Obviously, he has no choice but to contract corpse uncleanness by burying the corpse]! Then in that case, would he be exempt from having to undergo a rite of purification? [That result is absurd]!”*
- H. *“That case is different, for Scripture has explicitly said, [8B] ‘he shall contract uncleanness’ under any and all circumstances.”*
- I. *But that statement is required for a quite different lesson, as has been taught on Tannaite authority:*
- J. *“He shall be unclean” — that serves to encompass the person who has immersed on the selfsame day; “uncleanness is still affecting him,” encompassing a person who has gone through a purification rite but has not yet completed the atonement rite.*
- K. *He said to him, “I derive my point by appeal to the word, ‘yet’ [leaving the item here for the purpose for which it is used].”*

III.2. *A. There are those who repeat the foregoing discussion in connection with the following:*

- B. *“Six days you shall work but on the seventh day you shall rest, in ploughing time and in harvest you shall rest” (Exo. 34:21) [whatever the need, ploughing and reaping may not be done on the Sabbath or the Sabbatical Year] —*

- C. R. Aqiba says, “The reference to ploughing and reaping is not required to indicate that these actions are forbidden in the Sabbatical Year itself, for that is explicitly covered when Scripture says, ‘neither shall you sow your field or prune your vineyard[(Lev. 25: 4-5). Rather, the purpose is to impose the restriction of ploughing even in the year prior to the Sabbatical Year when the effect of the ploughing will extend into the Sabbatical Year, and it is to restrict harvesting produce partly grown in the Sabbatical Year but reaped in the year following the Sabbatical Year.”
- D. R. Ishmael says, “Just as ploughing is optional, so reaping is optional. Excluded from the prohibition of work on the Sabbath then is the reaping of the first sheaf of barley for the sheaf to be waved, which is a religious duty [and may be done on the Sabbath].”
- E. *Said one of the rabbis to Raba, “On what basis does R. Ishmael assume that the ploughing here is optional. It could be ploughing for the purpose of raising barley for the sheaf of first barley to be waved, which is a religious duty; then one might infer that the All-Merciful prohibits doing so in that connection!”*
- F. *He said to him, “Since, if he found the ground already ploughed, he would not have to plough again, the ploughing cannot be regarded as obligatory.”*
- G. *Objected Rabina to Raba, “...so are excluded [from punishment those who do their duty, e.g.:] the father who hits his son, the master who strikes his disciple, and the court official who committed homicide in the doing of their duty. But may we not say that if the son was already learned, striking him was not a component in the performance of a religious duty, so, here too, even to begin with, it should not be classified as a component of the performance of a religious duty?”*
- H. *“Even though the son was already learned, it is still a component of the performance of a religious duty, since it is written, ‘Correct your son and he will give you rest, yes, he will give delight to your soul’ (Pro. 29:17).”*
- I. *Retracting, said Raba, “What I said makes no sense. For the ploughing is the generative analogy: just as ploughing is such that, if one found the field ploughed, he will not have to plough it again, so is the case with reaping. But if you think that ‘reaping’ is obligatory, then, by that analogy, if he found the sheaves cut, he does not have to reap them again. But how can that be, since bringing as well as reaping form parts of the religious duty.”*
- I.1 once again explains the important distinction that the law at hand requires. The refinement of course carries us far from the clear intent of the statement, resting as it does on a close reading of the language of the Mishnah’s formulation. II.1 complements the Mishnah’s statement with the Tosefta’s amplification. No. 2 then examines the foregoing. III.1 examines the Mishnah’s scriptural proof for its proposition. No. 2 supplements the foregoing.

2:3A-F

- A. **The father goes into exile because of [the death of] the son.**
- B. **And the son goes into exile because of the [the death of] father.**
- C. **All go into exile because of [the death of] an Israelite.**

- D. **And an Israelite goes into exile on their account,**
- E. **except on account of [the death of] a resident alien.**
- F. **A resident alien goes into exile only on account of [the death of] another resident alien.**

I.1 A. The father goes into exile because of the death of the son:

- B. *But have you not just said, ...so are excluded [from punishment those who do their duty, e.g.:] the father who hits his son!*
- C. *It is a case in which the son is already learned.*
- D. *But have you not just said, “Even though the son was already learned, it is still a component of the performance of a religious duty, [since it is written, ‘Correct your son and he will give you rest, yes, he will give delight to your soul’ (Pro. 29:17)]?”*
- E. *It was teaching him as a carpenter’s apprentice.*
- F. *But teaching him as a carpenter’s apprentice is so that he can make a living [and that is a religious duty]!*
- G. *He already had some other way of making a living.*

II.1 A. And the son goes into exile because of the [the death of] father:

- B. *An objection was raised:*
- C. *“He who kills a person” (Num. 35:11) — excluding someone who has killed his father or mother.*
- D. *Said R. Kahana, “There is no contradiction, the one formulation represents the position of R. Simeon, the other, rabbis. From the perspective of R. Simeon, who has said that death through strangulation is a more severe form of the death penalty than death through the sword, therefore in case of causing death inadvertently, the penalty of execution by the sword is appropriately remitted when commuted into banishment; in the case of killing a parent inadvertently, the more severe form of the death penalty, strangulation, has no appropriate counterpart form of remission. But from the perspective of rabbis, who maintain that the death penalty by the sword is the more severe mode of execution than strangulation, if one killed a parent in error, the penalty is the more severe form, the sword, and the penalty of the sword has its appropriate counterpart of remission, which is exile.”*
- E. *Raba reads the cited passage as follows:*
- F. *“‘He who kills a person’ (Num. 35:11) — excluding from exile one who wounds his father or his mother in error. For it might have entered your mind to suppose that, if he deliberately wounded the parent he would be put to death, if he did so in error, he should go into exile. The text then says the opposite: ‘He who kills a person’ (Num. 35:11) — excluding from exile one who wounds his father or his mother in error.”*

III.1 A. All go into exile because of [the wrongful death of] an Israelite. And an Israelite goes into exile on their account:

- B. *What class of persons is encompassed by the language, All go into exile?*
- C. *It is meant to encompass under the law slaves and Samaritans [who also enjoy the remission of the death penalty for killing an Israelite inadvertently].*

III.2. A. *That is in line with that which our rabbis have taught on Tannaite authority:*

- B. **A slave or Samaritan goes into exile or is flogged on account of an action done to an Israelite, and an Israelite goes into exile or is flogged on account of an action done to a slave or a Samaritan [T. Mak. 2:7C-D].**
- C. *Now there is no problem with the statement, A slave or Samaritan goes into exile or is flogged on account of an action done to an Israelite, since he would go into exile if he killed an Israelite and receive a flogging if he cursed an Israelite.*
- E. *But as to the statement, and an Israelite goes into exile or is flogged on account of an action done to a slave or a Samaritan, while, to be sure, the Israelite would go into exile if he killed him, under what circumstances would he get a flogging on account of the other? “Nor curse a ruler of your people” (Exo. 22:27) [on account of which one would be flogged] refers in particular to a curse against someone who acts in accord with the usages of your people [excluding such as these]!*
- F. *Said R. Aha bar Jacob, “For instance, if he gave testimony against him and was convicted of being part of a conspiracy of perjurers, for, along these same lines, if someone gave testimony against a slave and was convicted of being part of a conspiracy of perjurers, he would be flogged.”*
- G. *So does a slave give testimony?*
- H. *Rather, said R. Aha b. R. Iqa, “Here with what case do we deal? It is with a case in which the Israelite hit him with a blow [9A] that was in damage valued at less than a penny. And that is in line with what R. Ammi said R. Yohanan said, ‘If one hit another with a blow that, in monetary damages, was not valued at a penny is flogged, and we do not draw an analogy between battery and cursing.’”*

IV.1 A. **...except on account of [the death of] a resident alien:**

- B. *Then it follows that a resident alien is classified as a gentile. But I point to the concluding clause: A resident alien goes into exile only on account of [the death of] another resident alien.*
- C. *Said R. Kahana, “There is no contradiction. In the one case we deal with a resident alien who slew another resident alien, in the other, a resident alien who slew an Israelite.”*

IV.2. A. *There are those who contrast verses of Scripture:*

- B. *“For the children of Israel and for the stranger and for the sojourner among them shall be these six cities for refuge” (Num. 35:15).*
- C. *“Speak to the children of Israel...and the cities shall be for you for refuge from the avenger” (Num. 35:12) — for you and not for resident aliens.*
- D. *Said R. Kahana, “There is no contradiction. In the one case we deal with a resident alien who slew another resident alien, in the other, a resident alien who slew an Israelite.”*
- E. *An objection was raised: Therefore a resident alien and a gentile who killed someone are put to death. In that formulation the resident alien is treated as comparable to the gentile, and just as in the case of the gentile no distinction is drawn between killing someone of his own classification and killing someone not*

of his own classification, for he is put to death in either circumstance, so there should be no distinction in the case of the resident alien, in which instance whether or not he killed someone of his own status should make no difference, for in either case he is put to death [and not allowed to go into exile].

- F. *Said R. Hisda, "There is no contradiction. In the one case death comes from a downward movement, in the other from an upward movement. In the case of a downward movement, when an Israelite would go into exile, it suffices for the resident alien to go into exile. In the case of the upward movement, in which an Israelite would be acquitted altogether, the resident alien is put to death."*
- G. *Said Raba to him, "Is not an argument a fortiori to be constructed to yield the opposite conclusion? If in the case of a downward movement, when an Israelite would go into exile, it suffices for him to go into exile, in the case of an upward movement, where an Israelite would be committed, is the resident alien going to be killed? [That is a logical impossibility.]"*
- H. *Rather, said Raba, "The reason that the more severe rule applies to the resident agent is that he thought it was permitted to kill."*
- I. *Said to him Abbaye, "If he thought it was permitted to kill, then the act must be classified as totally inadvertent."*
- J. *He said to him, "But I hold that a case in which the man thought that it is permitted to kill is very close to one in which he did so deliberately."*

IV.3. *A. They are consistent with views expressed elsewhere, for it has been stated:*

- B. *If the one who did the killing had thought it was a beast but it turned out to be a man, a Canaanite and it turned out to be a resident alien —*
- C. *Raba says, "He is liable. 'He thought it was permitted, and a case in which the man thought that it is permitted to kill is very close to one in which he did so deliberately.'"*
- D. *R. Hisda says, "He is exempt, for if he thought it was permitted to kill, then the act must be classified as totally inadvertent."*
- E. *Raba objected to R. Hisda, "'Behold, you shall die, because of the woman whom you have taken, for she is a man's wife' (Gen. 20: 3). Does this not mean he will be put to death by an earthly court?"*
- F. *"No, , by a heavenly court. And the language of the passage itself yields this conclusion: 'And I also kept you from sinning against me [God in particular]' (Gen. 20: 6)."*
- G. *"And in accord with your reading, what about the following: 'How then can I do this great wickedness and sin against God' (Gen. 29: 9, Joseph to Potiphar's wife)? Is this only a sin against God but not man? It can only mean that the trial would be before an earthly court, and the same is the sense of the other verse, the trial will be before an earthly court."*
- H. *Abbaye objected to Raba by citing the following verse: "'Lord, will you slay even a righteous nation' (Gen. 20: 4) [Lazarus: which proves that believing the offense is permissible exonerates the offender]!"*
- I. *"There we find a valid reply: 'Now, therefore, restore the man's wife, for he is a prophet' (Gen. 20: 7)."*

- J. **[9B]** “‘Restore the prophet’s wife’ in particular! *Then if she were not a prophet’s wife, would she not have to have been given back?*”
- K. *Rather, the matter is in accord with what R. Samuel bar Nahmani said, for said R. Samuel bar Nahmani said R. Jonathan, “This is the sense of what he said to him: ‘Now, therefore, restore the man’s wife’ — without qualification. And as to your plea, ‘will you slay even a righteous nation,’ ‘he himself said to me, she is my sister and she, even she, said he is my brother.’ The answer to Abimelech is this: ‘...for he is a prophet.’ And he reckoned from the question how he was to reply. A stranger who comes to a town is asked about what he eats and drinks, but do they ask, ‘Is this your wife? is this your sister?’ [Your own conduct was egregious and you are culpable despite your claim of innocence.]*
- L. “On the basis of this reading, we are told that a son of Noah is put to death even for an act done inadvertently, for he should have made the effort to find out the facts but failed to do so.”
- I.1 harmonizes two obviously conflicting rules. II.1 goes through a similar exercise. III.1 explains the formulation of the Mishnah’s rule. No. 2 then analyses the matter in its own terms. IV.1 once more analyzes the implications of the language of the Mishnah. No. 2, drawing No. 3 in its wake, makes the same point in its own way.

2:3G-N

- G. **“A blind person [guilty of manslaughter] does not go into exile,” the words of R. Judah.**
- H. **R. Meir says, “He goes into exile.”**
- I. **One who bears enmity [for his victim] does not go into exile.**
- J. **R. Yosé b. R. Judah says, “One who bears enmity [for his victim] is put to death,**
- K. **“for he is in the status of one who is an attested danger.”**
- L. **R. Simeon says, “There is one who bears enmity [for the victim] who goes into exile, and there is one who bears enmity who does not go into exile.**
- M. **“This is the governing principle : In any case in which one has the power to say, ‘He killed knowingly,’ he does not go into exile.**
- N. **“And if he has the power to say, ‘He did not kill knowingly,’ lo, this one goes into exile.”**

We commence with a scriptural proof for the position of the disputants of the Mishnah.

- I.1 A. “A blind person [guilty of manslaughter] does not go into exile,” the words of R. Judah. R. Meir says, “He goes into exile:”**
- B. *Our rabbis have taught on Tannaite authority:*
- C. “But if he thrust him suddenly...not seeing him...and the congregation of judges shall judge...and restore him to the city of refuge” (Num. 35:22-25):
- D. “‘...not seeing him’ excludes a blind person from the law,” the words of R. Judah.
- E. R. Meir says, “‘...not seeing him’ includes the blind person.”
- F. *On what basis does R. Judah reach his conclusion?*

- G. *It is written, "As when someone goes into the wood with his neighbor" (Deu. 19: 5) encompasses everybody, including a blind person. Then "...not seeing him" serves to exclude the blind person.*
- H. *And R. Meir?*
- I. *"Not seeing him" serves to limit the application of the rule, and "unawares" serves also to limit the application of the rule, and since we have one limitation after another, the upshot is to extend the rule.*
- J. *And R. Judah?*
- K. *He interprets "unawares" as an exclusion of what is done intentionally.*
At the next clause, we want to know how we take for granted we deal with an attested danger, when there has been no act of admonition.

II.1 A. R. Yosé b. R. Judah says, "One who bears enmity [for his victim] is put to death, for he is in the status of one who is an attested danger."

- B. *But how so? But they have not admonished him in advance!*
- C. *Our Mishnah-paragraph accords with R. Yosé b. R. Judah, as has been taught on Tannaite authority:*
- D. *R. Yosé b. R. Judah says, "A colleague [in mastery of the Torah] does not have to be given an admonition, since an admonition is required only so as to distinguish between unknowing and deliberate action."*

III.1 A. R. Simeon says, "There is one who bears enmity [for the victim] who goes into exile, and there is one who bears enmity who does not go into exile. This is the governing principle: In any case in which one has the power to say, 'He killed knowingly,' he does not go into exile. And if he has the power to say, 'He did not kill knowingly,' lo, this one goes into exile:"

- B. *It has been taught on Tannaite authority:*
- C. **How are we to envisage a practical case, in accord with the position of R. Simeon, that there is one who bears enmity [for the victim] who goes into exile, and there is one who bears enmity who does not go into exile? If the rope snapped, lo, this one goes into exile. If it slipped from his hand, lo, he does not go into exile [T. Mak. 2:10F-G].**
- D. *But has it not been taught on Tannaite authority:*
- E. **R. Simeon says, "Under no circumstances does someone go into exile unless the [Lazarus] rammer-rock had entirely slipped from his hand" [T. Mak. 2:11A]?**
- F. *Now that statement is in conflict with the statement just now cited in respect to both snapping and slipping! [Lazarus: if it snapped, he goes into exile, if it slipped, he does not; but the implication of the present version is that if it snapped, he does not go into exile, if it slipped, he does].*
- G. *There is no conflict in respect to slipping, for the former deals with a case in which the person had had enmity against the victim, the latter, not; there is no conflict in regard to snapping, since the former version accords with Rabbi, the latter, rabbis.*

I.1 finds an exegetical basis for the dispute. II.1 then clarifies a problem in the Mishnah's rule. III.1 complements the Mishnah's statement with a Tannaite formulation.

2:4-6F

2:4

- A. Where do they go into exile?
- B. To the cities of refuge —
- C. to three which are in Transjordan, and to three which are in the Land of Canaan,
- D. as it is said, You shall set aside three cities beyond Jordan and three cities you shall set aside in the Land of Canaan (Num. 35:14).
- E. Before the three in the Land of Israel had been selected [Jos. 20:7], the three which were on the other side of the Jordan [also] did not afford refuge,
- F. as it is said, "They shall be for you six cities of refuge" —
- G. [they do not afford refuge] until all six of them afford refuge at the same time.

2:5

- A. And [direct] roads [were prepared] from one to the other,
- B. as it is said, "And you shall prepare the way and divide the borders of your land" (Deu. 19: 3).
- C. And they hand over to him two disciples of sages, lest [the avenger of the blood] should kill him en route.
- D. They will speak to [the avenger of the blood].
- E. R. Meir says, "Also he [the manslaughterer] may speak to [the avenger of the blood],
- F. "as it is said, 'This is the word of the manslayer' (Deu. 19: 4)."

2:6A-F

- A. R. Yosé b. R. Judah says, "To begin with, both the one who kills by accident and the one who kills maliciously go first to the cities of refuge.
- B. "Then the court sends and brings [the murderer] back from there.
- C. "Him who is found guilty of death in court they killed.
- D. "And him who is not found guilty of death they set free.
- E. "Him who is found guilty of a crime requiring exile they returned to his place,
- F. "as it is said, 'And the community shall send him back to his city of refuge' (Num. 35:25)."

We begin with a Tannaite complement to the Mishnah-statement.

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

- B. Three cities of refuge did Moses set aside in Transjordan, and corresponding to them, Joshua set aside three in the land of Canaan. And they corresponded to the three in Transjordan like two rows of vines in a vineyard. Hebron in Judah corresponded to Boser in the wilderness;

Shekhem in the Mountains of Ephraim corresponded to Ramot in Gilead; Qadesh in Galilee corresponded to Golan in Bashan.

- C. “And you shall divide the border of your land into three parts” (Deu. 19: 3) — they shall form triads, so that the distance from the southern boundary to Hebron is the same as that of Hebron to Shekhem, the distance from Hebron to Shekhem is the same as that from Shekhem to Qadesh, and the distance from Shekhem to Qadesh is the same as that from Qadesh to the boundary at the north. [T. adds: And even though he had set aside Shekhem in the Mountains of Ephraim, it did not afford protection. they set aside Qiriat Yearim in its stead, until they had conquered Shekhem. And even though they had set aside Qadesh in Galilee, it did not afford protection. So they set aside Gamla in its stead, until they had conquered Shekhem] [T. **Mak. 3:1A-B, 3:2**].

I.2. A. *[How come] the three cities in TransJordan were the same as the three cities for the land of Israel [since so many more people lived in the land of Israel]?*

- B. Said Abbaye, “In Gilead there were lots of murderers, **[10A]** as it is written, ‘Gilead is a city of those who work iniquity and is covered with footprints of blood’ (Hos. 6: 8).”

I.3. A. *What is the meaning of “covered with footprints”?*

- B. Said R. Eleazar, “They would track down the victims to kill them.”

I.4. A. *How come some are further apart at one side and closer together at the other [following the reading of Lazarus]?*

- B. Said Abbaye, “In Shekhem too there were lots of murderers, as it is written, ‘And as troops of robbers wait for a man, so does the company of priests murder in the way toward Shekhem’ (Hos. 6: 9).”

I.5. A. *What is the meaning of “the company of priests”?*

- B. Said R. Eleazar, “They formed alliances to commit murder the way priests form alliances to go to the threshing floor at the distribution of the priestly dues.”

I.6. A. *Were there no more than six cities of refuge? Is it not written, “And to them you shall add forty-two cities...so all the cities shall be forty-eight cities” (Num. 35: 6-7, 1Ch. 6:39-66)?*

- B. Said Abbaye, “These six named cities afforded protection whether explicitly or otherwise [with or without the approval of the municipality], while the others afforded refuge only articulately, but not tacitly.”

I.7. A. *And was Hebron classified as a city of refuge? Is it not written, “And they gave Hebron to Caleb, as Moses had said” (Jud. 1:20)?*

- B. Said Abbaye, “He got the suburbs: ‘but the fields of the city and the villages thereof they gave to Caleb son of Jephunneh for his possession’ (Jos. 21:12).”

I.8. A. *And was Qadesh a city of refuge? And is it not written, “and the fortified cities were Ziddim, Zer, Hammath, Rakkath, and Chinnereth...and Qadesh” (Jos. 19:35-37), and it has been taught on Tannaite authority, As to these three cities, they do not make them into large cities nor into small towns, but mid-sized cities [T. **Mak. 3:8F**].*

- B. *Said R. Joseph, "There were two towns called Qadesh."*
- C. *Said R. Ashi, "For instance, Seleucia and the Fort of Seleucia."*
- I.9.** A. Reverting to the body of the text partially cited just now: **As to these three cities, they do not make them into large cities nor into small towns, but mid-sized cities. They build them only in a place in which there is adequate water. If they do not have adequate water, they bring water to them [in conduits]. They set them up only in market-towns. And they build them only in populated areas. If the population went down, they bring others and settle them in their place. If their population declined in numbers, they add to them priests, Levites, and Israelites [T. Mak. 3:8F-J].**
- B. **"They do not make them into olive presses or potteries [Bavli: arms or trap-gear]," the words of R. Nehemiah. And sages permit. [Bavli adds: But they concur that they do not spread out in those cities traps or dangling ropes.] And they do not weave ropes in them or make glass utensils in them, so as not to provide many occasions for the avenger of the blood to go there [T. Mak. 3:9A-E].**
- C. *Said R. Isaac, "What verse of Scripture makes these points? '...and that fleeing to one of these places he may live' (Deu. 4:42), meaning, do for him whatever is needed for life."*

The Relationships of Disciples and Masters in Respect to Going into Exile

- I.10.** A. *A Tannaite statement:*
- B. A disciple of a sage goes into exile — they send his master into exile with him, as it is said, 'he may live' (Deu. 4:42), *meaning, do for him whatever is needed for life.*
- C. *Said R. Zeira, "That shows that a person should not instruct a disciple who is unworthy."*
- I.11.** A. *Said R. Yohanan, "How on the basis of Scripture do we know that if a master goes into exile, the disciples of his session are to go with him?"*
- B. *But is that actually the fact? And lo, said R. Yohanan, "How on the basis of Scripture do we know that words of Torah themselves afford protection [if a master has committed manslaughter]? As it is said, 'And Moses separated three cities...Gezer in the wilderness...Ramoth...Golan...', followed by, 'and [also, serving as a city of refuge] this — the Torah that Moses set before the children of Israel' (Deu. 4:41, 45)."*
- C. *There is no contradiction, the one refers to a time during which one is engaged by it, the other a time during which one is not engaged by it.*
- D. *If you prefer, I shall say, what is the sense of "afford refuge"? It is protection from the angel of Death.*
- I.12.** A. *That is in line with the story involving R. Hisda. He was in session and studying in the household of his master, and the angel of death could not get near him, for his mouth did not close from repeating aloud words of Torah. He went out and*

took a perch on a cedar of the school house. When the cedar cracked under his weight, R. Hisda shut up for a moment, and the other overcame him.

We now revert to the discussion of the facts about the cities of refuge that were introduced in the Tannaite complement to the Mishnah.

- I.13.** A. Said R. Tanhum b. Hanilai, “How come the tribe of Judah was awarded the merit of being counted first in the territories assigned to afford refuge? It is because it was he who commenced an argument in favor of affording refuge [to his brother], as it is said, ‘And Reuben heard it and he delivered him out of their hand and said, Let us not take his life’ (Gen. 37:21).”

What Is the Meaning of the Verse...?

A Formal Composite of Exegeses of Scripture, Demonstrating the Proposition that Study of the Torah takes Priority over Wealth and Other Worldly Goods

The composite that follows is formed through the link of the form, “what is the meaning of the verse...?” which then brings together diverse exegeses of Scripture, each with its own point of interest and proposition.

- I.14.** A. Expounded R. Simlai, “*What is the meaning of the verse*, ‘Then Moses separated three cities beyond the Jordan, toward sun rise’ (Deu. 4:41)? Said the Holy One, blessed be he, to Moses, ‘Make the sun rise for those who commit manslaughter.’”
- B. *Some say*, “Said the Holy One, blessed be he, to Moses, ‘You made the sun rise for manslaughter.’”
- I.15.** A. Expounded R. Simlai, “*What is the meaning of the verse*, ‘He who loves silver shall not be satisfied with silver, and he who delights in multitude not with increase’ (Qoh. 5: 9)?
- B. “‘He who loves silver shall not be satisfied with silver:’ this refers to our lord, Moses, who knew full well that the three designated cities in TransJordan would not afford protection to manslaughter before the three in the Land of Canaan had been selected, but nonetheless, Moses determined, ‘A religious duty that comes into my hand shall I most certainly carry out.’
- C. “‘and he who delights in multitude not with increase:’ who is fit to teach a multitude? It is he who has all of the increase under his own mastery.”
- D. *That is in line with what R. Eleazar said*, “*What is the meaning of the verse*, ‘Who can utter the mighty acts of the Lord, who can show forth all his praise’ (Psa. 106: 2)? ‘Who is fit to utter the mighty acts of the Lord? It is he who has the power to express all of the glory that is coming to him.’”
- E. *And rabbis, and some say, Rabbah bar Mari, said*, “The meaning of ‘and he who delights in multitude not with increase’ (Qoh. 5: 9) is this: ‘Whoever delights in a multitude [of disciples] will have an increase [of disciples].’”
- F. *Rabbis looked upon Rabbah b. Raba.*
- G. [The meaning of the cited clause,] R. Ashi said, “is, ‘Whoever loves studying in a multitude of other disciples has increase.’”

- H. *That is in line with what R. Yosé b. R. Hanina said, "What is the meaning of the verse, 'A sword upon the boasters and they shall become fools' (Jer. 50:36)? A sword will be upon the disciples of sages who go into session in the study of the Torah solitary and alone' [words that derive from the same letters as the word for 'they shall become fools']*.
- I. "And not only so, but they shall become fools, for here Scripture says, 'and they shall become fools' (Jer. 50:36), and elsewhere, 'wherein have we done foolishly [and sinned]' (Num. 12:11).
- J. "Not only so, but they sin, since the verse adds, 'and wherein we have sinned.'
- K. *"If you prefer, the same lesson derives from the following: 'the princes of Zoan have become fools' (Isa. 19:13)."*
- L. [The meaning of the cited clause,] Rabina said, "Whoever loves studying in a multitude of other disciples has increase."
- M. *That is in line with what Rabbi said, "Much Torah has I learned from my masters, from my colleagues more, and from my disciples most of all."*

- I.16.** A. Said R. Joshua b. Levi, *"What is the meaning of the verse, 'Our feet stood within your gates, Jerusalem' (Psa. 122: 2)? Who made our feet stand in war? The gates of Jerusalem, where students were engaged in the [wars of the] Torah."*
- B. And said R. Joshua b. Levi, *"What is the meaning of the verse, 'A song of ascents to David, I rejoiced when they said to me, let us go to the house of the Lord' (Psa. 122: 1)?"*
 - C. "Said David before the Holy One, blessed be he, 'Lord of the world, I heard people say, "When is this old man going to die, so that his son Solomon will come and build the chosen house, so that we may go up there on a pilgrimage [to the Temple that Solomon is going to build]," but I rejoiced to hear it!"
 - D. "Said to him the Holy One, blessed be he, "'A day in your court is better than a thousand" (Psa. 84:11). Better for me is a single day on which you are engaged in the Torah before me than a thousand burnt offerings that Solomon, your son, is going to offer before me on the altar.'"
- We now take up the next clause of the Mishnah-paragraph, once more reverting to Tosefta's complement.

- II.1** A. And [direct] roads [were prepared] from one to the other, as it is said, "And you shall prepare the way and divide the borders of your land" (Deu. 19: 3):
- B. *It has been taught on Tannaite authority:*
 - C. **R. Eliezer b. Jacob says, [10B] "They write signs, saying, 'Refuge, refuge,' at the cross roads, so that the manslayer may see and go into exile to the cities of refuge" [T. Mak. 3:5A-B].**
 - B. *Said R. Kahana, "What verse of Scripture makes that point? 'You shall prepare for yourself the way' (Deu. 19: 3) — you make preparation for the proper road."* A homily on the theme of God's showing sinners the way invokes the theme of the cities of refuge. The set-piece composition is inserted here for not only topical but also propositional reasons; it then bears in its wake a further topical composite.

- II.2.** A. R. Hama bar Hanina opened his course on the subject with this verse of Scripture: “‘Good and upright is the Lord, therefore he instructs sinners in the way’ (Psa. 25: 8). If he instructs sinners, all the more so the righteous!”
- B. R. Simeon b. Laqish opened his course on the subject with this verse of Scripture: “‘And if a man not lie in wait, but God cause it to come to hand, then I will appoint you a place where he may flee’ (Exo. 21:13). ‘As says the proverb of the ancients, out of the wicked comes forth wickedness, but my hand shall not be upon you’ (1Sa. 24:13-14). Of whom does the former verse of Scripture speak?”
- C. “Of two people who killed someone, one did it inadvertently, the other did it deliberately. Against this one are not witnesses, and against that one are know witnesses. So the Holy One, blessed be he, arranges for them to chance upon the same inn.
- D. “The one who killed deliberately seats himself under a ladder, and the one who killed inadvertently comes down the ladder and falls on him and kills him. The one who killed deliberately then is killed, and the one who killed inadvertently goes into exile.”
- II.3.** A. Said Rabbah bar R. Huna said R. Huna, *and some say*, said R. Huna said R. Eleazar, “From the Torah, the Prophets, and the Holy Writings, it is shown that on the way on which a person wants to go — in that way is he led.
- B. “From the Torah: ‘And God said to Balaam, You shall not go with them’ (Num. 22:12), and then: ‘if the men came to call you, rise up and go with them’ (Num. 22:20);
- C. “the Prophets: ‘I am the Lord your God who teaches you for your profit, who leads you by the way that you should go’ (Isa. 48:17);
- D. “and the Holy Writings: ‘If he is of the scorers, he will be allowed to speak scorn, and if he is of the meek, he will show forth grace’ (Pro. 3:34).”
- We now continue the exegesis of verses that follow the verse cited in the Mishnah, Deu. 19: 3.
- II.4.** A. Said R. Huna, “A manslayer who went into exile to a city of refuge, whom the blood-avenger overtook and killed — the latter is exempt from punishment. *He takes the view that* ‘and he, not deserving of death’ (Deu. 19: 6) refers to the blood avenger [in the verse ‘he shall flee to one of these cities and live, lest the avenger of blood pursue the manslayer while his heart is hot and overtake him because the way is long and smite him mortally, and he not deserving of death, in as much as he hated him not in time past’ since it is possible to read, ‘the manslayer was not deserving of death’ or ‘the avenger is not deserving of death’].”
- B. *An objection was raised:*
- C. “and he not deserving of death:”
- D. Scripture speaks of the manslayer.
- E. You say that Scripture speaks of the manslayer. But perhaps Scripture speaks of the blood avenger?
- F. When Scripture says, “since he did not hate him in time past,” this refers to the manslayer [against the position of Huna].

- G. *[Huna] made his statement in accord with the position of the following Tannaite statement, which has been taught on Tannaite authority:*
- H. “and he not deserving of death.”
- I. this speaks of the blood avenger.
- J. You say that Scripture speaks of the blood avenger. But perhaps it refers to the manslayer?
- K. When Scripture says, When Scripture says, “since he did not hate him in time past,” this refers to the manslayer, so how am I to interpret, “and he not deserving of death”? It must refer to the blood avenger.

The next clause of the Mishnah is cited and given Tosefta’s complement.

- III.1** A. *We have learned in the Mishnah: **And they hand over to him two disciples of sages, lest [the avenger of the blood] should kill him en route. They will speak to [the avenger of the blood]: So what do they say to him? Is it not that they admonish him, so that if he kills the manslayer, he is subject to the death penalty?***
- B. *Not at all. It is in accord with that which has been taught on Tannaite authority:*
- C. **They speak to him in an appropriate way: “Do not treat this man like a shedder of blood, because the incident came to his hand by accident.” R. Meir says, “Also he [the manslayer] may speak to [the avenger of the blood] in his own behalf, as it is said, ‘This is the word of the manslayer’ (Deu. 19: 4).” They said to him, “Many carry out his mission” [T. Mak. 3:5D-F].**
- III.2.** A. A master has said: **because the incident came to his hand by accident.**
- B. *So what else is new! If he had done it deliberately, would he have been subject to exile at all?*
- C. *Well, as a matter of fact, yes, for lo, it has been taught on Tannaite authority:*
- D. R. Yosé b. R. Judah says, “At the outset all the same are the one who kills someone inadvertently and the one who does it deliberately. Both of them take off to the cities of refuge. Then the court sends and calls them back from there. The one who is subject to the death penalty they put to death: ‘Then the elders of his city shall send and bring him back from there and deliver him into the hand of the avenger of blood that he may die’ (Deu. 19:12). One who was not subject to the death penalty they dismissed: ‘And the congregation of judges shall deliver the slayer out of the hands of the avenger of blood’ (Num. 35:25). And whoever was subject to exile they returned to his place of refuge: ‘and the congregation of judges shall restore him to the city of his refuge, whither he had fled’ (Num. 35:25).”
- C. Rabbi says, “They went into exile on their own, thinking that all the same are the one who kills someone inadvertently and the one who does it deliberately. Both of them take off to the cities of refuge. But they do not know that the cities of refuge afford protection for the one who killed inadvertently, but for the one who killed deliberately, they do not afford protection.”

The Definition of the City that Affords Protection.

Cities That Lack Elders.

III.3. A. Said R. Eleazar, “A city the majority of the population of which is made up of murderers does not provide refuge: ‘And he shall declare his words in the ears of the elders of the city’ (Joshua 20: 4) — his cause, not a cause that is equivalent to theirs.”

III.4. A. And said R. Eleazar, “A city that has no elders may not serve as a city of refuge,”

B. *for we require ‘elders of the city’ but there is none!”*

III.5. A. *It has been stated:*

B. A city that has no elders —

C. R. Ammi and R. Assi —

D. One says, “It provides refuge.”

E. And the other says, “It does not provide refuge.”

F. *From the perspective of him who says, “It does not provide refuge,” we require ‘elders of the city’ but there is none!”*

G. *From the perspective of him who says, “It does provide refuge,” that forms merely part of the optimum way of fulfilling the religious duty [but is not an indispensable detail].*

III.6. A. A city that has no elders —

B. R. Ammi and R. Assi —

C. One says, “A case involving a stubborn and rebellious sin may be tried there.”

D. And the other says, “A case involving a stubborn and rebellious sin may not be tried there.”

E. *From the perspective of him who says, “A case involving a stubborn and rebellious sin may not be tried there,” we require ‘elders of the city’ but there is none!”*

F. *From the perspective of him who says, “A case involving a stubborn and rebellious sin may not be tried there,” that forms merely part of the optimum way of fulfilling the religious duty [but is not an indispensable detail].*

III.7. A. A city that has no elders —

B. R. Ammi and R. Assi —

C. One says, “The town nonetheless is responsible to present a heifer to atone for the presence of a neglected corpse [in line with Deu. 21: 1].”

D. The other says, “The town is not responsible to present a heifer to atone for the presence of a neglected corpse [in line with Deu. 21: 1].”

E. *From the perspective of him who says, “The town is not responsible to present a heifer to atone for the presence of a neglected corpse [in line with Deu. 21: 1],” we require ‘elders of the city’ but there is none!”*

F. *From the perspective of him who says, “The town is responsible to present a heifer to atone for the presence of a neglected corpse [in line with*

Deu. 21: 1],” *that forms merely part of the optimum way of fulfilling the religious duty [but is not an indispensable detail]*.

How come the passage that deals with murders is stated in strong language of repeated acts of speech

- III.8.** A. Said R. Hama bar Hanina, “How come the passage that deals with murders is stated [11A] in strong language of repeated acts of speech, as it is written, ‘And the Lord spoke to Joshua saying, Speak to the children of Israel say, Appoint for yourselves cities of refuge whereof I spoke to you by the hand of Moses’ (Jos. 20: 1-2)? It is because it was to carry out what had been stated in the Torah.”
- B. *Does that then bear the implication that every act of emphatic speech of this kind also is of the same order?*
- C. *Yes indeed, in line with the verse which is explicit: “And Joseph spoke hard words to them” (Gen. 42: 7).*
- D. *But has it not been taught on Tannaite authority:*
- E. “Then they who feared the Lord spoke together with one another” (Mal. 3:16), and here the use of “spoke” refers to gentle speech, in line with this clause, “he shall subdue the peoples under us” (Psa. 47: 4) [which uses the same consonants].
- F. *The form used there is to be differentiated from the form used here [and each has its own meaning].*
- III.9.** A. [Explaining how come the passage that deals with murders is stated in strong language of repeated acts of speech, as it is written, ‘And the Lord spoke to Joshua saying, Speak to the children of Israel say, Appoint for yourselves cities of refuge whereof I spoke to you by the hand of Moses’ (Jos. 20: 1-2),] *there was a difference of opinion between R. Judah and rabbis.*
- B. One says, “It is because he had treated the matter in a dilatory way.”
- C. And the other says, “It is because of the importance of the matter, as an ordinance of the Torah.”

Composite formed around Disputes in which Judah Is Involved

- III.10.** A. On the verse, “And Joshua wrote these words in the book of the Torah of God” (Jos. 24:26), *there was a difference of opinion between R. Judah and R. Nehemiah.*
- B. One says, “This refers to the last eight verses of the Pentateuch [which refer to the death of Moses].”
- C. And the other says, “This refers to the rules governing the cities of refuge.”
- D. *From the perspective of him who says, “This refers to the last eight verses of the Pentateuch [which refer to the death of Moses],” that is in line with the statement, “And Joshua wrote these words in the book of the Torah of God” (Jos. 24:26).*
- E. *But from the perspective of him who says, “This refers to the last eight verses of the Pentateuch [which refer to the death of Moses],” what is the*

meaning of the language, “And Joshua wrote these words in the book of the Torah of God” (Jos. 24:26)?

- F. *This is the sense of the matter: “And Joshua wrote” in his own book, “these words” that are required] “in the book of the Torah of God.”*

III.11. A. As to the suitability of a scroll of the Torah, the parchment skins of which are sewn together with thread of flax, *there was a difference of opinion between R. Judah and R. Meir.*

- B. One says, “It is valid.”

- C. And the other says, “It is invalid.”

- D. *From the perspective of the one who says, “It is invalid,” that is in line with the statement, “And it shall be for a sign to you upon your hand and for a memorial between your eyes that the Lord’s Torah may be in your mouth” (Exo. 13: 9). Thus the whole of the Torah is treated as analogous to the prayer-boxes containing passages of Scripture. Just as the rules governing the prayer-boxes containing passages of Scripture represent a law revealed to Moses from Sinai that gut-string is to be used for sowing them, so for the sewing of Torah-scrolls, gut-string is to be used.*

- E. *And the other party?*

- F. *When the whole of the Torah is treated as analogous to the prayer-boxes containing passages of Scripture, that analogy serves to show that the parchment for Torah-scrolls must derive from hides of animals that can be used for food, but the analogy yields no further rules in concrete practice.*

- G. *Said Rab, “We saw the prayer-boxes containing verses of Torah in the household of my uncle, which were sewn with thread of flax.”*

- H. *But the law is not in accord with his view.*

I.1 complements the Mishnah with Tosefta’s materials. No. 2 then amplifies the foregoing, No. 3 glossing the foregoing. Nos. 4-7 continue the amplification of No. 1. No. 9 then commences a thematic exposition, with no close tie to the rules of our Mishnah-paragraph, and this proceeds through No. 16. II.1 complements the Mishnah’s rule. Nos. 2-3 then add an anthology on the new theme. III.1 cites the Mishnah once more and then adds a Tannaite complement, which is expanded at No. 2. Nos. 3-8 define the city that affords protection; it is put together in its own terms, not in response to a statement of the Mishnah. Nos. 9-11 form a second autonomous composition on its own principle of agglutination, ending with disputes in which Judah is involved. Here is another case in which we see the results of a different principle of composite-making from the one that ordinarily governs in the Bavli.

2:6G-I

- G. **All the same are [the deaths of] the high priest who is anointed with anointing oil, the one who is consecrated by being clothed in many garments, and the one who has passed from his anointment as high priest — they bring back the murderer [from the city of refuge, his term having ended].**
- H. **R. Judah says, “Also [on the occasion of the death of] a priest anointed for war does one bring back the murderer.”**

I. Therefore the mothers of the priests provide food and clothing for those [who are in the cities of refuge,] so that they will not pray that their sons will die.

We begin with the predictable exercise of finding the source in Scripture for the rule before us.

I.1 A. *What is the scriptural basis for these statements?*

- B. Said R. Kahana, “Said Scripture, “And he shall live there until the death of the high priest who was anointed with the holy oil’ (Num. 35:25), ‘because he should have remained in the city of refuge until the death of the high priest’ (Num. 35:28), ‘But after the death of the high priest the slayer shall return to the land of his possession’ (Num. 35:28).”
- C. And R. Judah [who requires yet another verse]?
- D. *“A further verse of Scripture is set forth: ‘And you shall take no satisfaction for him who has fled to the city of his refuge that he should come again to dwell in the land until the death of the priest’ (Num. 35:32).”*
- E. *And the other party?*
- F. *There is no reference here to the high priest in particular!*
- G. *And the other party?*
- H. *While there is no reference to the high priest in particular, in context this refers to one of those already mentioned [who is explicitly so identified].*

For the next clause under consideration, we ask the obvious question about the premises as to the power of prayer, in this case, the curse that is without legitimate cause.

II.1 A. **Therefore the mothers of the priests provide food and clothing for those [who are in the cities of refuge,] so that they will not pray that their sons will die:**

- B. *So the operative consideration is that they may not say prayers of that kind. Then if they said such prayers, would the sons, the high priests, then die? But has it not been written, “As the flitting bird as the flying swallow so the curse that has no cause will not come about” (Pro. 26: 2)?*
- C. *[This was not a complaint without cause, for] a certain elder said, “I heard in the public address of Raba the following explanation: ‘They ought to have sought mercy for their generation and they did not do so.’”*

II.2. A. **There are those who repeat the passage in this language: so that they will pray that their sons will not die:**

- B. *So the operative consideration is that they may say prayers of that kind. Then if they did not pray for him, would he die? What should he have done?*
- C. *Here we say, “Tubiah sinned and Ziggud was flogged.” There they say, “Shechem got married and Mabgai got knifed.”*
- D. *A certain elder said, “I heard in the public address of Raba the following explanation: ‘They ought to have sought mercy for their generation and they did not do so.’”*

II.3. A. *That is like the case of the fellow who was eaten by a lion three parasangs from the town where R. Joshua b. Levi lived. On that account, [blaming the sage for*

not seeking mercy for those who lived in his place,] Elijah stayed away from him for three days.

The curse of a sage, even for nothing, comes about. The case of Ahitophel. Other Cases of Sages' Curses.

- II.4.** A. Said R. Judah said Rab, “The curse of a sage, even for nothing, comes about. How do we know that fact? It is shown by the case of Ahitophel.
- B. “When David dug the pits for the Temple’s foundations, the waters of the deep welled up and were going to flood the world.
- C. *“David said, ‘Is there anyone who knows whether or not it is permitted to write the divine name on a piece of pottery and to toss it down into the deep so that the water will subside?’*
- D. *“No one was around to tell him.*
- E. “Said David, “Whoever knows how to rule but does not state [the rule], will be strangled by the throat.’
- F. “Ahitophel reasoned a fortiori on his own [not from tradition] as follows: “Now if in order to make peace between a man and his wife, the Torah has said, “My name, which is written in a state of sanctification, may be blotted out by water,” so as to make peace for the entire world, how much more so [may the divine name be written down and blotted out]!”
- G. *““Ahitophel] said to [David], ‘It is permitted [to do so].’*
- H. *“[David] wrote the divine name on a piece of pottery and tossed it into the deep, and the waters subsided by sixteen thousand cubits.*
- I. “Nonetheless: ‘And when Ahithophel saw that his counsel was not followed, he saddled his ass and arose and went home to his house and to his city, and he put his household in order and hanged himself and died’ (2Sa. 17:23).”
- II.5.** A. Said R. Abbahu, “How do we know that a curse of a sage, even if it is subject to a condition, will in any event come about? It is shown by the case of Eli.
- B. *“For Eli said to Samuel, ‘God to this to you and more also if you hide anything from me of all the things he said to you’ (1Sa. 3:17).*
- C. *“And even though it is written, ‘And Samuel told him every whit and hid nothing from him’ (1Sa. 3:18), nonetheless it is written, ‘And Samuel’s sons did not walk in his ways’ (1Sa. 8: 3).”*
- II.6.** A. **[11B]** Said R. Judah said Rab, “How do we know that it is necessary to seek remission from ostracism [which is decreed by sages and falls into the category of a sage’s curse] even though it is conditional [and the condition is not met]?
- B. “It derives from the case of Judah, for it is written, ‘And Judah said to Israel his father, Send the lad with me...if I do not bring him back to you...then let me bear the blame for ever’ (Gen. 43: 8-9).”
- C. *And [in this connection] said R. Samuel bar Nahmani said R. Jonathan, “What is the meaning of the verse of Scripture, ‘Let Reuben live and not die, and this for Judah, and let not his men be few; and this is for Judah, and Moses said, Lord, hear the voice of Judah and bring him to his people, let his hands be sufficient for him and be you a help to him from his enemies’ (Deu. 33: 6-7)?*

- D. “All those years that the Israelites were in the wilderness, the bones of Judah were rolling around in the coffin, until Moses went and sought mercy for him, saying before him, ‘Lord of the ages, who caused Reuben to confess? It was Judah [who set the example].’
- E. “‘And this for Judah.’ Forthwith: ‘Hear, O Lord, the voice of Judah’ (Deu. 33: 7).
- F. *“Each limb then entered its socket [and stopped rolling about].*
- G. *“But still [in the academy in the heaven,] they did not bring him up into the Torah-session in the firmament.*
- H. “[Moses then prayed], “‘And bring him in to his people.”
- I. *“But he could not follow the give and take of the argument [that rabbis were discussing concerning the law].*
- J. “[Moses prayed]: ‘With his hands let him contend for himself’ (Deu. 33: 7).
- K. *“He had no tradition in hand pertinent to what was under discussion in the law.*
- L. “[Moses prayed:] ‘Be a help against his adversaries’ (Deu. 33: 7).”

- III.1 A. [R. JUDAH SAYS, “ALSO [ON THE OCCASION OF THE DEATH OF] A PRIEST ANOINTED FOR WAR DOES ONE BRING BACK THE MURDERER:”]** *The question was raised: is it only on the occasion of the death of all of those listed in the Mishnah [All the same are the deaths of the high priest who is anointed with anointing oil, the one who is consecrated by being clothed in many garments, and the one who has passed from his anointment as high priest — they bring back the murderer from the city of refuge, his term having ended/ that the manslayer comes home, or is it at the death of any one of those listed?*
- B. *Come and take note: [If] one’s trial ended at a time at which there was no high priest, he does not leaves there forever. But if you were to take the view that he could go home at the death of any one of the high priests, he should be able to go home!*
 - C. *The passage means that none of these was in office at the time.*
- I.1 provides a proof-text for the positions taken by the Mishnah’s authorities. II.1, 2 clarify the implications of the Mishnah’s statement. No. 3 complements the foregoing. Nos. 4, 5, 6 are then tacked on. III.1 clarifies the Mishnah’s rule in light of what is to follow.

2:6J-L, 2:7A-N

2:6J-L

- J. [If] after one’s trial has ended [with the sentence of exile], a high priest died, lo, this one does not go into exile.
- K. [If] it was before the trial had ended that the high priest died and another was appointed in his stead, and afterward his trial came to an end,
- L. he comes back only at the death of the next high priest.

2:7A-N

- A. [If] (1) one’s trial ended at a time at which there was no high priest,
- B. (2) he who kills a high priest,
- C. and (3) a high priest who committed involuntary manslaughter —

- D. [none of these] leaves there forever.
- E. And one does not leave [the city of refuge] either for giving testimony having to do with a religious duty, or to give testimony having to do with property, or to give testimony having to do with a capital crime.
- F. And even if the Israelites need him,
- G. and even if he is a general of the Israelite army of the quality of Joab b. Zeruiah,
- H. he may not leave there ever,
- I. as it is said, “Whither he has fled” (Num. 35:25) —
- J. there will be his dwelling, there will be his death, there will be his burial.
- K. Just as the town affords refuge, so the territory within the extended, Sabbath limit of the town affords refuge.
- L. A manslayer who went beyond the limit, and the avenger of the blood found him —
- M. R. Yosé the Galilean said, “It is a religious duty in the hand of the avenger of the blood [to kill the manslayer], and it is an option available to anyone else [to do so as well].”
- N. R. Aqiba says, “It is an option available to the avenger of the blood, and anyone else bears no liability [if he does so].”

I.1 A. [[If] after one’s trial has ended [with the sentence of exile], a high priest died, lo, this one does not go into exile:]

- B. *How come?*
- C. Said Abbaye, “It is the result of an argument a fortiori: if someone who already has gone into exile may go forth on such an occasion, one who has not yet gone into exile all the more so should not go into exile!”
- D. *Yeah, but maybe while the one who has gone into exile has already accomplished atonement, the one who has not yet gone into exile has not yet atoned?*
- E. *Does going into exile accomplish atonement [and so remit the exile]? It is the death of the high priest itself that accomplishes atonement, [and that has taken place during the time in which the convicted manslayer has been subject to the decree of exile].*

II.1 A. [If] it was before the trial had ended that the high priest died and another was appointed in his stead, and afterward his trial came to an end, he comes back only at the death of the next high priest:

- B. *What is the scriptural source of this rule?*
- C. Said R. Kahana, “‘And he shall stay in the city of refuge to the death of the high priest whom he has anointed with the holy oil’ (Num. 35:25). Now is the manslayer the one who has anointed him? Rather, the reference is to the one who was anointed in his time.” [Lazarus: they were contemporaries; if the high priest died before the conclusion of the trial, the death is not connected to the court decision.]
- D. *So what should he have done?*
- E. He should have sought mercy for this one, so that the verdict would have been acquittal and he did not do so.

II.2. A. *Said Abbayye*, “*We have a tradition*: if the verdict was concluded and the manslayer died, his body is to be carried to one of the cities of refuge: ‘that he should come back to dwell in the land until the death of the priest’ (Num. 35:32). Now what is ‘dwelling in the land’? You have to say, it is burial.”

II.3. A. *A Tannaite statement*:

B. If the manslayer died before the high priest died, they bring his bones back to the graves of his ancestors: “And after the death of the high priest the slayer shall return to the land of his possession” (Num. 35:28). Now what is “dwelling in the land of his possession”? You have to say, it is burial.

Secondary complications in the Mishnah-rule.

II.4. A. If his trial had come to an end and the high priest turned out to be the son of a divorcée of a woman who had performed the rite of removing the shoe —

B. *there was a dispute on this very matter between R. Ammi and R. Isaac Nappaha.*

C. One says, “The priestly office is treated as though it had died [at that moment, so he goes home].”

D. And the other says, “The priesthood of this high priest is annulled [but it is not as though the valid high priest had died, so it is as though the trial came to an end with no high priest in office].”

II.5. A. *May one suppose that at issue between them is what is at issue between R. Eliezer and R. Joshua, for we have learned in the Mishnah: [The wife of a priest who was eating heave offering, [and] they came and told her, “Your husband has died,” or, “Your husband has divorced you” such that the woman no longer has the right to eat heave offering]; and so in the case of a slave [of a priest] who was eating heave offering, and they came and told him, “Your master has died,” or, “He sold you to an Israelite,” or, “He gave you to an Israelite as a gift,” or, “He has made you a freeman” in any of which cases, the slave no longer may eat heave offering; (3) and so in the case of a priest who was eating heave offering, and it became known that he is the son of a divorcée, or of a woman who has undergone the rite of removing the shoe (Deu. 25:10) and therefore may not eat heave offering — R. Eliezer declares [all of these individuals] liable to payment of the principal and added fifth of the heave offering they unintentionally had eaten as non-priests. But R. Joshua exempts.] [If a priest] was standing and offering sacrifices at the altar, and it became known that he is the son of a divorcée or of a woman who has participate in the rite of removing the shoe — R. Eliezer says, “All of the sacrifices which he had [ever] offered on the altar are invalid.” But R. Joshua declares them valid. If it became known that he is blemished — his service [retroactively] is invalid. [M. Ter. 8:1]? The one who ruled in the earlier case, “The priestly office is treated as though it had died [at that moment, so he goes home],” accords with the position of R. Joshua. The one who maintained, “The priesthood of this high priest is annulled,” concurs with the view of R. Eliezer [that it is as though this man never held the office at all].*

B. **[12A]** *Within the framework of R. Eliezer, there can be no difference of opinion. But from the perspective of R. Joshua, the one who has said, “The priestly office is treated as though it had died [at that moment, so he goes home],” may accord with*

R. Joshua's position, but the one who maintains, "The priesthood of this high priest is annulled [but it is not as though the valid high priest had died, so it is as though the trial came to an end with no high priest in office]," may maintain that R. Joshua treats all past offerings as valid since it is written, "Bless Lord his substance and accept the work of his hands" (Deu. 33:11) [Lazarus: Moses blesses the Levite tribe for their loyalty at the time of the sin of the golden calf and invokes the blessing of God upon the work of their hands, his service at the altar] — even the secular ones in his midst; but in regard to the freeing of the exiles, even R. Joshua might concede that the priestly office is rendered void.

The reference to Joab is now enriched with an essay on that topic.

III.1 A. If (1) one's trial ended at a time at which there was no high priest, (2) he who kills a high priest, and (3) a high priest who committed involuntary manslaughter — none of these leaves there forever. And one does not leave [the city of refuge] either for giving testimony having to do with a religious duty, or to give testimony having to do with property, or to give testimony having to do with a capital crime. And even if the Israelites need him, and even if he is a general of the Israelite army of the quality of Joab b. Zeruiah:

- B. Said R. Judah said Rab, "Two errors did Joab make at that moment: 'And Joab fled to the tent of the Lord and caught hold of the horns of the altar' (1Ki. 2:28). The first was that only the top of the altar affords protection, and he grabbed the horns. Furthermore, only the altar of the eternal house affords protection, and he grabbed the altar of Shilo."
- C. *Abbayye says, "In yet another matter did he err: he erred in that [at the altar] refuge is accorded only to a priest who is engaged in an act of service, and he was a non-priest."*

III.2. A. Said R. Simeon b. Laqish, "Three errors is the angelic prince of Rome destined to make: 'Who is this that comes from Edom with dyed garments from Bozrah' (Isa. 63: 1). He will err since only Bezer affords refuge, but he will go instead to Bozrah; he will err in that refuge is accorded only to those who slay inadvertently, but he murders intentionally; he will err in that refuge is accorded only to a human being, and he is an angel."

IV.1. A. Supply: **he may not leave there ever, as it is said, "Whither he has fled" (Num. 35:25) — there will be his dwelling, there will be his death, there will be his burial:]**

- B. Said R. Abbahu, "The cities of refuge are not available for places of burial: 'And the cities shall they have to dwell in, and the suburbs of them shall be for their cattle and for their goods and for all their living' (Num. 35: 3) — they are assigned for the living, not for burial."
- C. *An objection was raised: here will be his dwelling, there will be his death, there will be his burial.*
- D. *The case of the murderer is different, since the All-Merciful has revealed the rule in his regard in particular.*

V.1 A. **Just as the town affords refuge, so the Sabbath limit of the town affords refuge:**

- B. *An objection was raised: “And he shall abide in it” (Num. 25:25) — in it, not within the area encompassed by its boundary.*
- C. *Said Abbaye, “That is no contradiction, the one refers to providing refuge from the blood-avenger, the other to providing space for a dwelling.”*
- D. *But the rule governing a dwelling derives from the fact that **they do not turn (1) a field into a city’s outskirts, or (2) a city’s outskirts into a field, or (3) a city’s outskirts into a city, or (4) a city into a city’s outskirts [M. Ar. 9:8H].***
- E. *Said R. Sheshet, “The other statement is still required to exclude from an area for his dwelling place holes in the ground” [Lazarus: that do not encroach upon the actual bounds of the cities].*

A scriptural basis for the dispute in the Mishnah is now supplied.

VI.1 A. **A manslayer who went beyond the limit, and the avenger of the blood found him — R. Yosé the Galilean said, “It is a religious duty in the hand of the avenger of the blood [to kill the manslayer], and it is an option available to anyone else [to do so as well].” R. Aqiba says, “It is an option available to the avenger of the blood, and anyone else bears no liability [if he does so].”**

- B. *Our rabbis have taught on Tannaite authority:*
- C. *“‘And the avenger of blood shall slay the manslayer, there shall be no blood-guilt for him’ (Num. 35:27) — **It is a religious duty in the hand of the avenger of the blood [to kill the manslayer], and it is an option available to anyone else [to do so as well],**” the words of R. Yosé the Galilean.*
- D. **R. Aqiba says, “It is an option available to the avenger of the blood, and anyone else bears no liability [if he does so].”**
- E. *What is the scriptural basis for the position of R. Yosé the Galilean?*
- F. *Is it written, “...if he shall slay him”?*
- G. *And what is the scriptural basis for the position of R. Aqiba?*
- H. *Is it written, “...he shall slay him.”*

- VI.2.** A. *Said Mar Zutra bar Tobiah said Rab, “A murderer who went beyond the boundary of the city of refuge and whom the blood avenger found and killed — the latter is put to death on that account.”*
- B. *In accord with whose position is this rule? It is not in accord with R. Yosé the Galilean and it is also not in accord with R. Aqiba.*
 - C. *He made that statement within the framework of the opinion of the following Tannaite authority, for it has been taught on Tannaite authority:*
 - D. *R. Eliezer says, “‘...that the manslayer not die until he stands before the congregation of judges for judgment’ (Num. 35:12). What is the meaning of this verse? Since it is said, ‘and the avenger of blood shall slay the manslayer’ (Num. 35:27), one might suppose that that must be forthwith. Scripture says, ‘...until he stands before the congregation of judges for judgment’ (Num. 35:12).”*
 - E. *And R. Yosé the Galilean and R. Aqiba — how do they interpret the clause, “...until he stands before the congregation of judges for judgment” (Num. 35:12)?*
 - F. *They require that clause in line with that which has been taught on Tannaite authority:*

- G. **R. Aqiba says, “How on the basis of Scripture do we know that if a sanhedrin witnessed someone committing murder, they may not put him to death until he be brought to trial in another court? Scripture states, ‘...until he stands before the congregation of judges for judgment’ (Num. 35:12)” [T. *Makkot* 3:7A-D].**

We now turn to a secondary and interstitial problem, having worked out the main one of a scriptural foundation for the rule.

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

- B. “But if the slayer, coming out, should come out beyond the border of his city of refuge...there shall be no blood guilt” (Num. 35:26-27) —
- C. I know that that is the case only if the manslayer has deliberately gone beyond the limits. How do I know that the same rule applies even if he unintentionally went beyond the limit?
- D. It is from the formulation, “coming out, should come out,” meaning, any which way.
- E. *But has it not been taught on Tannaite authority:*
- F. If the manslayer should deliberately go beyond the borders of the city of refuge, he is put to death. If he does so inadvertently, he goes into exile.
- G. *There is no contradiction. The one is in accord with the opinion of him who maintains that we hold that the Torah speaks in accord with ordinary human speech [in that case, we cannot draw lessons from the use of the emphatic verb], and the other is in accord with the position of him who maintains that we hold that the Torah does not speak in accord with ordinary human speech [in that case, each word is deliberate and contains meaning, e.g., two kinds of exits, one intentional, the other not].*
- H. *Said Abbaye, “It stands to reason that the rule is in accord with him who has said that the Torah speaks in accord with ordinary human speech. That is so that you may not treat his later action, accidentally going beyond the limit, more severely than his original act of accidental killing. You might argue in this manner: if in his original act, if the killing was deliberate, he is put to death, if accidental, he goes into exile; so in his latter act, the one of wandering beyond the limits, if it was deliberate, he is put to death [Lazarus: by the avenger with impunity], if in error, his slayer goes into exile.”*

VI.4. A. *One Tannaite statement:* A father who accidentally killed a son — a surviving son serves as the avenger of blood for him.

- B. *and another Tannaite statement:* another surviving son does not become the blood avenger.
- C. *May one then say that the one represents the position of R. Yosé the Galilean [it is obligatory], the other of R. Aqiba [it is merely optional and not done in this case]?*
- D. *But is that reasonable? Whether from the perspective of him who has said that it is a religious duty or from that of him who has said it is optional, is such an arrangement even permitted? But has not Rabbah bar R. Huna stated, and so a Tannaite figure of the household of R. Ishmael: for no purpose is the son appointed a court agent in connection with his father, whether to flog him or to*

execrate him, with the sole exception of a case in which the father has enticed another to idolatry, in which case the Torah says, “neither shall your eye pity him, neither shall you spare, neither shall you conceal him, but you will surely kill him, your hand shall be first upon him” (Deu. 13:9-10)?

- E. *There is no contradiction between the two cited statements, the one [another surviving son does not become the blood avenger] speaks of a son against the father, the other [A father who accidentally killed a son — a surviving son serves as the avenger of blood for him], a grandson against the grandfather.*

I.1 asks for the basis in reason for the Mishnah’s analytical rule. II.1 does the same. No. 2 provides a thematic exercise, which continues at Nos. 3-4+5, along the lines of the Mishnah’s general problem. III.1 clarifies the reference to Joab. No. 2, is tacked on for obvious reasons. No. 3 complements the law and is located here because it adduces in evidence a clause of our Mishnah-paragraph. IV.1 goes over the materials of the Mishnah in an exegetical framework. V.1 and VI.1 address the Mishnah’s proposition and expand on the law.

2:7/O-Q

- O. **A tree standing in the Sabbath limit, with its branches extending outside of the Sabbath limit —**

- P **or standing outside of the Sabbath limit, with its branches extending within the Sabbath limit —**

- Q. **everything follows the location of the branches. [The boundaries of the city of refuge extend to the outer limit of the branches.]**

- I.1** A. *An objection was raised: A tree which is standing inside [Jerusalem] and [a bough of which] extends outside [the city], B. or [which] is standing outside and [a bough of which] extends inside [Jerusalem] — that which is above [the center of] the wall and inwards is [deemed to be] within [Jerusalem] [and that which is over the center of] the wall and outward is [deemed to be] outside [M. M.S. 3:7A-C]. [The location of the branches is null. In our rule by contrast the status of the root is determined by the branches’ location.]*

- B. *Are you really proposing to treat as analogous a law referring to the eating within the walls of Jerusalem of food in the status of second tithe and the law governing cities of refuge? In the case of food in the status of second tithe that is to be eaten in Jerusalem, it is the wall that the All-Merciful has treated as definitive. In the case of the cities of refuge, it is the dwelling place that the All-Merciful has treated as definitive. In the latter instance, then, it is the boughs that afford a shelter, while the root does not afford a shelter.*

- C. *Then the same point of comparison should be addressed to the matter of second tithes, as we have learned in the Mishnah: And concerning [trees in or near] cities of refuge — all [matters regarding the legitimacy of the tree itself as a place of refuge] are governed by [the laws which apply to the place into which I the bough [extends] [one guilty of involuntary manslaughter finds refuge at the root of the tree even if only the bough extends into the city of refuge]. And concerning [trees growing] in Jerusalem [the fruit of which is designated as second-tithe produce] — all [matters concerning the sale of*

such produce] are governed by [the laws which apply to] the place into which the bough extends [if only the bough extends inside the city, the fruit of the entire tree must be eaten within Jerusalem, and may not be redeemed for coins outside of it: (M. M.S. 2:12)] [M. Maaserot 3:10M-P].

- D. *Said R. Kahana, "There is no contradiction The latter passage stands for R. Judah, the former for rabbis. For it has been taught on Tannaite authority: [12B] R. Judah says, "In the case of a cavern the location of the opening is definitive. [If the opening faces the city, it is classified as within the walls of the city, even though the cavity is outside, and vice verse.] In the case of a tree, the location of the bough is definitive." [Lazarus: both the Mishnah-paragraph before us and the second of the two cited rules on trees express Judah's view that the root follows the branches; the Mishnah-paragraph cited from Maaser Sheni then represents rabbis' view.]*
- E. *Now I may grant that the rule follows the position of R. Judah that, as to tithe, where a more strict rule would follow. That is, if the root is outside of the wall and the branches inside, just as the owner may not redeem the produce of second tithe under the bough [which overhangs inside the city, where produce in the status of second tithe may not be redeemed but must be eaten], so he may not redeem those that are located at the root. If the root is inside the wall and the bough overhangs outside it, then just as one may not eat the fruit in the status of second tithe under the bough, but has to redeem them, so he may not eat those at the root but has to redeem them. But in the case of a city of refuge, while the same principle works well when the root lies beyond the boundary and the bough overhangs inside, for here, just as the avenger of the blood may not kill the manslayer at the bough, so he may not kill him at the root, [that principle does not work well in the contrary situation, namely:] if the root is within and the bough beyond, shall we also say that, just as the avenger may slay him at the bough, he may also slay him at the root? But the manslayer is standing inside the bound!*
- F. *Said Raba, "With reference to the root, if the manslayer is standing at the root within the boundary, no one argues that the avenger may not kill him. No one argues that where the manslayer stands at the bough outside and the avenger can shoot arrows or throw stones at him, he may do so. Where there is an argument, it is in a case in which the root may serve as a ladder to get onto the bough. In that case, one authority [Judah] treats the root as a ladder for the bough. [Rabbis] maintain that the root is not a mere ladder for the bough."*
- G. *R. Ashi said, "What is the meaning of, 'the location of the bough is definitive'? It means, 'also the bough'" [Lazarus: in the case of second tithe and city of refuge, we follow in addition as a stringent measure also the bough, so that where the root is outside and the branch inside, the manslayer finds protection even at the root, and the same applies to the second tithe; we always adopt the stricter measure.]*
- I.1 commences with a clear conflict in the governing principles of Mishnah-paragraphs that intersect.

2:7R-S

- R. **[If] one has committed manslaughter in that very town he goes into exile from one neighborhood to another.**

S. And a Levite goes into exile from one town to another.

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

- B. “Then I will appoint for you a place where he may flee” (Exo. 21:13) —
- C. “Then I will appoint for you” — during your lifetime.
- D. “for you a place where he may flee” — in your place.
- E. “...where he may flee” — Israelites sent slayers into exile even while they were located in the wilderness.
- F. Where were they sent?
- G. To the camps of the Levites.
- H. On this basis they said: a Levite who slew someone was sent into exile from one province to another, and if he went into exile to his own native province, it affords him protection.
- I. *Said R. Aha b. R. Iqa, “What is the scriptural basis? ‘Because he shall dwell in the city of his refuge’ (Num. 35:18), meaning, the city that had already accorded him refuge in times past.”*

I.1 provides a Tannaite complement, which links our rule to Scripture.

2:8

- A. **Similarly: a manslayer who went into exile into a city of refuge, whom the townsfolk wanted to honor, must say to them, “I am a manslayer.”**
- B. **[If] they said to him, “Even so, [we still want to honor you,]” he may accept [the honor] from them,**
- C. **as it is said, “This is the word of the manslayer” (Deu. 19: 4).**
- D. **[13A] “They pay Levites a rental,” the words of R. Judah.**
- E. **R. Meir says, “They did not pay them a rental.”**
- F. **“And he may return to the office which he had held before,” the words of R. Meir.**
- G. **R. Judah says, “He did not return to the office which he had held before.”**

- I.1** A. **[“They pay Levites a rental,” the words of R. Judah. R. Meir says, “They did not pay them a rental:”]** Said R. Kahana, “The dispute concerns [only] the six principal cities of refuge. *For one master maintains*, ‘and the cities shall be for you for refuge’ (Num. 35: 6) means, ‘for the purpose of refuge and no other purpose,’ *and the other master takes the view that* ‘to you’ *means*, ‘yours for all your needs.’ But in regard to the other forty-two cities, they concur that the manslaughterers who settle there do pay rent.”
- B. Said to him Raba, “Well, there is no doubt whatsoever that ‘to you’ *means*, ‘yours for all your needs.’”
 - C. Rather, said Raba, “At issue is the status of the other forty-two cities. *One master takes the view that* ‘and to them you shall add forty-two cities’ (Num. 35:12) *means*, *they shall be in the status of the others as to affording shelter [and so the same rules apply]. The other master maintains that the language*, ‘and to them

you shall add forty-two cities' (Num. 35:12) *means*, 'yours for all your needs.' *Just as the others are* 'yours for all your needs,' *so these are*, 'yours for all your needs.'" *But in respect to the six principal cities, both parties concur that they did not pay the Levites rent."*

II.1 A. "And he may return to the office which he had held before," the words of R. Meir. R. Judah says, "He did not return to the office which he had held before:"

B. *Our rabbis have taught on Tannaite authority:*

C. "And he shall return to his family and to the possession of his fathers shall he return" (Lev. 25:41) —

D. **"To his property and his family he returns, and he does not return to the the status that is possessed by the family," the words of R. Judah.**

E. **R. Meir says, "To the family that is assumed to be his family he returns [regaining their status, even if it is very exalted]."**

F. **And the same rule applies to the person guilty of manslaughter when he returns from his exile on the death of the high priest [Sifra CCLVI:I.13].** When Scripture says, "he shall return," it means to apply the same rule to the manslayer.

G. *What is the meaning of the language, And the same rule applies to the person guilty of manslaughter?*

H. *It is in line with that which has been taught on Tannaite authority:*

I. "And after the death of the high priest the slayer shall return to the land of his possession" (Num. 35:28) —

J. "To the land of his possession he returns, but he does not return to the status that is possessed by his family," the words of R. Judah.

K. R. Meir says, "Even to the status possessed by his family he returns."

L. The latter draws an analogy based on the verbal correspondence of the language "he shall return" in both pertinent places.

I.1 clarifies the Mishnah's dispute. II.1 complements the Mishnah with a Tannaite exegesis concerning what is at issue in the reading of Scripture.