

VIII.

BAVLI SANHEDRIN CHAPTER EIGHT

Folios 68B-75A

8:1

- A. A rebellious and incorrigible son [M. 7:4J] —
 - B. at what point [does a child] become liable to be declared a rebellious and incorrigible son?
 - C. From the point at which he will produce two pubic hairs, until the ‘beard’ is full —
 - D. (that is the lower [pubic], not the upper [facial, beard], but the sages used euphemisms).
 - E. As it is said, “If a man has a son” (Deu. 21:18) — (1) a son, not a daughter; (2) a son, not an adult man.
 - F. And a minor is exempt, since he has not yet entered the scope of the commandments.
- I.1** A. *How do we know on the basis of Scripture that a minor is exempt?*
- B. *How do we know it! For it has been explicitly taught in the Mishnah-passage before us: **since he has not yet entered the scope of the commandments [M. 8:1F].***
 - C. *And furthermore, where do we find that Scripture has imposed a penalty [on a minor] so that, in the present setting in particular, one should require a verse of Scripture to declare a minor to be exempt?*
 - D. *This is what we meant to say: Is a wayward and rebellious son put to death on account of a sin that he has actually committed? He is put to death on account of what he will end up doing. Since he will be put to death on account of what he will end up doing, then even a minor [might fall within the framework of the law].*
 - E. *And furthermore, “A son” implies, a son and not a man [M. 8:1E], hence a minor [so the supposition of the question is quite sound].*
 - F. Said R. Judah said Rab, “It is because Scripture has said, ‘When a man will have a son...’ (Deu. 21:18) — a son who is close to reaching the full strength of a man.”
- II.1** A. **Until the lower beard is full:**
- B. *R. Hiyya taught on Tannaite authority, “Until it surrounds the corona.”*

- C. When R. Dimi came, he said, "Surrounding the penis and not surrounding the testicles. [The former is an earlier point.]"

- II.2** A. Said R. Hisda, "If a minor male produced a child, his son is not subject [to the law] of a wayward and rebellious son, for it is said, 'If a man has a son' (Deu. 21:18), meaning, when a man has a son, and not 'when a son has a son.'"
- B. *But that proof-text is needed for the proposition stated by R. Judah in the name of Rab [at I F].*
- C. *If so, Scripture should have said, "When a son will be born to a man."*
- D. *What is the sense of, "When a man has a son"?*
- E. *What is implied is in accord with what R. Hisda has said, [Freedman, p. 466, n. 4: By reversing the order, the manhood of the father when betting the son is emphasized. Only if a man beget a son, but not if a minor beget one, though he is already a man when his son transgresses.]*
- F. *May I then say that the entire verse serves only for the present purpose [excluding Rab's proposition entirely]?*
- G. *If so, Scripture should have written, "The son of a man." What is the sense of, "A man has a son"? It bears the proof for two propositions.*
- H. *The present proposition stands at variance with the view of Rabbah. For Rabbah has said, "A minor male cannot produce a child, for it is said, 'But if the man has no kinsmen to recompense the trespass to' (Num. 5: 8).*
- I. "Now [since all Israelites are related], is it possible that any Israelite would not have a redeemer?"
- J. "But the Scripture here speaks of taking what belongs to the estate of a proselyte [who has no Israelite heirs, by definition]. **[69A]** And the All-Merciful thereby indicates by saying, 'A man,' that is in the case of a man that you have to go in search of a redeemer, to find out whether he has kinsmen, but if it is a minor, it is not necessary to search for kinsmen, for you may be certain that he does not have kinsmen. [That is because a minor cannot produce a child.]"
- K. *Abbaye objected, "[And if any man lies carnally with a woman who is a bondmaid' (Lev. 19:20)]: 'A man' indicates that it must be an adult male.*
- L. "How do we know that the law applies to a boy nine years and one day old who is capable of having sexual relations?"
- M. "Scripture says, 'And if a man....'"
- N. He said to him, "To be sure, he has [semen], but he cannot produce a child, such as with grain that is not yet a third grown [which has seed but, if sown, that seed cannot germinate]."
- O. *A Tannaite authority of the house of Hezekiah [stated], "'But if a man came presumptuously...' (Exo. 21:14).*
- P. "A man can [Freedman:] inflame his genitals and emit semen, but not a minor."
- Q. *Said R. Mordecai to R. Ashi, "How do we know that the word translated presumptuously at hand means 'heating'?"*
- R. *"It is from the verse, 'And Jacob sod pottage' (Gen. 25:29) [which uses the same root]."*

- II.3** A. *Now as to the Tannaite authority of the house of Ishmael, [who taught, ‘If a man has a son’] (Deu. 21:18) means, a son but not a father [so that if the son is himself a father already, the law does not apply (Freedman, p. 467, n. 10)],*
- B. *how would such a case be possible? [We recall that the Mishnah has defined the period of liability as that interval between the appearance of two pubic hairs and the completion of the pubic corona, a relatively brief span of time.]*
- C. *Should one maintain that the wife became pregnant after the boy had produced two pubic hairs but produced the child before the lower beard had completed encircling the penis?*
- D. *Is there a sufficient interval [to permit the pregnancy to come to term]?*
- E. *And has not R. Kerespedai said, “The entire period of liability of a wayward and rebellious son is only three months alone.”*
- F. *Rather, is it not a case in which the wife became pregnant prior to the husband’s producing two pubic hairs and then gave birth before the beard had completely grown. [That is how the son would not be subject to the law at hand].*
- G. *That would then prove that a minor may produce a child.*
- H. *No, in point of fact his wife became pregnant after he had produced two pubic hairs and then gave birth after the lower beard was complete.*
- I. *And as to the problem of the saying in the name of R. Kerespedai [that there would not be done for the pregnancy to come to term while the boy was subject to the law of the wayward and rebellious son], when R. Dimi came, he said, “In the West they say, “A son,” and not one who is fit to be called a father.’ [Freedman, p. 468, n. 1: Once his wife is impregnated, he is already fit to be called a father. But it is unnecessary to exclude him when he is already a father, for by then his hair must be fully grown, and he is automatically excluded by the limitations expressed in the Mishnah.]”*

- II.4** A. *Reverting to the body of the foregoing: Said R. Kerespedai said R. Shabbetai, “The entire period of liability of a wayward and rebellious son is only three months alone.”*
- B. *But lo, we have learned in the Mishnah: **From the point at which he will produce two pubic hairs until the beard is full [M. 8:1C].** [Is that only in three months?]*
- C. *[This is the reply:] If the beard is full, even though three months have not passed, or if three months have passed, even though the beard is not full [he is no longer liable, and that is why Kerespedai’s statement is valid under all circumstances.]*
- D. *R. Jacob of Nehar Pegod sat before Rabina, and, going into session, said in the name of R. Huna, son of R. Joshua, “From the statement of R. Kerespedai in the name of R. Shabbetai it follows that if a woman bears a child at seven months, her pregnancy will not be discernible at a third of its term.*
- E. *“For if you think that her pregnancy will be discerned at a third of term, why should the statement at hand specify three months? It would have sufficed to specify two and a half months. [Freedman, p. 468, n. 4: For*

the fetus being then discernible, the son is fit to be called a father and is no longer liable.]"

- F. *He said to him, "Under all circumstances I should say to you that the fetus will be discernible at a third of term, [after three months, for in framing the law] we follow the majority [of cases]. [Most pregnancies go on for nine months, and the fetus is discerned at three months. That is then the point at which the son may be called a father and is no longer subject to the law of the wayward and rebellious son.]"*
- G. *They made this statement before R. Huna, son of R. Joshua, He said to him, "But in capital cases [such as this one] do we follow the majority? Has the Torah not said, 'Then the congregation shall judge and the congregation shall deliver the slayer' (Num. 35:25). [Freedman, p. 468, n. 6: This is taken to mean that in doubt the accused be given the benefit.] Can you then say that we follow the majority?"*
- H. *This statement was repeated before Rabina. He said to him, "But in capital cases do we not follow the majority?"*
- I. ***"Have we not learned in the Mishnah: If one of the witnesses says, 'It was on the second of the month,' and one of the witnesses says, 'It was on the third of the month,' their testimony stands, for one of them may know about the intercalation of the month, and the other one may not know about the intercalation of the month [M. 5:3A-B].***
- J. *"And if you maintain that we do not follow the majority, then we should rule in the present case that the witnesses testify in a precise way and so contradict one another. [Freedman, p. 469, n. 3: Since there is a minority that does not err in respect of the length of the month, why not assume that each knows the length of the preceding month?]*
- K. *"Rather, is it not because we do maintain that we follow the case of the majority, and the majority is likely to err in the matter of the intercalation of the month."*
- L. *Said R. Jeremiah of Difti, "We too have learned in the Mishnah: A girl three years and one day old is betrothed by intercourse. And if a Levir has had intercourse with her, he has acquired her. And they are liable on her account because of the law prohibiting intercourse with a married woman. And she imparts uncleanness to him who has intercourse with her when she is menstruating, to convey uncleanness to the lower as to the upper layer. If she was married to a priest, she eats heave-offering. If one of those who are unfit for marriage has intercourse with her, he has rendered her unfit to marry into the priesthood. If one of all those who are forbidden in the Torah to have intercourse with her has intercourse with her, they are put to death*

on her account, but she is free of responsibility [M. Nid. 5:4A-H]. [69B] *Now why should this be the case [that she should be regarded as legally married at all]? I might invoke the possibility that she is barren, and it was in the supposition that she was barren, the husband would not have betrothed her [so that, in point of fact, should she prove to be barren, she is not regarded as betrothed at all]. Must we therefore not maintain that we follow the status of the majority, and the majority of women are not barren [and that is why the rule is as stated in the Mishnah].”*

M. No, [that is not right, for] what is the sense of “liable on her account” as the Mishnah states matters? It is to an offering.

N. But lo, what it says is, **They are put to death on her account!**

O. At issue is her father’s having sexual relations with her.

P. But it says, **If one of all those who are forbidden in the Torah to have intercourse with her has intercourse with her** [not just the father]!

Q. So the Mishnah-rule speaks of a case in which the husband accepted her [whether or not she was barren, so the case does not make the besought point anyhow].

II.5 A. *Our rabbis have taught on Tannaite authority:*

B. **A woman who commits lewdness with her minor son, who entered into the first state of cohabitation with her — —**

C. **the House of Shammai invalidate her from marriage into the priesthood.**

D. **And the House of Hillel declare her valid [T. Sot. 5:7A-C].**

E. *Said R. Hiyya, son of Rabbah bar Nahmani, said R. Hisda, and some say, said R. Hisda said Zeiri, “All concur in the case of a son nine years and one day old, that his act of sexual relations is entirely valid.*

F. *“In the case of a child less than eight years of age, [all agree that] his act of sexual relations is null.*

G. *“The dispute pertains only to the case of a child eight years of age.*

H. *“For the House of Shammai take the view that we derive the law from the case of the earlier generations [when a boy of eight years could impregnate a woman], and the House of Hillel take the view that we do not derive the law from the case of the earlier generations.”*

I. *And how on the basis of Scripture do we know that the earlier generations could produce a pregnancy [at the age of eight years]?*

J. *May we say that the proof is as follows:*

K. It is written, “[And David sent and inquired after the woman, and one said,] ‘Is not this Bath Sheba, daughter of Eliam, wife of Uriah the Hittite’” (2Sa. 11: 3).

L. And it is written, “Eliam, the son of Ahitophel the Gilonite” (2Sa. 23:134).

- M. And it is written, “And he sent by the hand of Nathan the prophet, and he called his name Jedidiah [Solomon later on] because of the Lord” (2Sa. 12:25).
- N. And it is written, “And it came to pass, after two full years [after Solomon was born] that Absalom had sheep-shearers” (2Sa. 13:23).
- O. And it is written, “So Absalom fled and went to Geshur and was there three years” (2Sa. 13:38).
- P. And it is written, “So Absalom dwelt two full years in Jerusalem and did not see the king’s face” (2Sa. 14:28).
- Q. And it is written, “And it came to pass after forty years that Absalom said to the king, I pray you, let me go and pay my vow which I have vowed to the Lord in Hebron” (2Sa. 25: 7).
- R. And it is written, “And when Ahitophel saw that his counsel was not followed, he saddled his ass and arose and went home to his house, to his city, and he put his household in order, and hanged himself” (2Sa. 17:23).
- S. And it is written, “Bloody and deceitful men shall not live out half their days” (Psa. 55:24). [This proves that Ahitophel did not reach the age of thirty-five].
- T. *And it has been taught on Tannaite authority:*
- U. The entire lifespan of Doeg was only thirty-four years, and of Ahitophel only thirty-three years.
- V. *So how many years were they? Thirty-three. Then deduct the seven years, the age of Solomon at that time [that Ahitophel committed suicide], leaving twenty-six. Take off two years for three pregnancies, and it comes out that each one was eight years old when he produced a child. [Ahitophel must have been eight years at the conception of Eliam, Eliam eight years at the conception of Bath Sheba, Bath Sheba eight years at the conception of Solomon (Freedman, p. 471, n. 3)].*
- W. *But perhaps the two of them [Ahitophel and Eliam] were nine years old [when they produced conceptions], and Bath Sheba was only six years old when she conceived, for a woman is more vital. You may know that that is the case, for she had had a child earlier [before Solomon].*
- X. *The proof derives from here:*
- Y. “Now these are the generations of Terah: Terah begat Abram, Nahor and Haran” (Gen. 11:27).
- Z. Abraham was a year older than Nahor, and Nahor was a year older than Haran. So Abraham was older than Haran by two years.
- AA. And it is written, “And Abraham and Nahor took wives for themselves, the name of Abram’s wife was Sarai, and the name of Nahor’s wife was Milcah, daughter of Haran, father of Milcah and father of Iscah” (Gen. 11:29).
- BB. (And R. Isaac said, “Iscah is the same as Sarai, and why was she called Iscah? Because she foresaw through the Holy Spirit [what would happen in the future], and this is in line with that which is written, ‘In all that Sarah has said to you, hearken to her voice’ (Gen. 21:12).”)

- CC. (Another reason: Everyone looked at her beauty.)
- DD. It is written, "Then Abraham fell upon his face and laughed and said in his heart, [Shall a child be born to him who is a hundred years old? And shall Sarah, who is ninety years old, bear?]" (Gen. 17:17).
- EE. *Now how much older was Abraham than Sarah? Ten years.*
- FF. *And he was older than her father by two years.*
- GG. *It turns out that Haran begat Sarah when he was eight years old.*
- HH. *But why should we reach this conclusion? Perhaps Abraham was the youngest of the three, and the brothers were ranked in wisdom.*
- II. *You may know that Scripture ranked them in accord with their wisdom, for it is written, "And Noah was five hundred years old, and Noah begat Shem, Ham and Japheth,"*
- JJ. [If ranked by age,] Shem would be a year older than Ham, and Ham a year older than Japheth, so Shem was two years older than Japheth.
- KK. It is written, "And Noah was six hundred years old when the flood of water was upon the earth" (Gen. 7: 6), and it is written, "These are the generations of Shem. Shem was a hundred years old and begat Arphaxad two years after the flood" (Gen. 11:10).
- LL. *Now can he have been a hundred years old? He must have been a hundred and two years old.* [Freedman, p. 472, n. 5: Since Noah was five hundred years old when Shem was born, and six hundred when the flood commenced, Shem must have been a hundred then. Consequently, two years later he was a hundred and two years old.]
- MM. *Rather, Scripture ranked them by wisdom, and here too, Scripture ranked them by wisdom.*
- NN. *Said R. Kahana, "I stated this teaching before R. Zebid of Nehardea.*
- OO. *"He said to me, 'You derive the fact from that passage. And this is the proof from which we derive the same proposition:*
- PP. *"To Shem, also, the father of all the children of Eber, brother of Japheth the elder, even to him were children born' (Gen. 10:21).*
- QQ. *"[This indicates that] Japhath was the oldest of the brothers."*
- RR. *How do we know [that in earlier generations a boy of eight years of age could produce a child]?*
- SS. *It is from the following:*
- TT. *"And Bezaleel, son of Uri, son of Hur, of the tribe of Judah" (Exo. 38:22).*
- UU. *And it is written, "And when Azubah, [Caleb's wife], died, Caleb took Ephrath, who bore him Hur" (1Ch. 2:19).*
- VV. *And when Bezaleel made the tabernacle, how old was he?*
- WW. *He was thirteen, for it is written, "And all the wise men, who wrought all the work of the sanctuary, came every man from his work which they made" (Exo. 36: 4) [Freedman: he had must reached manhood].*
- XX. *And it has been taught on Tannaite authority:*

YY. In the first year [after the Exodus] Moses made the tabernacle, in the second he put up the tabernacle and sent out the spies.

ZZ. And it is written, “And Caleb said, I was forty years old when Moses, the servant of the Lord, [sent me from Kadesh-bernea to spy out the land]” (Jos. 14: 7), “and now, lo, I am today eighty-five years old” (Jos. 14:10).

AAA. *So how old was he? He was forty years old. Take off the fourteen years of Bezaleel’s age at that time [since he was thirteen when he made the tabernacle, and this was a year later], leaving twenty-six years [as Caleb’s age when Bezaleel was born]. Take off two years for three pregnancies [leaving twenty-four years], so each must have produced a child at the age of eight.*

III.1 A. A son, not a daughter [M. 8:1E]:

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

C. **Said R. Simeon, “By strict law a daughter also should have been appropriate to fall into the category of the wayward and rebellious child, [70A] for everyone comes around to her to commit a sin [and she may turn out to be a whore].**

D. **“But it is the decree of Scripture: ‘a son,’ not a daughter” [T. San. 11:6C].**

The bulk of the materials at hand is framed around the interests of the Mishnah-paragraph. Units I.1, II.1 provide proof texts or clarifications of the Mishnah’s rule. Unit II.2 expands upon the proof-text at hand. Unit II.3 is continuous with unit II.2. Unit V provides an important qualification of the law at hand. III.1 then reverts to the Mishnah-paragraph and expands upon its proof-text.

8:2

A. At what point is he liable?

B. Once he has eaten a tartemar of meat and drunk a half-log of Italian wine.

C. R. Yosé says, “A mina of meat and a log of wine.”

D. [If] he ate in an association formed for a religious duty.

E. [if] he ate on the occasion of the intercalation of the month,

F. [if] in Jerusalem he ate food in the status of second tithe,

G. [if] he ate carrion and terefah-meat, forbidden things or creeping things,

H. [if] he ate untithed produce, first tithe, the heave-offering of which had not been removed, second tithe or consecrated food which had not been redeemed [by money],

I. [if] he ate something which fulfilled a religious duty or whereby he committed a transgression,

J. [if] he ate any sort of food except meat, drank any sort of liquid except wine
—

K. he is not declared a rebellious and incorrigible son —

L. unless he eats meat and drinks wine,

M. since it is said, “A glutton and a drunkard” (Deu. 21:20).

- N. And even though there is no clear proof for the proposition, there is at least a hint for it,
- O. for it is said, “Do not be among the wine-drinkers, among gluttonous meat-eaters” (Pro. 23:20).
- I.1 A. Said R. Zira, “As to this tartemar, I do not know what it is, but since R. Yosé doubles the measure applying to wine, it follows that he doubles the measure in regard to meat.
- B. “So it turns out that a tartemar is a half mina.”
- I.2 A. Said R. Hanan bar Moledah said R. Huna, “He is liable only if he buys meat cheaply [ZWL] and eats it, buys wine cheaply [ZWL] and drinks it, for it is written, ‘He is a glutton [ZWLL] and a drunkard’ (Deu. 21:20) [a play on words, since the root for ‘glutton’ yields ‘cheap.’]”
- B. Said R. Hanan bar Moledah said R. Huna, “He is liable only if he eats raw meat and drinks undiluted wine.”
- C. *Is this so?. And lo, both Rabbah and R. Joseph say, “If he ate raw meat and drank undiluted wine, he is not regarded as a wayward and rebellious son.”*
- E. Said Rabina, “What is meant by undiluted wine is wine that is diluted but not diluted, and what is meant by raw meat is meat that has been cooked but not cooked.
- F. *“It is like charred meat that thieves eat [on the run].”*
- G. *Both Rabbah and R. Joseph say, “If he ate salted meat and drank wine right from the vat [before it has matured], he cannot be treated as a wayward and rebellious son.”*
- I.3 A. **We have learned there: On the eve of the ninth of Ab a person should not eat two prepared dishes, nor should one eat meat or drink wine [M. Ta. 4:7D].**
- C. *In this regard a Tannaite authority taught, “But one may eat salted meat and drink wine fresh from the vat.*
- D. *As to salted meat, how long must it be salted?*
- E. Said R. Hanina bar Kahana, “So long as one might eat the meat of a peace-offering [two days and an intervening night].
- F. *And how long is wine regarded as fresh from the vat?*
- G. *So long as it is in its first stage of fermentation.*
- H. ***And it has been taught on Tannaite authority: Wine which still is fermenting — as long as it is fermenting, it is not liable to the law of uncovered liquids. And how long is it deemed still to be fermenting? Three days [T. Ter. 7:15 (Avery-Peck)].*** What is the law here [i.e. with regard to fermenting wine]?
- I. *There [with respect to not eating meat on the eve of the ninth of Ab] it is so as to diminish rejoicing. [So long as the meat is like the meat of a peace-offering, it gives the pleasure of fresh meat.]*
- J. *Here it is because of its attractiveness, and even after a brief period, it is no longer attractive.*
- K. *Wine for its part is attractive only after forty days have passed. [The son is liable only for eating and drinking what is very attractive, hence excluding meat a day old and wine less than forty days old (Freedman, p. 476, n. 2)].*

The Evils of Wine and Strong Drink

- I.4 A.** Said R. Hanan, “Wine has created in this world only for comforting the bereaved and for requiting the wicked.
- B. “For it is written, ‘Give strong drink to him who is ready to perish [=the wicked], and wine to those of heavy heart’ (Pro. 31: 6).”
- C. Said R. Isaac, “What is the meaning of the statement of Scripture, ‘Do not look upon wine when it is red’ (Pro. 23:31)?
- D. Do not look upon wine, which makes the face of the wicked red in this world and white [with embarrassment] in the world to come.”
- E. Raba said, “‘Do not look upon wine when it is red’ (Pro. 23:31) — do not look upon wine, which ends up as blood.”
- F. *R. Kahana contrasted verses of Scripture, “It is written, Tirash, but we read, tirosh [for the word for wine].*
- G. “If one had merit, he is made a head (rosh). If not, he becomes poor (rash).”
- H. *Raba contrasted verses of Scripture, “It is written, ‘And wine makes desolate the heart of man’ but it is read, ‘rejoices the heart of man.’ If one has merit, wine makes him glad, if not, it makes him sad.”*
- I. *And this is in line with what Raba said, “Wine and spice makes one wise.”*
- I.5 A.** *Said R. Amram, son of R. Simeon bar Abba, said R. Hanina, “What is the meaning of the verse of Scripture, ‘Who has woe? who has sorrow? who has contentions? who has babbling? who has wounds without cause? who has redness of eyes? They who tarry long at wine, they who go to seek mixed wine’ (Pro. 23:29-30)?”*
- B. *When R. Dimi came, he said, “In the West they say, in respect to this verse, that one may interpret the second part in explanation of the first, or the first in explanation of the second. [Freedman, p. 477, n. 3: The second as explanatory of the first: who have all these evils? Those who tarry long. The second being the cause, the first the effect. Vice versa: For whom is it fitting to tarry long over wine? For the wicked only.]”*
- I.6 A.** *Ubar, the Galilean, expounded as follows: “The word ‘and’ is stated thirteen times with respect to wine:*
- B. *“‘And Noah began to be a husbandman, and he planted a vineyard, and he drank of the wine and was drunken, and he was uncovered within his tent. And Ham the father of Canaan saw the nakedness of his father and told his two brothers outside. And Shem and Japheth took a garment and laid it upon their shoulders and went backward and covered the nakedness of their father, and their faces [were backward, and they did not see their father’s nakedness]. And Noah awoke from his wine and knew what his younger son had done to him’ (Gen. 9:20-24). [Freedman: the converse waw occurs thirteen times. The combination of waw yod means woe, thus there were thirteen woes; so great are the sorrows caused by drunkenness].”*
- C. *[On the reference to what the younger son had done to him,] Rab and Samuel [discussed the matter].*
- D. One said, “He castrated him.”

- E. And the other said, "He had sexual relations with him."
- F. *The one who said that he castrated them holds that, since he cursed him by his fourth son [the sons of Ham, Cush, Mizraim, Phut, and, fourth, Canaan, and at Gen. 10: 7, Noah cursed Canaan], he cursed him because of a fourth son [which Noah could not have].*
- G. *And the one who maintains that he had sexual relations with him compares the use of, "And he saw." Here: "And Ham the father of Canaan saw the nakedness of his father," and elsewhere: "And when Shechem, son of Hamor, saw her, [he took her and lay with her and defiled her]" (Gen. 34: 2).*
- H. *Now from the viewpoint of him who says that he castrated him, that is why he cursed him as to his fourth son in particular.*
- I. *But as to him who maintains that he had sexual relations with him, why did he curse the fourth son in particular? Rather, he ought to have cursed him.*
- J. *In point of fact, both took place.*

I.7 A. "And Noah began to be a husbandman and he planted a vineyard" (Gen. 9:25):

- B. *Said R. Hisda said R. Uqba, and some say, Mar Uqba said R. Zakkai said, "The Holy One, blessed be he, said to Noah, 'Noah, you should have learned from the first man, for whom it was only wine that was the cause [of all his troubles].'"*
- C. *This accords with the view of him who has said that the tree from which the first man ate was the vine.*
- D. *That is in accord with what has been taught on Tannaite authority:*
- E. R. Meir says, "As to the tree from which the first man ate [and was cursed],
- F. "It was a vine, **[70B]** for there is nothing that causes for man so much wailing as wine, [as it says, 'And he drank of the wine and got drunk' (Gen. 9:21)]."
- G. R. Judah says, "It was wheat, for a child does not know how to call his mother and father by name before he can taste wheat, [so wheat is the source of knowledge, hence the Tree of Knowledge]."
- H. R. Nehemiah says, "It was a fig tree, for the source of the curse proved also to be the remedy, as it is said, 'And they sewed fig leaves together' (Gen. 3: 7)."

I.8 A. "The words of King Lemuel, the burden wherewith his mother admonished him" (Pro. 31: 1):

- B. Said R. Yohanan in the name of R. Simeon b. Yohai, "This verse teaches that his mother had him bound on a post [to be flogged].
- C. "She said to him, 'What, my son? and what, the son of my womb? and what, the son of my vows?' (Pro. 31: 1).
- D. "'What my son? Everybody knows that your father feared heaven, and now people will say that his mother was the cause of his [corruption].
- E. "'And what, the son of my womb? As to all the other wives of your father's harem, once they got pregnant, they did not see the face again. But I forced my way in so that I should have a vigorous and well-formed son. [Further acts of intercourse would make the foetus better looking.]

- F. “‘And what, the son of my vows? All the other women in your father’s harem would take vows, ‘May I have a son worthy of the throne,’ but I took a vow and said, ‘May I have a son that is vigorous and filled with Torah-learning and fit for prophecy.’”
- G. “‘It is not for kings, O Lemuel, it is not for kings to drink wine [nor for princes to say, Where is a strong drink]’ (Pro. 31: 4).
- H. “‘She said to him, ‘What business do you have with kings who drink wine and get drunk and say, ‘What do we need God for?’”
- I. “‘Nor for princes to say, Where is strong drink’ (Pro. 31: 4):
- J. “‘Should he to whom all the secrets of the world are self-evident drink and get drunk?’”
- K. *There are those who say, “Should he, to whom all the princes of the world rise early to come to his door, drink wine and get drunk?”*
- L. Said R. Isaac, “How do we know that Solomon repented and confessed that his mother [was right]?”
- M. “As it is written, ‘I am more brutish than man and have not the understanding of a man’ (Pro. 30: 2).
- N. “‘I am more brutish than man’ refers to Noah, of whom it is written, ‘And Noah began to be a husbandman’ (Gen. 9:20).
- O. “‘And have not the understanding of a man’ — of Adam.”

II.1 A. If he ate in an association formed for a religious duty [M. 8:2D]:

- B. Said R. Abbahu, “He is liable only if he eats in an association that is made up entirely of louts.”
- C. *But have we not learned in the Mishnah: If he ate in an association formed for a religious duty he is not declared a wayward and rebellious son [M. 8:2D]?*
- D. *The reason is that such an association was formed for a religious duty. Lo, if it was not formed to carry out a religious duty, even if the whole of the association was not made up of louts, he may be declared liable [and that is not limited to an association made up entirely of louts, as Abbahu has claimed]. So we are informed [by the Mishnah] that even if everyone in the association was a lout, since the association is taken up with carrying out a religious duty, he is not going to be led astray [and so penalized].*

III.1 A. If he ate on the occasion of the intercalation of the month [M. 8:2F]:

- B. *Does this bear the implication that on such an occasion they eat meat and wine?*
- C. *And has it not been taught on Tannaite authority:*
- D. They go up for it only with a piece of wheat bread and pulse alone.
- E. *So we are informed that even though people do not come up [to testify] carrying more than a piece of wheat bread and pulse, if he brought up meat and wine and ate it, since he was involved in performing a religious duty, he is not led astray [and so is not penalized].*
- F. *Our rabbis have taught on Tannaite authority:*
- G. Not less than ten come up for the rite of intercalating the month.
- H. People come up only with a piece of wheat bread and pulse.

- I. People come up only on the evening following the intercalation.
- J. And they come up not by day but by night.
- K. And has it not been taught on Tannaite authority:
- L. They come up not by night but by day?
 - M. *This accords with what R. Hiyya bar Abba said to his sons, "Get up early and come out early, so people may know of your celebration. [But the rite took place at night.]"*

IV.1 A. If in Jerusalem he ate food in the status of second tithe [M. 8:2F]:

- B. *Since he eats it in the correct way, he will not be led astray.*

V.1 A. If he ate carrion and terefah-meat, forbidden things or creeping things [M. 8:2G]:

- B. Said Raba, "If he ate chicken, he is not condemned as a wayward and rebellious son."
- C. *Lo, we have learned in the Mishnah: If he devoured carrion and terefah meat, forbidden things or creeping things [M. 8:2G] ... he is not declared a wayward and rebellious son [M. 8:2K].* Thus if he ate clean [and appropriate meat], he would be condemned as a wayward and rebellious son.
- D. *The Mishnah speaks only of what completes the requisite volume. [If the whole measure was the meat of chicken, he would be exempt, but if it was mostly cow-meat and completed with a little chicken, he is liable.]*

VI.1 A. If he ate something which fulfilled a religious duty or whereby he committed a transgression [M. 8:2I]:

- B. **Something which fulfilled a religious duty** is a meal served to comfort mourners.
- C. **Something whereby he committed a transgression** is a meal on a public fast.
 - D. *And what is the scriptural basis for that view?*
 - E. Scripture has said, "He will not obey our voice" (Deu. 21:20) meaning, "our voice" and not the voice of the Omnipresent. [If he disobeys God, he does not fall into the category of a wayward and rebellious son.]

VII.1 A. If he ate any sort of food except meat, or drank any sort of liquid except wine [M. 8:2J]:

- B. **If he ate any sort of food except meat** — [*"meat" here is meant*] to include even Keilah-figs.
- C. **If he drank any sort of liquid except wine** — [*"wine" here is meant*] to include even honey and milk.
 - D. *For it has been taught on Tannaite authority:*
 - E. If one ate Keilah-figs or drank honey or milk, and then went into the Temple, [71A] he is liable [for entering the Temple after drinking wine.]

VIII.1 A. He is not declared a rebellious and incorrigible son unless he eats meat and drinks wine [M. 8:2K-L].

- B. *Our rabbis have taught on Tannaite authority:*
- C. **If he ate any sort of food but did not eat meat, drank any sort of liquid but did not drink wine, he is not declared a rebellious and incorrigible son, unless**

he eats meat and drinks wine, since it is said, “A glutton and a drunkard” (Deu. 21:20).

- D. Even though there is no clear proof for the proposition, there is at least a hint for it, for it is said, “Do not be among the wine-drinkers, among gluttonous meat-eaters” (Pro. 23:20) [M. 8:2J-O].
- E. And it says, “For the drunkard and glutton shall come to poverty, and drowsiness shall clothe a man with rags” (Pro. 23:21).
- F. Said R. Zira, “Whoever sleeps in the school house will find that his learning of Torah is torn into rags,
- G. “For it is said, ‘And drowsiness shall clothe a man with rags’” (Pro. 23:21).
The Talmud is made up of two large compositions, one treating the Mishnah in particular, and a long inserted unit on the theme of wine. For the most part the theme explains the conglomeration of materials, and there is no point at which the Mishnah-paragraph plays a role.

8:3

- A. [If] he stole something belonging to his father but ate it in his father’s domain,
- B. or something belonging to others but ate it in the domain of those others,
- C. or something belonging to others but ate it in his father’s domain,
- D. he is not declared a rebellious and incorrigible son — —
- E. until he steals something of his father’s and eats it in the domain of others.
- F. R. Yosé b. Judah says, “...until he steals something belonging to his father and his mother.”

- I.1 A. If he stole something belonging to his father but ate it in his father’s domain,
- B. *even though he has ready access [to what belongs to his father], he will be afraid [and not do this very often].*
- C. If he stole something belonging to others but ate it in the domain of those others,
- D. *even though he is not afraid, he does not have ready access [and so will not do this very often].*
- E. And all the more so if he stole something belonging to others but ate it in his father’s domain,
- F. *in which case he does not have ready access, and, further, is afraid [so he will not do this often].*
- G. Until he steals something of his father’s and eats it in the domain of others,
- H. *in which case he has ready access and will not be afraid [and so will make this theft a habitual practice].*

- II.1 A. R. Yosé b. Judah says, “...until he steals something belonging to his father and his mother [M. 8:3F]:
- B. *Whence would his mother get domain over property? What a wife buys is as if her husband bought it.*
- C. Said R. Yosé b. R. Hanina, “It would involve something prepared for a meal for his father and for his mother.”

- D. And has not R. Hanan b. Moladah said R. Huna said, “He is liable only if he will buy meat at a cheap price and drink wine acquired at a cheap price”?
- E. *Rather, I may say, [he stole] funds for a meal designated for his father and his mother [Freedman, p. 482, n. 2: in which money the mother has an exclusive share, as alimentation is part of the husband’s obligations to the wife].*
- F. *And if you wish, I shall propose that it was from property that a third party gave over to her, saying, “I give you this on the condition that your husband enjoy no domain over it.”*

The Talmud at unit I.1 presents its underlying thesis on the purpose of the law and reads each clause in light of that thesis. Unit II.2 clarifies an obvious problem in the Mishnah-paragraph.

8:4

- A. **[If] his father wanted [to put him to judgement as a rebellious and incorrigible son] but his mother did not want to do so,**
- B. **[if] his father did not want and his mother did want [to put him to judgment],**
- C. **he is not declared a rebellious and incorrigible son —**
- D. **until both of them want [to put him to judgment].**
- E. **R. Judah says, “If his mother was unworthy of his father, he is not declared to be a rebellious and incorrigible son.”**

- I.1** A. *What is the sense of **unworthy of his father** [at M. 8:4E]? May I say that it was a marriage that produced liability to extirpation or even to the death penalty at the hands of an earthly court [e.g., an incestuous union]?*
- B. *But in any case his father remains his father and his mother, his mother.*
- C. *Rather, the sense is that he was not similar [in appearance] to his father.*
- D. *So too has it been taught on Tannaite authority:*
- E. R. Judah says, “If his mother is not like his father in voice, appearance, and stature, he cannot be declared a wayward and rebellious son.”
- F. *What is the scriptural basis for that view?*
- G. It is because Scripture has said, “He will not obey our voice” (Deu. 21:10).
- H. *Since we require that the voice of the two be alike, so we require that they be alike in appearance and stature.*

- I.2** A. *In accord with which authority is the following Tannaite teaching:*
- B. **There has never been, and there never will be, a wayward and rebellious son.**
- C. **So why has the passage been written? To tell you, “Expound and receive a reward” [T. San. 11:6A-B].**
- D. *In accord with whom? The foregoing surely accords with the theory of R. Judah.*
- E. *And if you wish, I shall propose that it accords with R. Simeon, for it has been taught on Tannaite authority:*
- F. Said R. Simeon, “And because this one has eaten a tartemar of meat and drunk a half-log of Italian wine, will his father and his mother bring him out to be stoned?”
- G. “But such a case has never been and will never be.
- H. “And why has it been written? It is to tell you, ‘Expound and receive a reward.’”

- I. Said R. Jonathan, "I saw such a case and sat on his grave."
- J. *In accord with whom is the following that has been taught on Tannaite authority:*
- K. **An apostate town never was and is not ever going to be. And why was the matter written? To say, Expound it and receive a reward [T. San. 14:1A-B, T.'s version.]**
- L. *In accord with whom? In accord with R. Eleazer.*
- M. *For it has been taught on Tannaite authority:*
- N. R. Eleazer says, "Any town in which there is even a single mezuzah cannot be declared an apostate town."
- O. *What is the scriptural basis for that view?*
- P. Scripture has said, "And you shall gather all the spoil of it in the midst of the street thereof and shall burn them" (Deu. 13:17).
- Q. *Now if there is even a single mezuzah, it is not possible to do so, for it is written, "And you shall destroy the names of them.... You shall not do so to the Lord your God" (Deu. 12: 4).*
- R. Said R. Jonathan, "I saw such a town and sat on its mound."
- S. *In accord with what authority is the following that has been taught on Tannaite authority:*
- T. **A diseased house has never come into existence and is never going to come into existence. And why was the passage written? It was to tell you, Expound and receive a reward [T. Neg. 6:1A].**
- U. *In accord with what? It is in accord with R. Eleazar b. R. Simeon, for we have learned in the Mishnah:*
- V. **R. Eleazar b. R. Simeon says, "[A house is not declared unclean] until a spot the size of two split beans will appear on two stones on two walls in the corner; its length is two split beans and its width a split bean [M. Neg. 12:3G-H].**
- W. *What is the reason for the view of R. Eleazar b. R. Simeon? It is written, "Wall" (Lev. 14:37) and it is again written, "Walls" (Lev. 14:37). What is one wall that appears as two walls? It has to be at the angle at which walls meet.*
- X. *It has been taught on Tannaite authority:*
- Y. **Said R. Eleazar b. R. Sadot, "There was a place on the border of Gaza, and they called it, 'A quarantined ruin.'"**
- Z. **Said R. Simeon of Kefar Akkum, "Once I went in Galilee and I saw a place that is marked off by designated stones, and they said, 'They deposited diseased stones in this place'" [T. Neg. 6:1B-C].**

Once Judah's qualification is offered, at unit I.1, the question obviously arises of whether such a case can ever come to court. Unit I.2, continuous with the foregoing, then explores that question in its own terms.

8:4F-O

- F. [If] one of them was maimed in the hand, lame, dumb, blind, or deaf,
- G. he is not declared a rebellious and incorrigible son,
- H. since it is said, "Then his father and his mother will lay hold of him" (Deu. 21:20) — so they are not maimed in their hands;
- I. "and bring them out" — so they are not lame;
- J. "and they shall say" — so they are not dumb;
- K. "This is our son" — so they are not blind;
- L. "He will not obey our voice" — so they are not deaf.
- M. They warn him before three judges and flog him.
- N. [If] he went and misbehaved again, he is judged before twenty-three judges.
- O. He is stoned only if there will be present the first three judges, since it is said, "This, our son" — this one who was flogged before you.

I.1 A. *Does this passage prove that the Scripture must be read in a literal way, just as it is written?*

B. *The present case is distinctive, [71B] for the entire verse of Scripture at hand is superfluous [and available for exposition such as is given here].*

II.1 A. **They warn him before three judges [M. 8:4M]:**

B. *Why? Should two not suffice?*

C. *Said Abbaye, "This is the sense of the passage: 'They warn him before two judges and administer a flogging before three.'"*

II.2 A. *Whence is it stated that a wayward and rebellious son [is flogged]?*

B. *It is in accord with what R. Abbahu has said. For R. Abbahu has said, "We have derived an analogy from 'And they shall chastise him' which occurs two times [Deu. 22:18, Deu. 21:18].*

C. *"And the sense of that repeated phrase derives from the use of the word 'son,' with an analogy to the use of that same word in the phrase, 'And it shall be if the wicked man be worthy ["a son"] to be flogged' (Deu. 25: 2)."*

III.1 A. **If he went and misbehaved again, he is judged before twenty-three judges [M. 8:4/O]:**

B. *Is the cited verse, "This our son..." not used to make the point [at M. 8:4K], "This is our son" — so they are not blind?*

C. *If so, the Scripture should have stated, "He is our son."*

D. *Why: "This, our son"?*

E. *It is to permit the deduction of two rules.*

The Talmud systematically explains the Mishnah's clauses, providing a scriptural basis for the rules.

8:4P-Q

- P. [If] he fled before his trial was over, and afterward [while he was a fugitive,] the lower “beard” became full, he is exempt.
- Q. If after his trial was done he fled, and afterward the lower beard became full, he is liable.
- I.1 A. Said R. Hanina, “A son of Noah who cursed the divine Name and afterward converted to Judaism is exempt from penalty, since the mode of trying him has undergone a change, so too the mode of inflicting the death penalty.”
- B. *May I say that the following passage of the Mishnah supports [Hanina’s view]? If he fled before his trial was over, and afterward the lower “beard” became full, he is exempt [M. 8:4P]. What is the reason for this ruling? Is it not because we invoke the rule that, since he has changed [in one aspect of culpability], he has changed [in all others]?*
- C. *No, the present case is different from the other, because if he had done such a deed at this time, he would not be subject to the death penalty at all.*
- D. *Come and take note: If after his trial was done he fled, and afterward the lower beard became full, he is liable [M. 8:4Q]. [This would refute Hanina’s view.]*
- E. *Now you have said, If after his trial was done. And if his trial is done, then he is already subject to the death penalty [so there is no parallel to Hanina’s case].*
- F. *Come and take note: A son of Noah who hit his neighbor or had sexual relations with his neighbor’s wife and then converted to Judaism is exempt. If he did so to an Israelite and then converted to Judaism, he is liable.*
- G. *Now why should this be the case? May we not invoke the rule that, since his status has changed, the liability affecting him also should change?*
- H. *We require a shift both in the mode of trying the man and also in the mode of inflicting the death penalty, and in this one’s case, while the rules of trying him have changed, the mode of inflicting the death penalty has not changed.*
- I. *But in the case of this one, while the mode of trying him has changed, the mode of inflicting the death penalty has not changed.*
- J. *[How so?] While, to be sure, in the case of the murderer, to begin with he was subject to death through decapitation and he is now subject to death through decapitation, as to the one who commits adultery, to begin with he was subject to the death penalty through decapitation, but now he is subject to the death penalty through strangulation.*
- K. *But a pertinent parallel is provided by the betrothed girl, for in both instances [before, after conversion], the death penalty is the same, namely through stoning.*
- L. *But lo, the passage has been framed in the language of, “If he did so to an Israelite,” parallel to the matter of “his neighbor’s wife!” [Freedman, p. 487, n. 1: His neighbor’s wife must refer to a married woman, since the sacredness of betrothal alone is not recognized by gentiles. Consequently, “if he did this to an Israelite” must refer to the case of a married woman.]*
- M. *[While we do indeed deal with a married woman, if one had had sexual relations with her before conversion, he would be put to death through decapitation; if it is*

after conversion, it is by stoning. Since stoning is a more lenient mode of execution, we maintain that] the lesser mode of execution is encompassed by the more severe [so the mode of execution cannot be said to have changed, that is, changed for the worse].

- N. *That reply is suitable for one who maintains that decapitation is the more severe mode of execution. But as to him who maintains, as does R. Simeon, that strangulation is the more severe mode of execution, what is there to say?*
- O. *R. Simeon takes the view of the Tannaite authority of the house of Manasseh, who has said, "All penalties of execution that apply to the sons of Noah take the form only of strangulation" [so the above argument is entirely valid].*
- P. *Now to be sure, in the case of a married woman [the argument remains valid, since] to begin with the mode of execution was through strangulation and it now remains strangulation. But in the case of the murderer, to begin with the mode of execution was strangulation, while now it is through decapitation. Just as before, the lesser mode of execution [decapitation] is encompassed by the greater [which is strangulation, and the rest follows].*
- Q. *May I say that the following passage supports this argument? If a betrothed maiden went astray [committing adultery] and then reached puberty, she is subject to the death penalty through strangulation. But why should she not be subject to execution through stoning [as she would have been, had she remained a girl prior to puberty]? Is it not because, once the penalty changes, it changes [Freedman, p. 488, n. 1: Though here it does not exempt her entirely, since strangulation, to which the pubescent girl is liable, is included in stoning, the punishment for the prepubescent girl]. All the more so [in a case of blasphemy], where the mode of execution wholly changes.*
- U. *Has not R. Yohanan said to the Tannaite authority [who stated the passage], "Repeat it in the form: She is put to death through stoning."*

The Talmud in no way was composed to related to the Mishnah-passage at hand.

It is inserted only because of its reference to the present passage. In fact it is the general principle that is at issue, not the Mishnah's rule in particular.

8:5

- A. **A rebellious and incorrigible son is tried on account of [what he may] end up to be.**
- B. **Let him die while yet innocent, and let him not die when he is guilty.**
- C. **For when the evil folk die, it is a benefit to them and a benefit to the world.**
- D. **But [when the] righteous folk [die], it is bad for them and bad for the world.**
- E. **Wine and sleep for the wicked are a benefit for them and a benefit for the world.**
- F. **But for the righteous, they are bad for them and bad for the world.**
- G. **Dispersion for the evil is a benefit for them and a benefit for the world.**
- H. **But for the righteous, it is bad for them and bad for the world.**
- I. **Gathering together for the evil is bad for them and bad for the world.**
- J. **But for the righteous, it is a benefit for them and a benefit for the world.**
- K. **Tranquility for the evil is bad for them and bad for the world.**

L. But for the righteous, it is a benefit for them and a benefit for the world.

I.1 A. [72A] *It has been taught on Tannaite authority:*

- B. R. Yosé the Galilean says, “And is it the case that merely because this one has eaten a tartemar of meat and drunk a half-log of Italian wine, the Torah has said that he should be taken to court and [tried for the penalty of] stoning?”
 - C. “Rather, it is because the Torah has plumbed the depths of the psychology of the wayward and rebellious son.
 - D. “For in the end, he will use up his father’s wealth and then will want to satisfy his gluttony. Not finding the means, he will go out to the crossroads and mug people.
 - E. “The Torah has said, **Let him die while yet innocent, and let him not die when he is guilty [M. 8:5B].**
 - F. **“For when evil folk die, it is a benefit to them and a benefit to the world.**
 - G. **“But when the righteous folk [die], it is bad for them and bad for the world.**
 - H. **“Wine and sleep for the wicked are a benefit for them and a benefit for the world.**
 - I. **“But for the righteous they are bad for them and bad for the world.**
 - J. **“Tranquility for the evil is bad for them and bad for the world.**
 - K. **“But for the righteous it is a benefit for them and a benefit for the world.**
 - L. **“Dispersion for the evil is a benefit for them and a benefit for the world.**
 - M. **“But for the righteous, it is bad for them and bad for the world [M. 8:5C-L, in slightly different order].**
 - N. **[B. lacks: Gathering together for the evil is bad for them and bad for the world.**
 - O. **“But for the righteous, it is a benefit for them and a benefit for the world.”]**
- The Talmud contributes Yosé the Galilean’s reason.

8:6

A. He who breaks in [Exo. 22:1] is judged on account of what he may end up to be.

B. [If] he broke in and broke a jug, if blood-guilt applies to him, he is liable.

C. If blood-guilt does not apply, he is exempt.

I.1 A. *Said Raba, “What is the reason [that the householder may kill] one who breaks in?*

- B. “It is because we make the assumption that no one restrains himself when it comes to protecting his property.
- C. “*And this one [the thief] must have taken the view, ‘If I go there, the householder will resist me and not let me [take what I want], so if he resists, I shall kill him.’*”
- D. “And the Torah has said, ‘If he comes to kill you, you kill him first’ [cf. Exo. 22:1].”
- E. Said Rab, “He who breaks into a house and took utensils and got away is exempt [from having to pay for them].
- F. “*What is the reason? He has acquired ownership of them by the risk of his life.*”

- G. *Said Rabbah, "It stands to reason that the ruling of Rab applies to a case in which the utensils were broken and no longer available for restitution, but if one took them [and they remain available], that is not the case."*
- H. *By God! what Rab said applies even to a case in which he took them away.*
- I. *For even in a case in which if the householder had killed him, there would have been a consideration of blood guilt; if the utensils are damaged, he remains liable. Therefore the utensils fall into the robber's domain.*
- J. *Here too the utensils fall into the robber's domain.* [Freedman, p. 490, n. 1: The reasoning is as follows: when something is stolen, it loses its first ownership and passes into that of the thief, who is therefore liable for having removed it from its owner's control as for an ordinary debt. Consequently, he is liable even if it is broken. For if it theoretically remained in its first ownership, the thief would not be liable for any damage done to it. Hence in this case, since the thief, by his act of breaking in, became liable to death, restoration cannot be demanded even if the pot is intact, for liability to monetary restoration is cancelled in the face of the greater liability to death.]
- K. *But that is not the case. When the All-Merciful placed the utensils into the domain of the robber, it was as to damages, but as to ownership, the property remains in the domain of the original owner. This is parallel to the case of one who borrows property [which remains in the domain of the owner, though the borrower would have to pay for any damages done to the property while he holds on to it.]*
- L. *We have learned in the Mishnah: [He who breaks in] ...if he broke in and broke a jug, if blood-guilt applies to him, he is liable. If blood-guilt does not apply, he is exempt [M. 8:6].*
- M. *The reason then is that he broke it, so he is exempt when no blood-guilt would apply to him [should the owner kill him], but if he only took it, he is not exempt [as against Rab's view].*
- N. *The rule at hand [of exemption from having to pay for the jug] also applies if he took it. The reason the framer of the passage says, and broke a jug, is to inform us that, if the owner should be subject to blood-guilt, even if he [the robber] broke the jug, [the robber has to pay].*
- O. *That is self-evident. The robber has done damage.*
- P. *What the framer of the passage tells us is that even if it was not intentionally [broken, liability applies].*
- Q. *What then does that tell us? That a human being always is regarded as forewarned? That we have learned in following Tannaite teaching: A human being always is regarded as forewarned, whether he does something inadvertently or deliberately, under constraint or willingly [M. B.Q. 2:6].*
- R. *That is a problem.*
- S. *R. Bibi bar Abbaye objected, "He who steals the purse of his fellow and took it out of his domain on the Sabbath — lo, this person is liable for the theft, for he had already become obligated on account of the theft of the purse before it had gone forth. If he was dragging it along and*

so removed it from the domain of the other, he is exempt [as to the purse] since he did not make acquisition of the purse before he had also and simultaneously violated the Sabbath [T. B.Q. 9:19A-C]. [Freedman, p. 491, n. 1: Hence we see that though the purse is still in existence, he is not bound to return it. This refutes Rab's ruling.]”

T. *Not at all. The ruling applies to a case in which the thief threw the purse in the river [and so could not return it].*

U. *Some rams were stolen from Raba in a break-in. The robbers returned them to him, but he would not accept them back. He said, “Since such a ruling has come forth from Rab, [it must be obeyed, and the thieves have acquired ownership of the rams.]”*

I.2 A. *Our rabbis have taught:*

B. “[If a thief be found breaking in, and he be smitten that he die,] there shall no blood be shed for him, if the sun be risen upon him” (Exo. 22:1-3).

C. Did the sun rise on him alone?

D. But if it is as clear to you as the sun that he was not at peace with you, then kill him, but if not, do not kill him [T. 11:9F-H].

E. *A further Tannaite teaching:*

F. “If the sun be risen upon him, there shall be blood shed for him:”

G. And did the sun rise on him alone?

H. But if it is as clear to you as the sun that he is at peace with you, do not kill him, but if not, kill him [T. 11:9F-H].

I. *There is a contradiction between one unattributed teaching and another unattributed teaching.*

J. *There is no contradiction. [72B] The one speaks of a father robbing from his son, the other of a son robbing his father. [The former has more compassion for the son than does the son for the father. The son must not assume the father will kill him, but the father may assume the son will kill him (Freedman, p. 492, n. 2)].*

I.3 A. *Said Rab, “I would kill anyone who broke in on me, except for R. Hanina bar Shila.”*

B. “What is the reason? Should I say that it is because he is a righteous man [and therefore no threat to life but], lo, in the cited possibility, he is by definition a housebreaker! Rather, it is because I am confident in his regard that he would have mercy on me the way a father has mercy on a son.”

I.4 A. *Our rabbis have taught on Tannaite authority:*

B. “[If the sun be risen upon him], there shall be blood shed for him” (Exo. 22: 1):

C. That is the case whether on a weekday or on the Sabbath.

D. “[If the thief be found breaking in], there shall be no blood shed for him” (Exo. 22: 2).

E. That is the case whether on a weekday or on the Sabbath.

F. *Now there is no problem with the statement that there is no blood shed for him whether on a weekday or on the Sabbath. Such a statement was necessary. You*

might have thought that one might rule that the case may be compared to the one involving those put to death by a court, in which case, on the Sabbath we do not inflict the death penalty. Then we are taught that we do inflict the death penalty.

- G. *But as to the statement, “There shall be no blood shed for him” whether on a weekday or on the Sabbath, now if we do not inflict the death penalty on a weekday, is there any question about not doing so on the Sabbath?*
- H. *Said R. Sheshet, “The statement nonetheless was necessary to deal with the case of removing a pile of dirt for the sake of such a person [who has dug his way into the house and been buried by a pile of dirt in his tunnel. We learn that the dirt must be removed even on the Sabbath, so as to save the thief’s life.]”*

I.5 A. *Our rabbis have taught on Tannaite authority:*

- B. “[If a thief be found breaking in] and be smitten” (Exo. 22: 1) — by any one.
- C. “And he die” (Exo. 22: 1) — by any mode of death by which you can kill him.
- D. *Now it was indeed necessary to teach, “‘And be smitten’ — by any man.” For it might have entered your mind to maintain that it is the householder alone who will take action against the man, because someone will not refrain from defending his property, but a third party will not do so. So we are informed that the housebreaker is a threat, and even a third party will put him to death [if he can].*
- E. *But as to the teaching, “‘And he die’ — by any mode of death by which you can kill him,” what need is there for that teaching? One may derive that same fact [that any way of killing the housebreaker is permissible] from the case of the murderer. For it has been taught on Tannaite authority:*
- F. “He who smote him shall surely be put to death, for he is a murderer” (Num. 35:21).
- G. I know only that he may be put to death by the form of death that has been stated in his regard.
- H. How do I know that if you cannot put him to death in the mode of inflicting the death penalty that has been stated in his regard, you have the right to put him to death in by any means by which you can kill him?
- I. Scripture says, “He shall surely be put to death” — by any means whatsoever.
- J. *[One might say] that that case is different [from the present one], for it is written, “He shall surely be put to death” [a phrase not stated in the present context, and it follows that proof of the same proposition in the case at hand is necessary.]*
- K. *But why not derive the present rule from that case in any event.*
- L. *The reason is that the matter that treats the murderer and the redeemer of the blood derives from two verses that speak of the same topic, and in the case of two verses that treat the same topic, we cannot derive any further lessons [applicable to cases other than the one at hand]. [So the proof before us is required.]*

I.6 A. *Our rabbis have taught on Tannaite authority:*

- B. “If a thief be found breaking in” (Exo. 22: 1):
- C. I know that only that the rule applies to a break-in [through one’s walls]. How do I know that the same rule applies to a break-in through one’s roof, courtyard, or outer buildings?
- D. Scripture says, “If the thief be found” — anywhere [he is found as a thief].

- E. If so, why does Scripture say, “Breaking in”?
 - F. It is because most thieves are found in a break-in [through a wall].
 - G. *A further Tannaite teaching:*
 - H. “[If a thief be found] breaking in” (Exo. 22: 1);
 - I. I know only that the rule applies to a break-in [through one’s walls]. How do I know that the same rule applies to a break-in through one’s roof, courtyard, or outer buildings?
 - J. Scripture says, “If the thief be found” — wherever he is found [as a thief].
 - K. If so, why does Scripture state, “Breaking in”?
 - L. It is because the act of breaking in on his part itself constitutes the admonition [not to do so].
- I.7 A.** Said R. Huna, “In the case of a minor who is pursuing one, it is permitted to kill him and so to save him at the cost of his own life.”
- B. *He maintains that it is not necessary to give an admonition to a pursuer, and there is no distinction between an adult and a minor.*
 - C. *R. Hisda objected to R. Huna, “**The woman who is in hard labor — they chop up the child in her womb and they remove it limb by limb, because her life takes precedence over his life. If its greater part has gone forth, they do not touch him, for they do not set aside one life on account of another life [M. Oh. 7:6].** Now why should that be the case? He is in the status of a pursuer [thus a threat to life].”*
 - D. *That case is different, for the threat to life derives from the action of heaven.*
 - E. *May I say that the following supports him:*
 - F. In the case of one who was pursuer in pursuit of his fellow to kill him, one says to him, “See that he is an Israelite, a member of the covenant, and the Torah has said, ‘Whoever sheds the blood of man, [to save that man] his own blood shall be shed,’ which means that one must save the blood of this party at the cost of the blood of that party.”
 - G. *That statement accords with the view of R. Yosé b. R. Judah.*
 - H. *For it has been taught on Tannaite authority:*
 - I. R. Yosé b. R. Judah says, “In the case of an associate [of sages], there is no need for admonition, for admonition applies only so that the court may distinguish inadvertent from deliberate crime [but an associate knows the law and whatever he does is deliberate, by definition].”
 - J. *Come and take note: “**In the case of one who was in pursuit of his fellow to kill him, one says to him, “See that he is an Israelite, a member of the covenant, and the Torah has said, ‘Whoever sheds the blood of man, [to save that man] his own blood shall be shed’ (Gen. 9: 6), which means that one must save the blood of this party at the cost of the blood of that party.”***
 - K. *If [the pursuer] then said, “I know that that is how matters are,” he is exempt [from being put to death, having desisted].*

- L. **But if he said, “It is on that very condition that I act,” then he is liable** [T. **San. 11:4B-E**]. [This shows that one has to give an admonition to the pursuer, contrary to the view of Huna].
- M. *No, the rule at hand applies to a case in which one party was on one side of the canal, the other on the other said, in which case [the one who gives the warning] cannot save the other party.*
- N. *What can one do? He has to bring him to court!*
- O. *But if he were to bring him to court, there would have to be advance admonition.*
- P. *If you want, I shall propose the following:* R. Huna may say to you, “I rule in accord with the Tannaite authority in the matter of the break-in, who has said, ‘The act of breaking in constitutes ample admonition [against doing so, and no further admonition is required. The same rule applies here.]’”
- Unit I.1 provides a clarification of the reasoning of the rule at hand. I.2 cites Tosefta’s complement and glosses it. I.3 is continuous with the foregoing. I.4 then takes up the exposition of the verse of Scripture on which the Mishnah’s rule rests, and the same exercise occupies units I.5, 6. Only unit I.7 undertakes an independent analysis, this with reference to the requirement of admonition in the case of pursuit. The whole is an orderly and cogent composition.

8:7

- A. [73A] And these are those who are to be saved [from doing evil] even at the cost of their lives:**
- B. he who pursues after his fellow in order to kill him —**
- C. after a male, or after a betrothed girl;**
- D. but he who pursues a beast, he who profanes the Sabbath, he who does an act of service to an idol — they do not save them even at the cost of their lives.**

- I.1 A.** *Our rabbis have taught on Tannaite authority:*
- B. How do we know that in the case of one who pursues his fellow to kill him, it is permitted to save [such a person from sinning] at the cost of his life?
- C. Scripture says, “You shall not stand by the blood of your neighbor” (Lev. 19:16).
- D. *Does that verse serve the present purpose? It is needed, rather, in accord with that which is taught on Tannaite authority:*
- E. How do we know that, if one sees his fellow drowning in a river, or being dragged off by a wild beast, or mugged, he is liable to save him?
- F. Scripture says, “You shall not stand by the blood of your neighbor” (Lev. 19:16).
- G. *That indeed is the case [that the verse cited earlier serves the present purpose].*
- H. *How, then, do we know that it is permitted to save such a person [from sinning] even at the cost of his life?*
- I. *We establish an argument a fortiori, on the basis of the case of a betrothed girl.*

- J. Now if, in the case of a betrothed girl, in which case the attacker comes only to inflict damage, the Torah has said that it is permitted to save her at the cost of his life,
- K. if one pursues his fellow to kill him, all the more so!
- L. But do we inflict penalties merely on the basis of the outcome of a logical argument?
- M. *A member of the house of Rabbi stated on Tannaite authority:*
- N. *It is on the basis of an argument of analogy.*
- O. “For when a man rises against his neighbor and kills him, even so in this matter” (Deu. 22:26) [in the setting of the rape of a betrothed girl].
- P. But what lesson is to be derived from the case of the murderer? [Freedman, p. 496, n. 4: For the simile itself is superfluous, since the Torah explicitly states that the maiden is not punished. Hence it implies that a certain feature of the law of a murderer holds good here too and vice versa.]
- Q. “Lo, this comes to teach a lesson but turns out to be the subject of a lesson.
- R. “There is then an analogy to be drawn between the murderer and the betrothed girl.
- S. “Just as in the case of the betrothed girl, it is permitted to save her at the cost of the attacker’s life, so the murderer may be saved [from sin] at the cost of his life.”
- T. *And how do we know that the rule just now stated in fact applies to the betrothed girl herself?*
- U. *It is in accord with the statement of the Tannaite authority of the house of R. Ishmael.*
- V. *For the Tannaite authority of the house of R. Ishmael [taught], “[The betrothed girl cried,] but there was none to save her’ (Deu. 2:27).*
- W. “But if there had been someone there to save her, then, in any means by which one may save her, one does so.”

I.2 A. *Returning to the body of the cited passage:*

- B. How do we know that if one sees his fellow drowning in a river, or being dragged off by a wild beast, or mugged, he is liable to save him?
- C. Scripture says, “You shall not stand by the blood of your neighbor” (Lev. 19:16).
- D. *Does that proposition derive from the present passage? Lo, it derives from the following passage:*
- E. How do I know that one must save his neighbor from the loss of himself?
- F. ““Then you shall restore him to him” (Deu. 22: 2). [Freedman, p. 496, n. 7: The passage refers to restoring a neighbor’s lost property. This interpretation extends it to his own person, that is, if he has lost himself, he must be helped to find his way again. Hence it also applies to rescuing one from danger].
- G. *If proof derives from that passage, I might have maintained that that rule applies only to saving another as one’s personal obligation,*

but one need not take the trouble of going out and hiring [others to do so]. So we are informed that the rule applies even to engaging others to do so.

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

- B. **All the same are the cases of one who pursues his fellow to kill him, a male, a betrothed girl, other sorts of deeds punishable by death inflicted in the court, and those punishable by death inflicted as extirpation, people save [such persons committing these crimes] at the cost of their own lives.**
- C. **But if it was a widow married to a high priest, or a divorcee or a woman who had performed the rite of removing the shoe married to an ordinary priest, they do not save him at the cost of his life.**
- D. **If the [betrothed girl] had previously been the object of the commission of a transgression, they do not save such a girl at the cost of the rapist's life.**
- E. **If there is another way of saving her, they do not save her at the cost of his life.**
- F. **R. Judah says, "If she herself had said, 'Let him be,' lest he kill her [they do not save him at the cost of his life,] [T.: even though by leaving him, he gets involved with a capital crime]" [T. [San. 11:11C-F](#)].**
- G. *What is the source of the foregoing?*
- H. Scripture has said, "But the girl [read na'arah but written na'ar, boy] you shall do nothing, there is in the girl no sin worthy of death" (Deu. 22:26).
- I. [Since the word for girl, while read as girl, is written as boy, we understand that] when the word is written as "boy" it refers to a case of sodomous rape, and when it is read as "girl" it refers to the rape of a betrothed girl.
- J. "Sin" refers to the category of crimes for which one is liable to extirpation.
- K. "Death" refers to crimes in the classification of those punishable by death at the hand of a court.
 - L. *Why do I require the specification of the several items [rather than deriving all of the cases from a single example]?*
 - M. *It was necessary to make explicit reference to each one of them [in the verse just now cited].*
 - N. *For if the All-Merciful had made reference only to the case of homosexual rape, I might have supposed that one saves the sinner at the cost of his life in that case only, because it is not the natural way of having sexual relations.*
 - O. *But in the case of a girl, in which case it is the natural way, I might have said one does not do so.*
 - P. *And if the All-Merciful had made explicit the case of the girl alone, it might have been argued that in that case one takes extraordinary measures, because it inflicts injury on her [by destroying her virginity], but in the case of a boy, in which there is no injury, I might have said that is not the case.*
 - Q. *And if the All-Merciful had made explicit these two items [\[73B\]](#), I might have argued that in the one case it is because it is not*

natural, and in the other because it inflicts injury [by destroying virginity], but in the other matter of forbidden sexual relations, in which case the form of sexual relations is natural and the consideration of inflicting injury through destroying virginity is uncommon, I might have said that that is not the case.

- R. Accordingly, the All-Merciful wrote, "...sin...."
- S. *And if, furthermore, the All-Merciful had written the word, "...sin...", I might have reached the conclusion that that word encompasses even cases in which one is liable only for violating a negative commandment.*
- T. *So the All-Merciful wrote, "...death...."*
- U. *And if the All-Merciful had written the word, "...death...", I might have concluded that the rule applies to cases in which the court inflicts the death penalty, but it does not apply to cases in which the penalty is extirpation at the hand of heaven.*
- V. *Accordingly, the All-Merciful wrote the word, "...sin..."*
- W. *But then why should the All-Merciful not have written the words, "...sin worthy of death...", and it would not then have been necessary to make explicit reference to the case of the boy or the girl?*
- X. *That indeed is the case, but the explicit reference to the boy and the girl serve, in the one case, to eliminate [from the list of those who are saved from sin at the cost of their lives] one who is about to commit an act of idolatry, and, in the other case, to eliminate the cases of one who proposes to have relations with a beast and one who is about to violate the Sabbath.*
- Y. *But in the view of R. Simeon b. Yohai, who has held that, in the case of one about to commit an act of idolatry, it is permitted to save such a one at the cost of his life, for what purpose are the references made.*
- Z. *One serves to eliminate the case of a person about to commit bestiality [one who is not saved at the cost of his life from sin], and the other to eliminate the case of one about to violate the Sabbath.*
- AA. *[How so?] It might have entered your mind that one would encompass Sabbath violation on the analogy of the matter of idolatry, since the word "profanation" applies to both.*
- BB. *And in the view of R. Eleazar b. R. Simeon, who has said that in the case of one who profanes the Sabbath, it is permitted to save him at the cost of his life, on the basis of the analogy drawn between the Sabbath and idolatry on the basis of the appearance of the word "profanation" in both cases, what is to be said?*
- CC. *One reference serves to eliminate the case of bestiality, and, as to the other, since the All-Merciful made reference to the boy, it made reference all also to the girl [but it is not a redundancy, so*

Freedman, p. 498, n. 6: for though “boy” is written the context demands that “girl” be read, since the entire passage refers to a girl].

I.4 A. R. Judah says, “Even if she herself had said, ‘Let him be,’ lest he kill her [they do not save him,” etc.]:

- B. *What is at issue?*
- C. Said Raba, “It is in a case in which while the girl is concerned about her virginity, she nonetheless lets him do as he wishes, so that he will not kill her.
- D. *“Rabbis take the view that the All-Merciful focuses upon the matter of the girl’s virginity, and lo, the girl is concerned about her virginity, [so one may kill the rapist].*
- E. *“R. Judah takes the view that the reason that the All-Merciful has said that one may kill the rapist is that the girl herself is prepared to be killed [for the sake of her honor]. But since in this case she is not prepared to be killed, [one does not kill on account of her being raped].”*
- F. *Said R. Pappa to Abbaye, “As to the case of a widow married to a high priest, there too is a consideration of dishonor [since the woman can no longer marry any other priest].”*
- G. *He said to him, “The All-Merciful takes account of a major form of dishonor, but as to a minor form of dishonor, the All-Merciful does not take account.”*

I.5 A. Sin — this refers to the violation of rules the penalty of which is extirpation:

- B. *An objection was raised: These are the girls invalid for marriage to an Israelite who nonetheless receive a fine paid as a penalty by the man who seduces them: ...he who has sexual relations with his sister [M. Ket. 3:1A,D]:* [Freedman, p. 499, n. 4: Even his sister, though “And she shall be his wife” of Deu. 22:28 is inapplicable. But if she might be saved by his life, he should not be fined. In the case of the death penalty, this principle holds good even if the offender is not actually executed or, as in this case, slain by the rescuers.]
- C. *Rabbis stated before R. Hisda, “It is at the moment at which sexual relations begin that he is exempt from being slain [to save him at the cost of his life from committing a sin]. But the penalty of paying money does not apply until the completion of the act of sexual relations.”*
- D. *That explanation serves the one who maintains that the beginning of sexual relations comes with the first “kiss” [meeting of the sexual organs], but in the view of him who says that the beginning of the first stage of sexual relations takes place at the point of entry of the crown of the penis into the vagina, what is there to be said?*
- E. *Rather, said R. Hisda, “We deal with a case in which the man first had sexual relations through the anus, and then went and had sexual relations through the vagina. [Freedman, p. 499, n. 8: Since she has been unnaturally violated before, whether by her brother or another, she may not*

be saved now by his life. Therefore he is fined for destroying her virginity. Otherwise she can be saved.]

- F. Raba said, "The rule applies where the girl permits him [to rape her], so that he will not kill her, and it represents the position of R. Judah."
- G. [74A] R. Pappa said, "It represents the case in which he has seduced her and the position of all authorities."
- H. Abbaye said, "It applies in a case in which one could save her by cutting off one of his limbs [so the objection that he is liable to the death penalty does not apply]."
- I. "It stands within the position of R. Jonathan b. Saul."

I.6 A. *For it has been taught on the strength of Tannaite authority:*

- B. R. Jonathan b. Saul says, "If there is one in pursuit, who was pursuing his fellow so as to kill him, and one can save him [from the sin] at the cost of one of his limbs [rather than by killing him] and one did not do so, he is put to death on his account."
- C. *What is the scriptural basis for the position of R. Jonathan b. Saul?*
- D. *It is because it is written, "If men strive [and hurt a woman], he shall surely be punished ... [and pay as the judges determine. And if any mischief follow, then you shall give life for life]" (Exo. 21:22ff).*
- E. And [in this connection] R. Eleazar said, "Scripture speaks of attempted murder [of one against the other], for it is written, 'And if any mischief follow, then you shall give life for life' (Exo. 21:22) [Freedman, p. 500, n. 8: though the murder of the woman is unintentional, thus the extreme penalty is explicable only on that assumption]."
- F. *"And even so, Scripture has said, 'If no mischief follows, he shall surely be punished.'*
- G. *"Now if you maintain that if one can save [the pursuer from committing sin] by taking away one of his limbs, it is not permitted to save him at the cost of his life,*
- H. *"Then you can find a case in which one is going to be punished [as Scripture here says], in a case in which one can have saved the man from sin at the cost of one of his limbs.*
- I. *"But if you maintain that, even if one can save [the pursuer from sin] by taking away one of his limbs, one nonetheless has the right to save him at the cost of his life, how would you find such a case in which one might ever be punished along the lines of Scripture's statement? [Accordingly, we have Jonathan b. Saul's scriptural foundations.]"*
- J. But the present case is to be distinguished, since here, there is death to be inflicted on account of one victim, and a monetary compensation to be paid on account of the other. [Freedman, p. 500, n. 10: He is liable to be put to death

because he seeks to slay his combatant, but the monetary liability arises through his injury to the woman. Where, however, these liabilities are incurred on account of two different persons, it may be that the one does not cancel the other.]

- K. *The present case indeed is not to be distinguished, for Rabbah has said, "If one was pursuing his fellow and broke utensils, whether they belong to the one who is being pursued or to any other man, [the pursuer] is exempt from having to pay compensation.*
- L. *"What is the reason? The pursuer is at risk of being put to death.*
- M. *"But if the one who was being pursued broke utensils, if they belong to the pursuer, he is exempt from having to pay compensation.*
- N. *"If they belong to anybody else, he is liable.*
- O. *"If they belong to the pursuer, he is exempt, so that the victim's property is not treated as more valuable to him than his person [since if the victim were able to kill the pursuer, he would not be liable to the death penalty].*
- P. *"If they belonged to anyone else, he is liable, because he is in the situation of saving his life at the cost of someone else's property.*
- Q. *"And as to one who was pursuing so as to save the life of his victim and broke utensils, whether they belonged to the pursuer, the pursued, or anyone else, he is exempt from having to make compensation.*
- R. *"That in point of fact is not logical.*
- S. *"But if you maintain the contrary position, it will turn out that no one will ever try to save his fellow from a pursuer [since he will undertake risks he cannot afford]. [At any rate the proposition of K is proved.]*

II.1 A. But he who pursues a beast [profanes the Sabbath or does an act of service to an idol — they do not save them even at the cost of their own lives] [M. 8:7D]:

- B. *It has been taught on Tannaite authority:*
- C. R. Simeon b. Yohai says, "If one performs an act of service to an idol, it is permitted even at the cost of his own life to save him from sin.
- D. "This is by an argument a fortiori: Now if on account of an offense to an ordinary person [e.g., the rape of a betrothed girl], it is permitted to save the offender even at the cost of his own life, on account of an offense to the Most High, is it not all the more so [that one should kill such a person in order to save him from sin]?"
- E. But are penalties to be inflicted merely because of logical reasoning?
- F. *He indeed takes the view that penalties are to be inflicted because of the results of logic.*

- G. *It has been taught on Tannaite authority:*
- H. R. Eleazar b. R. Simeon says, "One profaning the Sabbath may be saved from sin at the cost of his own life."
- I. *He takes the view of his father, who has said that penalties are to be inflicted because of the results of logic.*
- J. *And the case of the Sabbath derives from the case of idolatry by an analogy resting on the common use of the word "profanation" in respect to both sorts of actions [in regard to the Sabbath at Exo. 31:14, and in regard to idolatry at Lev. 18:21].*

- II.2** A. Said R. Yohanan in the name of R. Simeon b. Yehosedeq, "They took a vote and decided in the upper room of the house of Nitzeḥ in Lod, as follows: 'In the case of all transgressions that are listed in the Torah, if people say to a person, "Commit a transgression and so avoid being executed," one should commit a transgression and avoid execution, except for the matters of idolatry, sexual immorality, and murder.'"
- B. *And may one not commit an act of idolatry [to save his life]?*
 - C. *And lo, it as been taught on Tannaite authority:*
 - D. Said R. Ishmael, "How do we know on the basis of Scripture that if people should say to someone, 'Commit an act of idolatry and do not suffer death,' that he should commit an act of idolatry and not suffer death?"
 - E. "Scripture says, 'You shall live by them' (Lev. 18: 5) — and not die by them.
 - F. "May I suppose that one may do so even in public?"
 - G. "Scripture says, 'Do not profane my holy name, for I shall be sanctified' (Lev. 22:32)."
 - H. *Those who hold to the contrary [at Nitza's house in Lydda] accord with the view of R. Eliezer.*
 - I. *For it has been taught on Tannaite authority:*
 - J. R. Eliezer says, "[Scripture states], 'And you shall love the Lord your God with all your heart, with all your soul, with all your might.' (Deu. 6: 5) If it is said, 'With all your soul (Deu. 6: 5),' why is it also said, 'With all your might'? And if it is said, 'With all your might,' why is it also said, 'With all your soul'?"
 - K. "But if there is someone who places greater value on his body than on his possessions, for such a one it is said, 'With all your soul.'"
 - L. "And if there is someone who places greater value on his possessions than on his life, for such a one it is said, 'With all your might.'"
 - M. *And as to the matter of sexual immorality and murder?*
 - N. *It is in accord with the view of Rabbi.*
 - O. *For it has been taught on Tannaite authority:*
 - P. Rabbi says, "'For as when a man rises against his neighbor and slays him, even so is this matter' (Deu. 22:26).
 - Q. But what lesson is to be derived from the case of the murderer [as above]? Lo, this comes to teach a lesson but turns out to be the subject of a lesson.

- R. There is an analogy to be drawn between the murderer and the betrothed girl. Just as in the case of the betrothed girl, it is permitted to save her at the cost of the attacker's life, so the murderer may be saved from sin at the cost of his life.
- S. "And an analogy is further to be drawn between the case of the betrothed girl and that of the murderer.
- T. "Just as in the matter of murder, one should be killed and not commit murder, so as to a betrothed girl, let her be slain but not violate the law.
- U. *"How do we know that there is the case for the murderer himself?"*
- V. *"It is a matter of reasoning."*
- W. *That is in line with the case of one who came before Raba and said to him, "The master of my town has said to me, 'Go and kill so-and-so, and if you do not do so, I shall kill you.'"*
- X. *He said to him, "Let him kill you, but do not kill. Who will say that your blood is redder than his. Perhaps the blood of that man is redder [than yours]."*

- II.3** A. When R. Dimi came, he said R. Yohanan said, "[The cited rule about having to give up one's life on account only of the three sins listed] applies solely in the time in which there is no royal decree [to violate the Torah]. But if there is a royal decree, then even on account of the most inconsequential religious duty, one should be put to death and not violate the law."
- B. When Rabin came, he said R. Yohanan said, "Even in the time in which there is no royal decree [to violate the Torah], one may not apply the cited rule except in private. But as to an action to be done in public, then even on account of the most inconsequential religious duty, one should be put to death and not violate the law."
 - C. *What would be a minor religious duty?*
 - D. *Raba, son of R. Isaac, said Rab said, "[74B] Even to change one's shoe lace [from what Jews regularly wore to what gentiles wore]."*
 - E. *And how many people constitute a public?*
 - F. Said R. Jacob said R. Yohanan, "A public audience is not less than ten."
 - G. *It is self-evident that we require the "public" to be made up of Israelites, for it is written, "But will I be sanctified among the children of Israel" (Lev. 22:23).*
 - H. *R. Jeremiah raised the question, "If nine are Israelites and one a gentile, what is the law?"*
 - I. *Come and take note of the following:*
 - J. *R. Yannai, brother of R. Hiyya bar Abbar, repeated on Tannaite authority, "The meaning of the word 'among' in two passages supplies the answer.*
 - K. *"Here it is written, 'I will be sanctified among the children of Israel (Lev. 22:23) and elsewhere, 'Separate yourselves from among this congregation' (Num. 16:21).*
 - L. *"Just as, in the latter passage, the ten are all Israelites, so, here too, the ten must all be Israelites."*
 - M. *And lo, there is the case of Esther, who violated the law in public (by marrying a gentile).*

- N. Said Abbayye, “Esther was merely in the status of the soil of the earth [and was sexually passive and therefore not an active sinner].”
- O. *Raba said, “A case in which [a violation of the law] is on account of the benefit accruing to the [persecutors and not spite] is different, for if you do not hold that view, then how can we hand over to them our braziers and coal shovels [Freedman].*
- P. *“Rather, a case in which [a violation of the law] is on account of the benefit accruing to the persecutors is different, and the same principle applied there [to Esther].”*
- Q. *Raba accords with a view of his expressed elsewhere, for Raba said, “In the case of an idolator who [out of spite] said to an Israelite, ‘Cut grass on the Sabbath and throw it to cattle, and if not, I shall kill you,’ the Israelite should be killed and cut it. [If he said], ‘Cut it and toss it into the river,’ he should be killed and not cut it. What is the reason? It is the pagan’s wish to make the Israelite transgress a teaching of the faith.”*

II.4 A. *The question was addressed to R. Ammi, “Is a son of Noah commanded to accept martyrdom in the sanctification of God’s name, or is he not commanded to accept martyrdom in the sanctification of God’s name?”*

- B. *Said Abbayye, “Come and take note: \The sons of Noah were given seven commandments. But if it were the case [that martyrdom was demanded of them], there should be eight, [not seven].”*
- C. *Said Raba to him, “Those seven and whatever pertains to keeping those seven [including martyrdom, if need be].”*
- D. *What is the rule?*
- E. *Said R. Adda bar Ahbah said members of the house of Rab said, “It is written, ‘In this thing, the Lord pardon your servant, that when my master goes into the house of Rimmon to worship there, and he leans on my hand, and I bow myself in the house of Rimmon’ (2Ki. 5:18).*
- F. *“And it is written, ‘And he said to him, Go in peace’ (2Ki. 5:19).*
- G. **[75A]** *“Now if it were so [that a Noahide has to sanctify God’s name], he should not have said such a thing to him.”*
- H. *The one was in private [in which it was permitted], the other in public [when one must be martyred and not commit idolatry.*

- II.5**
- A. Said R. Judah said Rab, “There was the case of a man who gazed upon a woman and whose heart become sick with desire for her. They came and asked physicians, who said, ‘He has no remedy unless he has sexual relations with her.’
 - B. “Sages ruled, ‘Let him die but not have sexual relations with her.
 - C. “[The physicians proposed,] ‘Let her stand nude before him.’
 - D. “[Sages ruled,] ‘Let him die, but let her not stand nude before him.’
 - E. “‘Let her talk with him behind a wall.’
 - F. “‘Let him die and let her not talk with him behind a wall.’”

- G. *There is a dispute on this case between R. Jacob bar Idi and R. Samuel bar Nahmani. One said, "The reason is that she was a married woman."*
- H. *The other said, "She was unmarried."*
- I. *Now if she was a married woman, that is why the rulings were as they were. But in the view of him who said that she was unmarried, why so strict a set of rulings?*
- J. R. Pappa said, "Because of the insult to her family."
- K. R. Aha, son of R. Iqa, said, "It was so that an Israelite woman should not be licentious."
- L. *And why not let him marry the woman?*
- M. *Marriage would not settle his mind, in accord with what R. Isaac said. For R. Isaac said, "From the day on which the Temple was destroyed, the pleasure of sexual relations was taken away [from Israelites] and handed over to transgressors. For it is said, 'Stolen waters are sweet, and bread eaten in secret is pleasant' (Pro. 9:17)."*

As usual, we begin, at unit I.1, with scriptural proof for the proposition of the Mishnah, M. 8:7A. Unit I.2 continues the foregoing. Units I.3-4 then complement the Mishnah-paragraph with Tosefta's treatment of the same subject. Unit I.6 concludes the foregoing. Unit II.1 moves on to M. 8:7D. From unit II.2 to the end we consider the matters for which one must accept martyrdom rather than violate the Torah. So, as usual, the entire composition serves the interests of the Mishnah-paragraph, either directly or indirectly.