

# VII.

## BAVLI SANHEDRIN

### CHAPTER SEVEN

## FOLIOS 49B-68A

### 7:1

- A. Four modes of execution were assigned to the court, [listed in order of severity]:
  - B. (1) stoning, (2) burning, (3) decapitation, and (4) strangulation.
  - C. R. Simeon says, “(2) Burning, (1) stoning, (4) strangulation, and (3) decapitation” [M. 9:3].
  - D. This [procedure considered in Chapter Six,] is [how] the religious requirement of stoning [is carried out].
- I.1** A. Said Raba said R. Sehora said R. Huna, “Any passage stated by sages in numerical order in fact does not list matters in order of priority or posteriority except for the matter of the seven substances. *As we have learned in the Mishnah: Seven substances do they pass over a bloodstain [to see whether it is blood or dye]: tasteless spit, water from boiled grits, urine, nitre, soap, Cimolian earth, and lion’s leaf [M. Nid. 9:6A-B]. And it is taught at the end of the same passage: If one rubbed them on out of order, or if one rubbed on all seven substances at once, he has done nothing whatsoever [M. Nid. 9:7K].*”
- B. *R. Papa, the elder, in the name of Rab stated, “The same principle pertains also to the catalogue of **four modes of execution**. Since R. Simeon disputes the sequence, it indicates that the framer of the passage for his part has listed them in precise order.”*
  - C. *And the contrary position [Raba’s view, that omits reference to M. San. 7:1]?*
  - D. *[When he made his statement,] it did not include passages subject to dispute [but only those in which the list is stated anonymously and hence in the name of the collegium of sages].*
  - E. *R. Papa said, “Also the order of rites on the Day of Atonement [is meant to be exact]. For we have learned in the Mishnah: **The entire rite of the Day of Atonement is stated in accord with its proper order. If one did one part of the rite before its fellow, he has done nothing whatsoever [M. Yoma 5:7A-B].**”*

- F. *And the contrary position?*
- G. *That statement merely imposes an additional stringency.*
- H. *R. Huna, son of R. Joshua, said, "Also the order of the daily whole offering, about which it is taught on Tannaite authority: **This is the correct order of the daily whole offering [M. Tamid 7:3].***
- I. *And the contrary position?*
- J. *That statement is meant merely to describe the proper way of doing things [but not an indispensable sequence of actions].*
- K. *[Raba's statement that a listing by number bears no significance] serves to exclude the conduct of the rite of removing the shoe [Deu. 25:5-10]. [which does no have to follow a given sequence of steps]. For we have learned in the Mishnah: **The proper conduct of the rite of removing the shoe [is as follows]: He and his deceased childless brother's widow come to court. And they offer him such advice as is appropriate for him, since it says, "Then the elders of the city shall call him and speak to him" (Deu. 25: 8). And she shall say, "My husband's brother refuses [to raise up for his brother a name in Israel. He will not perform the duty of a husband's brother to me]" (Deu. 25: 7). And he says, "I do not want to take her" (Deu. 25: 7). And [all of this] they say in the Holy Language. "Then his brother's wife come to him in the presence of the elders and removes his shoe from his foot and spits in his face" (Deu. 25: 9) — spit which is visible to the judges. And she answers and says, "So shall it be done to the man [who does not build up his brother's house]" (Deu. 25:10) [M. Yeb. 12:6A-I]. And R. Judah said, "The proper conduct of the rite of removing the shoe is that the woman makes her statement, then the man makes his statement, then the woman removes the shoe and spits and makes her statement." And we reflected on that statement: What exactly does he wish to tell us? The order is made explicit by our Mishnah-paragraph itself! This is what he wishes to tell us: this is precisely how the religious duty should be carried out, but if one reverses the order, we have no objection on that account.***
- L. *So too it has been taught on Tannaite authority:*
- M. *Whether the removing of the shoe came before the spitting or the spitting before the removing of the shoe, what is done is valid.*
- N. *[Raba's statement] further excludes that which we have learned in the Mishnah: **The high priest serves in eight garments and an ordinary priest in four: tunic, breeches, head-covering, and girdle. The high priest in addition wears the breastplate, apron, upper garment and frontlet [M. Yoma 7:5A-C]. And it has been taught on Tannaite authority: How do we know that nothing should come before the breeches? As it is said, "He shall put on the holy linen tunic, and the linen breeches shall be upon his flesh" (Lev. 16: 4).***
- O. *And what is the reason that the Tannaite authority of the passage lists the tunic first?*
- P. *Because Scripture lists it first.*
- Q. *And why does Scripture list it first?*
- R. *Because it covers the whole of the body, which is better for him. [But that is not the order in which the priest puts on the garments, as is now clear.]*

## II.1 A. Stoning, burning [M. 7:1B]:

- B. Stoning is a more severe [mode of execution] than burning [as listed in sequence at M. 7:1B, against Simeon's order at M. 7:1C]. because it is assigned to the blasphemer and idolator.
- D. *Why is this a more severe offense?* Because [the guilty party] has laid hands on the principle [i.e., the basis of the faith].
- E. To the contrary, burning is the more severe [mode of execution], because it is assigned to the daughter of a priest who fornicated.
- F. *And why is that a more severe offense?* Because she thus profanes her father['s genealogical sanctity].
- G. **[50A]** *Rabbis [behind the passage as it stands before us] take the view that [a priest's daughter who is] a married woman is taken out to be burned [and not strangled, as are others] but not a betrothed maiden. [An Israelite's daughter who commits adultery while in the status of a betrothed maiden is stoned, and the same penalty should apply to the priest's daughter. She is not an exception.] Since the All-Merciful, however, has singled out the priest's daughter who is in the status of a betrothed maiden, to declare that she shall be executed by stoning, this indicates that stoning is the more severe mode [of execution].*
- H. *Stoning is a more severe [mode of execution] than decapitation*, for it is assigned to the blasphemer and the idolator.
- I. *And why is this a more severe offense?*
- J. *It is as we have already stated.*
- K. To the contrary, decapitation is the more severe [mode of execution], for it is assigned to the men of an apostate town. *And what more severe penalty applies to them [in addition]? That their property is destroyed [along with them].*
- L. But now say, what power is greater, that of the one who entices another to sin, or that of the one who is enticed? You have to agree that it is the power of the one who entices. *And it has been taught on Tannaite authority:* Those who entice the apostate town [to apostasy are put to death] through stoning [which then proves that] stoning is the more severe [mode of execution, as compared to decapitation].
- M. Stoning is a more severe mode of execution than strangulation, for it is assigned to a blasphemer and idolator.
- N. *And why is this a more severe offense?*
- O. *It is as we have already stated.*
- P. To the contrary, strangulation is the more severe [mode of execution], for it is assigned to one who strikes his father or mother. *And why is that a more severe offense?* Because the honor owing to them is deemed analogous to the honor owing to the Omnipresent.
- Q. *But since the All-Merciful singled out the betrothed girl of the Israelite caste, separating her from the category of the married woman of Israelite caste [who has fornicated], assigning the penalty of strangulation rather than stoning, that proves that stoning is the more severe mode of execution.*
- R. Burning is a more severe [mode of execution] than decapitation, for it is assigned to a priest's daughter who fornicated.

- S. *And why is this a more severe offense?* Because she profanes her father's [genealogical sanctity].
- T. To the contrary, decapitation should be deemed the more severe, for it is assigned to the men of the apostate town.
- U. *And what more severe penalty applies to them [in addition]?* That their property is destroyed [along with them].
- V. "Her father" is stated in connection with stoning [Deu. 22:2], the betrothed girl who fornicated is stoned because she has played the whore in her father's house], and "her father" is stated in connection with burning [a priest's daughter who fornicated is burned with fire, so Lev. 21:9, for having "profaned her father"]. Just as, when "her father" is stated with reference to stoning, stoning is deemed more severe than decapitation, so when "her father" is stated with reference to burning, burning is deemed more severe than decapitation.
- W. Burning is a more severe mode [of execution] than strangling, because it is assigned to the daughter of a priest who fornicated.
- X. *And why is this a more severe offense?*
- Y. *It is as we have already stated.*
- Z. To the contrary, strangulation is the more severe [mode of execution], for it is assigned to one who hits his father or his mother.
- AA. *And why is this a more severe crime?*
- BB. *Because the honor owing to them is deemed analogous to the honor owing to the Omnipresent. Since the All-Merciful singled out the case of a married woman, daughter of a priest, from the case of married women of Israelite caste, who had committed adultery, assigning the penalty of burning rather than strangulation, that indicates that burning is the more severe [mode of execution].* [Freedman, p. 335, n. 5: since the priest's daughter profanes her father in addition to disgracing herself].
- CC. Decapitation is a more severe [mode of execution] than strangulation, for it is assigned to the men of the apostate town.
- DD. *And what more severe penalty applies to them [in addition]?* That their property is destroyed [along with them].
- EE. To the contrary, strangulation is the more severe [mode of execution], for it is assigned to one who strikes his father or his mother.
- FF. *And why is this a more severe offense?* Because the honor owing to them is deemed analogous to the honor owing to the Omnipresent.
- GG. *Nonetheless, one who lays hands on the principle [i.e., the basis of the faith] is guilty of a more severe offense [as is the case with the execution of the inhabitants of an apostate town].*

### **III.1 A. R. Simeon says [M. 7:1C]:**

- B. Burning is a more severe [mode of execution] than stoning, for it is assigned to a priest's daughter who fornicated. *And why is this a more severe offense?* Because she has profaned her father's [genealogical sanctity].

- C. To the contrary, stoning is the more severe [mode of execution], for it is assigned to the blasphemer and the idolator. *And why is this a more severe offense?* Because such a one has laid hands on the principle [i.e., the basis of the faith].
- D. *R. Simeon is consistent with his views expressed elsewhere, for he has said, "All the same are the betrothed girl and the married woman [who have committed adultery]. They are taken out and burned. But since the All-Merciful has singled out the priest's daughter who was betrothed and assigned her a different penalty, namely, burning, rather than the stoning [that applies to an Israelite's daughter in the same status], this proves that burning is the more severe [mode of execution]."*
- E. Burning is a more severe [mode of execution] than strangulation, for it is assigned to a priest's daughter who fornicated. And why is this a more severe offense?
- F. *It is as we have stated.*
- G. To the contrary, strangulation is the more severe [mode of execution], for it is assigned to one who strikes his father or his mother.
- H. *And why is this a more severe offense?* Because the honor owing to the parents is deemed analogous to the honor owing to the Omnipresent.
- I. *Since the All-Merciful singled out the married woman who is the daughter of a priest from the married women who is of Israelite caste and assigned her a different penalty, namely, burning rather than strangulation, thus proves that burning is the more severe [mode of execution].*
- J. Burning is a more severe [mode of execution] than decapitation, for it is assigned to the daughter of a priest who has fornicated.
- K. *And why is this a more severe offense?*
- L. *It is as we have already stated.*
- M. To the contrary, decapitation is the more severe [mode of execution], for it is assigned to the men of an apostate down.
- N. *And what more severe penalty applies to them [in addition]?*
- O. That their property is destroyed [along with them].
- P. *So now say:* Which is the greater power, the power of the one who entices [others to commit idolatry] or the power of the one who is enticed? **[50B]** You must say it is the power of the one who entices.
- Q. And this yields an argument a fortiori: If burning is more severe than strangulation, which is more severe than decapitation, which is a less severe mode of execution, is it not an argument a fortiori [that burning is a more severe mode of execution than decapitation]?
- R. Stoning is a more severe [mode of execution] than strangulation, for it is assigned to a blasphemer and an idolator.
- S. *And why is this a more severe offense?*
- T. *It is as we have already said.*
- U. To the contrary, strangulation is the more severe [mode of execution], for it is assigned to the one who strikes his father or his mother.
- V. *And why is this a more severe offense?*

- W. *Because the honor owing to them is deemed analogous to the honor owing to the Omnipresent.*
- X. *Since the All-Merciful has singled out a betrothed girl of Israelite caste who fornicated, from a married women of Israelite caste, assigning the penalty of stoning rather than strangulation, thus proves that stoning is a more severe [mode of execution].*
- Y. Stoning is a more severe [mode of execution] than decapitation, for it is assigned to the blasphemer, etc.
- Z. To the contrary, decapitation is the more severe, since it is assigned to the men of an apostate town.
- AA. And what more severe more severe penalty applies to them [in addition]? That their property is destroyed [along with them].
- BB. So now say: which is more powerful, the one who entices or the one who is enticed? You must say it is the power of the one who entices.
- CC. And this yields an argument a fortiori:
- DD. If stoning is more severe than strangulation, which is more severe than decapitation, which is a less severe mode of execution,
- EE. is it not an argument a fortiori [that stoning is a more severe mode of execution than decapitation]?
- FF. Strangulation is a more severe [mode of execution] than decapitation, for it is assigned to the one who strikes his father or his mother.
- GG. *And why is this a more severe offense?*
- HH. *It is as we have said.*
- II. To the contrary, decapitation is the more severe [mode of execution], for it is assigned to the men of an apostate town.
- JJ. *And what more severe penalty applies to them [in addition]?*
- KK. It is that their property is destroyed [along with them].
- LL. So now say: Which power is greater, the power of the one who entices [another to commit idolatry], or the power of the one who is enticed? One must say it is the power of the one who entices.
- MM. *And it has been taught on Tannaite authority:*
- NN. Those who entice the apostate town [to idolatry are executed] by stoning.
- OO. R. Simeon says, "By strangulation."

### **III.2** A. *A pearl in the mouth of R. Yohanan:*

- B. **A betrothed girl, a priest's daughter, who committed adultery [is executed] by stoning.**
- C. **R. Simeon says, "By burning."**
- D. **If she committed adultery with her father, she is [executed] by stoning.**
- E. **R. Simeon says, "By burning" [T. [San. 12:2](#)].**
- F. *What does this passage teach us?*
- G. In the view of the rabbis, it is that a married woman [who is daughter of a priest and commits adultery] goes forth to be burned, but not a betrothed girl.



- H. *From the viewpoint of R. Simeon, all the same are a betrothed girl and a married woman [daughters of priests, who commit adultery]. In both cases they go forth to be burned.*
- I. *And what is the reason?*
- J. *It is that, in the view of rabbis, stoning is the more severe [mode of execution], and, in the view of R. Simeon, burning is the more severe [mode of execution].*
- K. *The practical difference [of all this] is that if someone is declared liable to the death penalty on two different counts, each with its [mode of execution], he is condemned in accord with the more severe of the two penalties.*

**III.3** A. *What [evidence is there concerning the view of] R. Simeon [that the daughter of a priest, whether betrothed or married, is executed for the crime of adultery by burning]?*

- B. *It is accord with that which has been taught on Tannaite authority:*
- C. R. Simeon says, “Two encompassing principles have been stated with reference to the priest’s daughter.” [Freedman, p. 338, n. 3: One encompassing principle refers to a betrothed girl, the other to a married woman. When the Torah states, “And the man who commits adultery with another man’s wife, even he who commits adultery with his neighbor’s wife, the adulterer and the adulteress shall surely be put to death” (Lev. 20:10). This is a general law regarding a married woman, in which a priest’s daughter should be included. Likewise the law in Deu. 22:23f.: “If a damsel that is a virgin be betrothed to a husband, and a man find her in the city and lie with her, then you shall bring them both out to the gate of the city and stone them.” This is a general principle for an adulterous betrothed girl, which should embrace the priest’s daughter too.]
- D. *[Do you mean to say that these rules speak] of a priest’s daughter and not an Israelite’s daughter?*
- E. *I should say, “Also to a priest’s daughter.”*
- F. Now Scripture has singled out the married [priest’s daughter] from the [category of the] married [Israelite’s daughter], and the betrothed [priest’s daughter] from the [category of the] betrothed [Israelite’s daughter].
- G. Now if the reason for singling out the married [priest’s daughter] from the [category of the] married [Israelite’s daughter] was [Scripture’s wish] to impose a stricter penalty upon the priest’s daughter, so too when Scripture singled out the betrothed [priest’s daughter] from the [category of the] betrothed Israelite’s daughter], it was to impose a stricter penalty on her.
- H. But false witnesses [who testify] against a married woman who is a priest’s daughter [and claim she has committed adultery when she has not, and so are subjected to the same penalty that they proposed to inflict on her], fall into [exactly the same] category as false witnesses against a married woman who is an Israelite’s daughter.
- I. And false witnesses who testify against the betrothed daughter of a priest fall into the same category as false witnesses against the betrothed daughter of an Israelite.

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

- B. “And the daughter of any priest, if she profane [herself]” (Lev. 21: 9):

- C. Might one think [that that is the case] even if she had profaned the Sabbath?
- D. Scripture states, “by playing the whore” (Lev. 21: 9):
- E. It is concerning the profanation that involves whoredom that Scripture speaks.
- F. Might one think [that that is the case] even if she were unmarried?
- G. [No, that cannot be the case, for] “her father” is stated in the present context (Lev. 21: 9), and “her father” is stated elsewhere (at Deu. 22:21).
- H. Just as in the latter passage [at issue] is an act of prostitution by a woman tied to a husband, so too here [at issue] is an act of prostitution by a woman tied to a husband.
- I. But perhaps the [analogous] usage of “her father” is intended to exclude everyone else? [Freedman, p. 340, n. 1: Only if she committed incest with her father is she punished by burning, but not for playing the harlot with others.]
- J. When Scripture states, “She profanes [herself]” (Lev. 21: 9), it must mean that that act may take place with any man.
- K. How then am I to interpret [the use of] “her father”?
- L. “Her father” is stated here [at Lev. 21: 9] and “her father” is stated elsewhere [at Deu. 22:21].
- M. Just as in the latter passage [at issue] is an act of prostitution by a woman tied to a husband, so here too [at issue] is an act of prostitution by a woman tied to a husband.
- N. If in the latter case (Deu. 22:21) [Scripture states] “a maiden,” and she is merely betrothed, so here (Lev. 21: 9) [does not Scripture imply] “a betrothed maiden” [who is a priest’s daughter]?
- O. How do I know [from Scripture, that the death penalty for prostitution applies equally to a priest’s daughter who is] a married maiden [i.e., a married girl under the age of twelve-and-a-half], or [a priest’s daughter who is] an adult betrothed woman, or [a priest’s daughter who is] an adult married woman, or even [a priest’s daughter who is] an old woman [beyond her child-bearing years, hence cannot produce an illegitimate child]?
- P. Scripture states, “And the daughter of any priest (Lev. 21: 9) — under all circumstances.

### **III.5 A.** “The daughter of a priest” (Lev. 21: 9):

- B. **[51A]** I know only that that rule applies if she is married to a priest [as will be explained].
- C. If she is married to a Levite, an Israelite, an idolator, one of impaired priestly stock, one born of a union of a couple not legally permitted to wed at all, or to a Temple slave, how do we know [that the same rule applies]?
- D. “And the daughter of a man who is a priest” (Lev. 21: 9) — even if she is not herself married to a priest.

### **III.6 A.** “And the daughter of a priest, if she profanes herself by playing the harlot, she profanes her father; she shall be burned in fire” (Lev. 21: 9).

- B. [Interpret the latter phrase to mean as follows:] She shall be burned but the man who had intercourse with her shall not be burned.



- C. She shall be burned, but the witnesses who testify falsely against her shall not be burned.
- D. R. Eliezer says, “[Since the verse says she profanes her father one may derive the following in conclusion:] If [she had intercourse] with her father, she shall be burned. But if [she had intercourse] with her father-in-law, she is stoned.”
- E. A master said, “Is it possible [the above Scriptural verse] also refers to her [profaning herself by] profaning the Sabbath?”
- F. “[No, that is impossible, for] profaning the Sabbath invokes stoning [whereas the above verse specifies only burning].”
- G. *Said Raba, “Who holds the view [that she shall be burned for violating the Sabbath]? It is R. Simeon, [for he] said that burning is a more severe [punishment than stoning]. [Simeon] might reason that since the Merciful One treated priests more strictly than Israelites by giving [the former] more commandments [than the latter], then God would invoke a more severe penalty if a priest violated the Sabbath than if an Israelite had violated the Sabbath. Thus, one might conclude that if a priest violates the Sabbath, he or she incurs burning, whereas if an Israelite violates the Sabbath, he or she incurs the less severe penalty of stoning.] [Scripture indicates this line of reasoning is incorrect; for it states,] “if she play the harlot” [that is only for harlotry does a priest’s daughter invoke burning, not for the profanation of the Sabbath.]”*
- H. *But what difference is there between a woman priest and a male priest [so that Scripture specifically indicates that a woman priest does not invoke burning?]*
- I. *[Had Scripture not mentioned a woman of priestly descent] I might have arrived at the following incorrect conclusion. I might think a priest is punished by the less severe punishment of stoning because he is permitted to work on the Sabbath in the Temple service; but since a woman of priestly origins is not permitted to do so, her punishment should be stoning. [The Scriptural verse thus] teaches us [that that is not the case].”*
- J. “Might one think that that is the case even if she was unmarried?”
- K. Lo, it is written, “By playing the harlot”? [So why should that have been an issue, since an unmarried woman does not commit whoredom if she has sexual relations.]
- L. *The passage is framed in accord with the view of R. Eliezer, who has said, “If an unmarried man had sexual relations with an unmarried woman, not intending thereby to effect a marital bond, he has turned her into a whore.”*
- M. But perhaps the force of the analogous usage is to indicate that only ‘her father’ is meant, so excluding everyone else?
- N. *What would be the sense of the passage? Is it that she had an incestuous sexual relationship with her father? Then why specify that this is the daughter of a priest? Even if it were the daughter of an Israelite, the rule would be the same.*
- O. It would accord with what Raba said, “R. Isaac bar Abodimi said to me, ‘The word “they” occurs in two related passage, so too the word “wickedness.” [Freedman, p. 342, n. 1: In Lev. 18:10 it is stated: The nakedness of thy son’s daughter, or of thy daughter’s daughter, even their nakedness thou shalt not uncover: for they (hennah) are thine own nakedness. Further it is written (ibid. XVIII, 17): Thou shalt not uncover the nakedness of a woman and her daughter,

neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness; for they (hennah) are her near kinswomen: it is wickedness (zimmah). Just as in the latter verse, intercourse with one's wife's daughter is treated as with her granddaughter, so in the former case, incest with one's daughter is the same offense as with one's granddaughter. Though this is not explicitly stated, it is deduced from the fact that hennah occurs in both cases. Further, in Lev. 18:17 it is stated: And if a man take a wife and her mother, it is wickedness (zimmah); they shall be burnt with fire. The use of zimmah in Lev. 18:17 and Lev. 18:10 show that burning by fire is the penalty in both cases; and the use of hennah in Lev. 18:17 and Lev. 18:10 shews that in Lev. 18:10 too the penalty is burning (cf. the Euclidean axiom: the equals of equals are equal. Thus we see that incest between a man, even an Israelite, and his daughter is punished by burning. How then could we assume that the verse under discussion, which decrees burning as a penalty for whoredom by a priest's daughter (implying the exclusion of an Israelite's daughter), refers to incest with one's father, and consequently what need is there for the deduction from she profaneth?]

- P. *It was necessary to state the verse as is, [Freedman, p. 342:] For I would think that this whole passage treats of incest with one's father and the penalty of burning is prescribed here intentionally to obviate Raba's deduction. [Freedman, p. 342, n.2: show that only a priest's daughter, who is differently punished. In that case, the identical phrasing of the verses cited by Raba would have to be otherwise interpreted]. So we are informed that that is not the case."*

### **III.7 A.** "The daughter of a priest" (Lev. 21: 9):

- B. I know only that the rule applies if she was married to a priest. If she was married to a Levite, an Israelite, an idolator, one of impaired priestly stock, one who was born of a union of a couple not legally permitted to wed at all, or to a Temple slave, how do we know that the same rule applies?
- C. Scripture says, "And the daughter of a man who is a priest' (Lev. 21: 9) — even though she is herself not of the priestly caste."
- D. *Merely because the girl is married to one of these, does she cease to be the daughter of a priest? And furthermore, does it say, "A priest's daughter married to a priest [in particular]"?*
- E. *It might have entered your mind to suppose that, when the All-Merciful said, "If she profane herself by playing the whore," at issue was solely a girl who to begin with does so. But in this case, since she is already in the situation of one who has profaned her status [the rule should not pertain].*
- F. For a master has said, "'If the priest's daughter is married to a non-priest [she may not eat of an offering of holy things] (Lev. 22:12) [this verse teaches that] if she has sexual relations with one who is unfit for her, he disqualifies her [from eating food in the present status]. If she marries a Levite or an Israelite that is also the case, for it is said, '[But if a priest's daughter be a widow or divorced and have no child] and returns to her father's house, as in her youth, [she shall eat of her father's meat]' (Lev. 22:13)." That bears the implication that when she is with him [the Levite or Israelite], she was not eating such food. I might then have supposed that, under those same circumstances, she should not suffer the penalty of burning. Accordingly, the cited verse indicates that that is not the case.

**III.8** *A. The ruling [that a priest's daughter married to the offspring of a union of parents who cannot legally married is put to death through burning] does not accord with the view of R. Meir [who says the penalty is by strangling]. For we have learned in the Mishnah:*

- B. **"The daughter of a priest who married an Israelite and afterwards [unintentionally] ate heave-offering pays the principal, but does not pay the [added] fifth.**
- C. **"And [if she commits adultery] her death is by burning.**
- D. **"[If] she married any person who is ineligible [for marriage to priestly stock, e.g., a bastard (M. **Yeb. 6: 2**), and then unintentionally ate heave-offering],**
- E. **she pays the principal and the [added] fifth.**
- F. **"And [if she commits adultery] her death is by strangling," — the words of R. Meir.**
- G. **But sages say, "Both of these [women] pay the principal, but do not pay the [added] fifth,**
- H. **"and [if they commit adultery] their death is by burning," [M. **Ter. 7:2**, trans. Alan J. Avery-Peck].** [Avery-Peck explains: The daughter of a priest who marries an Israelite. While such a woman is of priestly lineage, because of the marriage she becomes an outcast and loses the right she had while living in her father's house to eat holy things. The problem is whether such a woman still is treated as a person of priestly status, or whether she is treated as an ordinary Israelite. The issue is disputed by Meir, C-G, and sages, H-I. The key to the exegesis of the pericope is in what on the surface appears to be a secondary dispute at D+G vs. I. Meir distinguishes between a priest's daughter who marries an Israelite of unimpaired stock, and one who marries an Israelite who is not fit for marriage to priests. His point is made through the contrast. Upon divorce or widowhood the woman at D returns to her father's house and regains her previously held priestly rights. It follows for Meir that she is treated like a person of priestly status. If she commits adultery, she is executed by burning, as are all women of priestly caste who commit adultery (Lev. 21:9, M. **San. 9: 1**). This is not the case at G. where the woman has married an Israelite of impaired lineage. Such a woman never may return to her father's house. Meir holds, therefore, that she is treated under the law as an Israelite. If she is unfaithful, her death is by strangulation, as it is for all Israelite women who are unfaithful (M. **San. 11: 1**). On this basis we readily can interpret Meir's view regarding the restitution these women pay if they unintentionally eat heave-offering. The priest's daughter who marries an Israelite of unimpaired stock is treated like a person of priestly status. If she eats heave-offering she does not pay the added fifth, which is paid only by non-priests. Since she had no right to eat the heave-offering, however, she must replace it, as would any priest who ate heave-offering belonging to some other priest. For this reason she pays the principal. This is not the case at F. Since here the woman is treated like an Israelite, if she eats heave-offering, she must pay both the principal and the added fifth. Sages reject Meir's distinction. By birth the woman is of priestly stock. This is not changed by her marriage to a non-priest, even one of impaired lineage. After her marriage she does not have the right to eat heave-offering. If she does so anyway, since she is of priestly stock, she need not

pay the added fifth required of non-priests. If she commits adultery, her death is by burning, as it is in the case of all unfaithful priestly women.]

- III.9** A. R. Eliezer says, “If she committed adultery with her father, she is put to death through burning, and is if she did so with her father in law, it is through stoning.”
- B. *What is the meaning of the foregoing statement?*
- C. *Should one propose that “her father” means that she committed adultery with her father, and “with her father in law” means that she committed adultery with her father in law, then why address in particular the case of the daughter of a priest?*
- D. *Even if it were the daughter of an Israelite, the penalty of committing adultery with the father is punishable by burning, and with the father-in-law, by stoning.*
- E. But the phrase, “with her father” means “in the domain of her father,” and “with her father in law” means in the domain of her father in law. [The former, then, is betrothed, the latter fully wed.]
- F. *In accord with whose view is the statement of Eliezer made, then? It cannot be in accord with the view of rabbis, for have they not said that a married woman [who committed adultery] goes forth to execution through burning?*
- G. And that penalty could not apply, then, to the betrothed girl [as Eliezer claims].
- H. *It furthermore cannot accord with the view of R. Simeon, for has he not said that the same penalty, namely, burning, applies to both the betrothed girl and the married woman?*
- I. *And it could also not accord with R. Ishmael, for has he not said [in a passage given below] that the betrothed girl [who commits adultery] goes forth to execution through being burned, but not a married woman, so that, when in the domain of her father in law [as a married woman, should she commit adultery,] she is put to death by being strangled [and not through stoning]?*
- J. *Rabin sent word in the name of R. Yosé b. R. Hanina, “This is the sense of the teaching [of Eliezer]. In point of fact it accords with rabbis. And this is the sense of what he has said: In any case in which the penalty of a woman who has committed adultery is more lenient than that inflicted on her father for incest [with his daughter] and what would such a case be? It is the case of an Israelite’s daughter, for, if the Israelite’s daughter is married [and commits adultery], she would be put to death through strangling [while her father is put to death through burning] then in the present case, namely, that of the priest’s daughter, she would be put to death in the same way as the father, namely through burning. But in any case in which the mode of execution of the woman who has committed adultery is more stringent than that inflicted of her father [for incest with his daughter] and what would such a case be? It is the case of an Israelite’s daughter who is betrothed [and commits adultery], for an Israelite’s daughter who is betrothed would be put to death through stoning then in the present case, namely that of the priest’s daughter, she would be put to death in the mode of execution that would apply to her father-in-law should he commit incest, and that is, through stoning.”*
- K. *To this interpretation R. Jeremiah objected, “But does the passage at hand speak of penalties that are more or less stringent than one another? [Obviously not. The explanation is a complete fabrication.]”*

- L. Rather, said R. Jeremiah, “[51B] The statement of Eliezer] accords with the position of R. Ishmael. This is the sense of his statement: ‘With her father’ means that when she is in the domain of her father [as an engaged girl, and commits adultery], she is put to death through burning, while ‘with her father-in-law’ means that if she commits adultery [literally] with her father-in-law, she is put to death through stoning. If, on the other hand, she committed adultery with anyone else, she is put to death through strangling.”
- M. *Said Raba, “How can there be a distinction in the reading of the two halves of his statement? Either both clauses refer to literal [incest], or both refer to the domain in which she is located [that is to say, as an engaged or married woman, respectively].”*
- N. *Rather, said Raba, “The passage accords with the position of R. Simeon [in line with his view that burning is the most severe mode of execution]. R. Eliezer takes the view that the married woman is in the same category as the betrothed woman. Just as, with an engaged girl [who commits adultery], [the penalty imposed upon a priest’s daughter who commits adultery] is raised one step [over that applicable to an Israelite’s daughter who commits adultery], that is to say, from death by stoning to death by burning, so in the case of a married woman [who commits adultery], we raise the severity of the mode of execution [should such a woman commit adultery] by one step, that is to say, from strangulation to stoning.”*
- O. *To this explanation R. Hanina objected, “But R. Simeon takes the view that both categories of woman [should they commit adultery] are put to death through burning.”*
- P. *Rather, said Rabina, “In point of fact [Eliezer] accords with rabbis. The assigned views, however, have to be exchanged, so that if she commits adultery while in her father’s house [as a betrothed girl], she is put to death through stoning, and if it is in her father-in-law’s domain [as a married woman], it is through burning. And as to [Eliezer’s] use of the phrase, ‘with her father,’ it is simply a common usage.”*
- Q. *Said R. Nahman said Rabbah bar Abbuha said Rab, “The decided law accords with the message that was sent by Rabin in the name of R. Yosé b. R. Hanina.”*
- R. *Said R. Joseph, “That is a legal decision that will only apply to the times of the Messiah [since the law is not carried out at this time in the modes of execution specified by the Mishnah]!”*
- S. *Said Abbaye to him, “If that is the case, then people should not repeat the laws governing the cultic slaughter of animals designated as Holy Things, since these two are laws that will be applicable only after the Messiah comes [and rebuilds the Temple]. But the principle is to expound these laws and receive a reward for doing so, and here too, we expound the laws and receive a reward for doing so.”*
- T. *[He replied], “This is the sense of what I said: What do I need a decision on the practical law? As the discussion went on, for what purpose would anyone have stated a concrete legal decision?”*

### **III.10 A. What is the source for R. Ishmael’s statement?**

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

- C. “‘And the daughter of any priest, if she profanes herself by playing the whore’ (Lev. 21: 9):
- D. “Scripture speaks of a girl who is betrothed.
- E. “You say that Scripture speaks of a girl who is betrothed, but perhaps it refers even to one who is married.
- F. “Scripture says, ‘And the man who commits adultery with another man’s wife, even he who commits adultery with his neighbor’s wife, both the adulterer and the adulteress shall be put to death’ (Lev. 20:10).
- G. “All categories of persons are encompassed within the terms ‘adulterer’ and ‘adulteress.’ Now Scripture has singled out the daughter of an Israelite [who commits adultery,] who is to be put to death through stoning, and the daughter of a priest [who commits adultery], who is to be put to death through burning.
- H. “Now, when Scripture made explicit references to the daughter of an Israelite, who, if she committed adultery, was to be put to death through stoning, it then specified that it was a betrothed girl and not a married woman.
- I. “So too when Scripture singled out the daughter of a priest [who committed adultery], it indicated that she was to be put to death through burning. Scripture thus referred to a betrothed girl and not a woman.
- J. “Perjured witnesses and the lover [of a married woman, who committed adultery] also were encompassed within the verse, ‘If a false witness rise up against any man to testify against him that which is wrong ...] then you shall do to him as he had conspired to do to his brother’ (Deu. 19:16-19).
- K. “Now what aspect of a conspiracy to commit perjury can apply to the lover?
- L. “Rather: The penalty to be inflicted on a conspiracy of perjury against the woman had fallen into the category of the death penalty to be inflicted on the lover [of the married woman], in line with the simple statement of Scripture, ‘And you shall do to him as he had conspired to do to his brother’ (Deu. 19:19) — to his brother and not to his sister,” the words of R. Ishmael. [Freedman, p. 347, n. 2: When a priest’s daughter commits adultery, she is burned, but her lover is stoned; hence if witnesses testified falsely on such a charge, they are to be stoned, not burned.]
- M. R. Aqiba says, “The same rule applies both to the betrothed girl and to the married woman [who have committed adultery]. They go forth to be put to death through burning.
- N. “Is it possible that that is the case even if the woman is unmarried?
- O. “Here it is stated, ‘Her father,’ and elsewhere the same word is used. Just as in the latter case an act of whoredom applies only if the woman is subject to a husband, so here too the act of whoredom is punishable only if she is subject to a husband.”
- P. Said R. Ishmael to him, “Just as, in that latter passage, she is a girl who is betrothed, so here, she is a girl, and she is betrothed, [but if she is a married woman, the punishment she should be different].”
- Q. Said R. Aqiba to him, “Ishmael, by brother, I explain the language, ‘and the daughter’ where it would have sufficed to say merely ‘the daughter.’ [This additional word, and, serves to encompass the married woman].”



- R. He said to him, "And because you interpret the additional use of the word 'and' in connection with the daughter, should we take out this woman and [impose a more stringent mode of execution and so burn her [as a penalty]]?"
- S. "If the use of the word 'and' serves to encompass the married woman, then why not encompass within the law also the unmarried woman [instead of freeing her from all penalty]]?"
- T. "And if the use of the superfluous 'and' serves to exclude the unmarried woman [from all penalty], then let it serve also to omit all reference even to the married woman."
- U. *And R. Aqiba's view? The argument by analogy serves to exclude reference to the unmarried woman, and the use of the additional word, "and," with reference to the daughter, serves to encompass the married woman.*
- V. *And R. Ishmael? He takes the view that since [Aqiba] has said to him that the exegesis was based on the superfluous use of the word, "and," it bore the further implication that he had retracted the argument by analogy.*
- W. *And how does R. Ishmael interpret the superfluous "and" with reference to the daughter?*
- X. *He requires it to serve the purposes of the teaching on Tannaite authority of the father of Samuel bar Abin: "Is it possible to suppose that just as the Scripture has made distinctions among male priests between those who are unblemished and those who bear blemishes [who cannot participate in the Temple cult], so we should distinguish among the daughters of priests [along the same lines, e.g., with regard to an act of adultery, punishing blemished daughters of the priestly caste who commit adultery as if they were of the Israelite caste and not burning them as their mode of execution]? Scripture uses the word" 'and' where it is not needed [to serve the purpose of proving that all daughters of the priestly caste, whatever their physical condition, are put to death by burning should they commit adultery]."*
- Y. *And R. Aqiba? [How does he prove the same proposition]?*
- Z. *He derives it from the verse, "[For the offerings of the Lord made by fire and the bread of their God] they do offer; therefore they shall be holy" (Lev. 21: 6). [Freedman, p. 348, n. 6: "Therefore they shall be holy" is an emphatic assertion of their holiness, implying that they do not lose it even if blemished.]*
- AA. And R. Ishmael?
- BB. *If I had to derive proof from that passage, I should have reached the conclusion that the statement applies to them, but not to their daughters. So we are informed [by the use of the extra "and" that the daughters are included as well].*
- CC. *And as to R. Ishmael, [52A] how does he deal with the verse, "She profanes her father" (Lev. 21: 9)?*
- DD. *He interprets it along the lines of that which has been taught on Tannaite authority:*
- EE. R. Meir would say, "What is the meaning of the statement, 'She profanes her father' (Lev. 21: 9)?"
- FF. "If [her father] had been treated as holy, now he is treated as ordinary.
- GG. "If he had been paid honor, now he is treated with disgrace.

- HH. “They say, ‘Cursed is he who produced such a child, cursed is he who raised her, cursed is he who brought her forth from his loins.’”
- II. *Said R. Ashi, “In accord with whom do people call a wicked man, ‘Son of a wicked man,’ even if it is a wicked man who is son of a righteous man? It is in accord with the Tannaite authority just now cited.”*

**IV.1 A. This procedure is how the religious requirement of stoning is carried out [M. 7:1D]:**

- B. *What is the sense of the Tannaite authority in saying, This procedure is how the religious requirement of stoning is carried out?*
- C. *It is because, just prior, it has been taught: When the trial is over, they take him out to stone him. The place of stoning was well outside the court ... [M. 6:1A-B]. Now since the framer of the passage planned to make reference to the religious duty of inflicting the death penalty through burning, he made reference, also, to the religious duty of inflicting the death penalty through stoning.*

While the Talmud at hand is somewhat protracted, it is remarkably cogent, taking up only a few problems and treating them at some length. So once more the impression that the document is somewhat prolix turns out, upon closer analysis, to be inaccurate.

**7:2**

- A. **The religious requirement of burning [is carried out as follows]:**
- B. **They would bury him up to his armpits in manure, and put a towel of hard material inside one of soft material, and wrap it around his neck.**
- C. **This [witness] pulls it to him from one side, and that witness pulls it to him at the other side, until he opens up his mouth.**
- D. **And one kindles a wick and throws it into his mouth, and it goes down into his bowels and burns his intestines.**
- E. **R. Judah says, “Also this one: if he died at their hands [through strangulation], they will not have carried out the religious requirement of burning [in the proper manner].**
- F. **“But: They open his mouth with tongs, against his will, kindle a wick, and throw it into his mouth, and it goes down into his bowels and burns his intestines.”**
- G. **Said R. Eleazar b. Sadoq, “There was the case of a priest who committed adultery.**
- H. **“And they put bundles of twigs around her and burned her.”**
- I. **They said to him, “It was because the court of that time was not expert [in the law].”**

**I.1 A. What is a wick [M. 7:2D]?**

- B. *Said R. Mattenah, “It is a strip of lead.”*

**I.2 A. How do we know [that death through burning is carried on in this way, rather than in that posited at M. 7:2H]?**

- B. We establish an analogy between the meaning of the word “burning” used in the context of the death penalty [Lev. 21:9], and the meaning of the word “burning” used in connection with the congregation of Korach [Num. 17:4].
- C. Just as, in that latter case, it involved burning the soul, with the body intact, so in the present case, it involves burning the soul, with the body intact.
- D. R. Eleazar said, “We establish an analogy governing the word ‘burning’ in the present context from the meaning of the word ‘burning’ in the case of Aaron’s sons.
- E. “Just as in that case [Lev. 10:6] it involved burning the soul, with the body intact, so here there must be burning of the soul with the body intact.”
- F. *What is the scriptural basis for the position of the one who derives evidence from the congregation of Korach?*
- G. It is because it is written, “[Speak to Eleazar ... that he take up the censers out of the burning ... ], the censers of these sinners against their own souls” (Lev. 17: 2), indicating that their souls were burned while the body was intact.
- H. *And the other party?*
- I. *He maintains that that passage refers, literally, to burning. And what is the sense of “against their own souls”? That they incurred liability to the burning of the souls on account of matters having to do with their souls.*
- J. *This accords with the view of R. Simeon b. Laqish.*
- K. *For R. Simeon b. Laqish said, “What is the meaning of the verse, ‘With hypocritical mockers in feasts, they gnashed upon me with their teeth’ (Psa. 35:16)?*
- L. *“On account of the hypocrisy that they showed to Korach on account of the banquet [that he laid out for them], the prince of Gehenna sharpened his teeth against them.”*
- M. *Now as to the view of him who derives the meaning of the passage from the case of the sons of Aaron, on what scriptural basis does he reach his view?*
- N. It is because it is written, “And they died before the Lord” (Lev. 10:12), that is, death of an ordinary character.
- O. *And the other party?*
- P. *That passage alludes to burning, literally.*
- Q. *And what is the sense of the statement, “They died before the Lord”? It began within, as is the case with an ordinary death.*
- R. *That accords with what has been taught on Tannaite authority:*
- S. Abba Yosé b. Dosetai says, “Two streams of fire spurted forth from the house of the holy of holies and divided into four and entered the two nostrils of this one and the two nostrils of that one and burned them up [internally].”
- T. But lo, it is written, “And the fire devoured them” (Lev. 10:12) — [them, and not another thing, so what is excluded]?
- U. “Them” — and not their garments.
- V. *And why not derive [the mode of inflicting the death penalty through burning] by analogy to the disposition of the bulls that are to be burned up [Lev. 4:12ff.]?*

*Just as in that case, burning is meant literally, so here, burning should be meant literally.*

- W. *It is more reasonable to derive the analogy to a case involving a human being, for in the case of a human being [there are the following shared traits]: it is a human being, the act involves a sin, the human being has a soul, and in a human being there is no issue of an improper motive's rendering the death invalid [while for a sacrificial beast, if a priest forms the intention of eating the meat after the prescribed limits, the sacrifice is invalidated].*
- X. *To the contrary, it would be better to derive the matter from the analogy supplied by the bulls that are to be burned, for [while the cases of Aaron's sons and the congregation of Korach were one-time events only], the mode of killing in the case of the bulls that are to be burned serves for generations to come [Freedman: permanency. Freedman, p. 351, n. 6: The law of execution by fire, as that of sacrifices, was of permanent validity, whereas in the other two cases their deaths were unique, the result of miracles confined to particular times.]*
- Y. *The former consideration are more numerous.*
- Z. *As to the one who derives the analogy from the case of the congregation of Korach, what is the reason that he did not derive the analogy from the death of the sons of Aaron?*
- AA. *That case involved burning in a literal sense.*
- BB. *And why not derive the analogy from that case anyhow?*
- CC. Said R. Nahman said Rabbah bar Abbuha, "Scripture has said, 'But you shall love your neighbor as yourself' (Lev. 19:18), meaning, choose for him a form of execution that is easy [and the burning of the body is painful]."
- DD. *But if there is the exegesis provided by R. Nahman, what need do I have for the argument by analogy at all?*
- EE. *Were it not for the argument by analogy, I might have concluded that the burning of the soul with the body left intact is not a mode of burning at all.*
- FF. *And if the principle derived solely from the exegesis, "You shall love your neighbor as yourself" (Lev. 19:18), then one should collect many bundles of twigs, so that the victim will burn up quickly.*
- GG. *So we are informed [of the appropriate mode of burning].*

**I.3** A. Now Moses and Aaron were walking on the way, and Nadab and Abihu were walking behind them, with all Israel after them. Said Nadab to Abihu, "When will these two elders die, so that you and I may become leaders of the generation?"

B. Said the Holy One, blessed be he, to them, "Now let us see who will bury whom."

C. *Said R. Pappa, "That is in line with what people say: 'There are many old camels bearing the hides of young camels.'"*

**I.4** A. Said R. Eleazar, **[52B]** "What is a disciple of a sage like in the view of an ordinary person?

B. "At the outset he is like a gold ladle.

C. "If he talks with him, he is like a silver ladle.

D. "If he accepts some sort of benefit from him, he is like an earthenware ladle.

- E. “Once it is broken, it cannot ever be repaired.” [Freedman, p. 352, n. 4: This passage is inserted here because the assembly of Korach has just been mentioned, who were scholars (Num. 16: 2). These, becoming overfamiliar with Korach and accepting gifts from him, lost his esteem, until ultimately he incited them to support him in his revolt against Moses.]

**I.5 A.** Imrata, daughter of Teli, was the daughter of a priest who committed an act of adultery.

B. R. Hama bar Tubiah had her surrounded by twigs and burned.

C. *Said R. Joseph, “You erred in two matters. You erred in the matter of R. Mattenah [on how the execution through burning was to be done]. And you erred in that which has been taught on Tannaite authority: ‘And you shall come to the priests, Levites, and judge that shall be in those days’ (Deu. 17: 9). This verse teaches that when there is a priest [at the altar], there is judgment [of capital cases in the Jewish courts, including inflicting capital punishment], but when there is no priest, there is no such judgment.”*

**II.1 A.** Said R. Eleazar b. Sadoq, “There was the case of the daughter of a priest who committed adultery ...” [M. 7:2G]:

B. Said R. Joseph, “It was a court made up of Sadducees.”

C. *Did [Eleazar] say this to them, and did they answer him in this way? And has it not been taught on Tannaite authority: Said R. Eleazar bar Sadoq, “I was a child, and I was riding on my father’s shoulders, and I saw the daughter of a priest who had committed adultery, and they put bundles of twigs around her and burned her” [M. 7:2G-H]. They said to him, “You were a child, and a child has no evidence [to contribute to our discussion]” [T. San. 9:11A-B].*

D. *[Since the argument in the cited passage is different from the one at M. 7:2I, one must explain that] there were two separate cases [about which he reported].*

E. *Which one did he report first of all? If one should propose that it was this first one [cited at M. 7:2I] that he reported to them first, the one that took place when he was an adult, and they paid no attention to him, would he then have told them a story of what happened when he was a minor and expect to have them pay attention to him?*

F. *Rather, it was this one [at T. San. 9:11A-B] that he told them first, and when they said to him, “You were a child” then he told them the story of what happened when he was an adult, and they said to him, “It was because the court of that time was not expert in the law” [M. 7:2I].*

The Talmud closely follows its usual program of Mishnah-interpretation. It begins, unit I, with a comment on a word-choice, and then proceeds, as usual, to an extensive account of the basis, in Scripture — here, scriptural analogies — for the rule in the Mishnah.

### 7:3A-F

**A.** The religious requirement of decapitation [is carried out as follows]:

**B.** They would cut off his head with a sword,

**C.** just as the government does.

**D.** R. Judah says, “This is disgusting.

- E. **“But they put his head on a block and chop it off with an ax.”**
- F. **They said to him, “There is no form of death more disgusting than this one.”**
- I.1** A. *It has been taught on Tannaite authority:*
- B. **Said R. Judah to sages, “I too recognize that it is a disgusting form of death, but what shall I do?”**
- C. **“For lo, the Torah has said, ‘You will not follow their ordinances’ (Lev. 18: 3)” [T. San. 9:11C-H].**
- D. *And rabbis? [They reply], “Since execution through the sword is written in the Torah, it is not a matter of learning [our rules] from what [gentiles] do.*
- E. *And if you do not concede that point, as to that which we have learned on Tannaite authority, They make burnings in honor of deceased kings, and this is not forbidden on the count of being one of the ways of the Amorites [T. Shab. 7:18], how can we make such a pyre? And lo, it is written, ‘You will not follow their ordinances’ (Lev. 18: 3)! But since the matter of a funeral pyre is written in the Torah, as it is written, ‘But you shall die in peace and with the burning of your fathers ... so shall they burn for you’ (Jer. 34: 5), it is not from [the gentiles] that we learn the practice. Here too, since it is in the Torah that execution by the sword is written, it is not from the gentiles that we learn the practice.”*
- I.2** A. *And as to what we have learned in the Mishnah: And these are those who are put to death through decapitation: the murderer and the townsfolk of an apostate town [M. San. 9:1D-E], [What is the scriptural basis for decapitation in these crimes]?*
- B. *Now with respect to the apostate town, it is written, “You shall surely smite the inhabitants of that town with the edge of the sword” (Deu. 13:18). But how do we know that that is the case for the murderer?*
- C. *As it has been taught on Tannaite authority: “He shall surely be avenged” (Exo. 21:20). I do not know the form of this vengeance. When Scripture says, “I will bring a sword upon you, that shall execute the vengeance of the covenant” (Lev. 26:25), one has to say that this form of vengeance is through the sword.*
- D. *And might I say that one has to pierce the man through?*
- E. *It is written, “With the edge of the sword.”*
- F. *Then might I say that one cuts the felon in half [lengthwise]?*
- G. *Said R. Nahman said Rabbah bar Abbuha, “Scripture has said, ‘You shall love your neighbor as yourself’ (Lev. 19:18), meaning that you should choose for him a form of death that is easy.”*
- H. *[Since the context of Exo. 21:20 is vengeance for the death of a slave], we have found that when one has killed a slave [he is put to death through decapitation]. How do we know that if one killed a free man, the same rule applies?*
- I. *Is it not an argument a fortiori?*
- J. *If one kills a slave, he is put to death through decapitation. If he killed a free man, should it be merely through strangulation [that he is put to death]?*



- K. *That argument poses no problem to the view of him who has said that strangulation is the lighter form of execution. But in the view of him who has said that strangulation is the more severe form, what sort of argument can you supply?*
  - L. *It derives from that which has been taught on Tannaite authority: “So you shall put away the built of the innocent blood among you” (Deu. 21: 9)*
  - M. The case of all those who shed blood is compared to the case of the heifer whose neck is to be broken.
  - N. Just as in that case, the execution takes places with a sword at the neck, so here the execution takes place with a sword at the neck.
  - O. If one should propose that, just as in that case, it is done with an ax at the nape of the neck, so here too it should be done with an ax at the nape of the neck, [the answer derives from the argument already given].
  - P. Namely, said R. Nahman said Rabbah bar Abbuha, “Scripture has said, ‘You will love your neighbor as yourself’ (Lev. 19:18), meaning to choose for him a form of death that is easy.”
- Unit I.1 expands upon the Mishnah’s argument. Unit I.2 then supplies the proof, on the basis of Scripture, to which unit I refers.

### 7:3G-J

- G. **The religious requirement of strangulation [is carried out as follows:]**
  - H. **They would bury him in manure up to his armpits, and put a towel of hard material inside one of soft material, and wrap it around his neck.**
  - I. **This [witness] pulls it to him from one side, and that witness pulls it to him at the other side,**
  - J. **until he perishes.**
- I.1** A. *Our rabbis have taught on Tannaite authority:*
- B. [“And the man who commits adultery with another man’s wife, even he who commits adultery with his neighbor’s wife, the adulterer and the adulteress shall surely be put to death” (Lev. 20:10)]. “A man” — excluding a minor.
  - C. “... who commits adultery with another man’s wife” — excluding the wife of a minor.
  - D. “His neighbor’s wife — excluding the wife of others [idolators].
  - E. “‘... shall surely be put to death’ — through strangulation.
  - F. “You say that it is through strangulation.
  - G. “But perhaps it is only through one of any of the other modes of inflicting the death penalty that are stated in the Torah?
  - H. “Now do you say so? In any passage in which there is reference in the Torah to ‘death-penalty’ without further specification, you do not have the right to impose the death penalty in a stringent manner but only in a lenient manner,” the words of R. Josiah.
  - I. R. Jonathan says, “It is not because this is the most lenient of the modes of execution, but because in any passage in the Torah in which there is reference to the death-penalty without further specification, it is to be inflicted only through strangulation.”

- J. [In support of this same proposition] Rabbi says, "There is reference to death inflicted at the hand of heaven and there is reference to death inflicted at the hand of man.
- K. "Just as death inflicted at the hand of heaven is such that there is no physical mark [on the body], so death inflicted at the hand of man [in the same sort of passage] is death in which there is no physical mark [on the body], [and that is strangulation]."
- L. *And might I say that that is burning [in the manner described just now]?*
- M. *Since the All-Merciful has specified that the daughter of a priest [who commits adultery] is put to death through burning, it must follow that adultery under discussion here is not punished by the death penalty inflicted through burning [but in some other way than that specified at the counterpart]."*
- N. **[53A]** *Now there are no problems from the viewpoint of R. Jonathan, since Rabbi has already provided an explanation of his reasoning. But as to R. Josiah, on what basis do we know that the death penalty is inflicted through strangulation in any event? Might I say it is through decapitation?*
- P. *Said Raba, "We have a tradition that there are four modes of inflicting the death penalty [M. 7:1A]."*
- Q. *What is the sense of the statement, "It is not because it is the most lenient form of the death penalty" [at I, above]?*
- R. *The dispute follows the lines of that between R. Simeon and rabbis [at M. 7:1].*
- I.2 A.** *Said R. Zira to Abbaye, "As to the rest of those who are put to death through stoning, in connection with those cases Scripture does not explicitly specify that stoning is the mode of inflicting the death penalty, so that stoning is the choice mode of execution is a proposition we derive by analogy to the case of the necromancer or wizard [put to death through stoning], on the basis of which relevant phrase [of those specified at B] do we derive that fact? Do we derive that fact from the phrase, 'They shall surely be put to death'? Or do we derive it from the phrase, 'Their blood shall be upon them' (Lev. 20:27)?" [The relevant verse is as follows: 'A man or a woman who has a familiar spirit or who is a wizard they shall surely be put to death; they shall stone them with stones; their blood shall be upon them.'] [Freedman, p. 357, n. 7: In the case of all other malefactors who are stoned, though stoning is not explicitly stated, the two phrases, 'They shall surely be put to death' and 'their blood shall be upon their head' occur.]*
- B. *He said to him, "We derive the fact that they are put to death through stoning from the phrase, common to those other cases as well as to the case of the wizard or necromancer, 'Their blood shall be upon them.' For if we should derive the matter from the phrase, 'They shall surely die,' what need do I have for the phrase concerning 'their blood'? But what is the purpose of the repeated use of the statement about 'their blood'? It is to supply the needed analogy to tell us that stoning applies in both cases. What need do I have, then, for the phrase, 'They shall surely die'?"*
- C. *It accords with that which has been taught on Tannaite authority:*
- D. *"He who smote him shall surely die. He is a murderer' (Num. 35:21).*

- E. “I know only that that applies to a mode of execution that is specified in Scripture in his regard.
- F. “How do I know that, if you cannot put him to death through the mode of execution that is specified in his connection in Scripture, you may put him to death through any means of inflicting death that you can use?
- G. “Scripture says, ‘He who smote him shall surely die’ (Num. 35:21), meaning, by any means at all.”
- H. *Said R. Aha of Difti to Rabina, “As to deriving the proof from the phrase, ‘He shall surely die,’ what was the difficulty that troubled him [leading him to raise the question at all]? Should I propose that the difficulty lay in the case of the penalty to be inflicted on the married woman who committed adultery [who, we know, suffers the death penalty through strangulation]? That is to say, one should derive the mode of execution in her case from the analogy of the words, ‘He shall surely die’ used in connection with the necromancer and wizard, so that, just in that case, the penalty is inflicted through stoning, so here it is inflicted by stoning. [Freedman, p. 358, n. 5: Instead of regarding it as an unspecified death penalty, why not treat it as explicit, in virtue of the phrase, ‘They shall surely be put to death,’ written also in the case of adultery with a married woman?] But since the All-Merciful made it explicit that the betrothed girl who committed adultery is put to death through stoning, it must follow that the married woman who committed adultery would not be put to death through stoning, [so that problem really is null]. Rather, it was the fact that he who his father or mother [is put to death through strangulation] that troubled him. [This is the difficulty:] one should derive proof from the case of the necromancer or wizard [that he is stoned. Why? Because the phrase at hand, ‘He shall surely be put to death’ is used of the one who hits his mother or father as well, at Exo. 21:15]. But rather than deriving the mode of execution in the case of the necromancer or wizard, why not derive it from the case of a married woman [who is put to death through strangulation], for you do not have the right to derive a stringent mode of execution for him when you can derive a lenient mode of execution from him. [So what was the problem that led to his question?] [Freedman, p. 358, n. 10: For the same phrase occurs in the three places, namely, the necromancer, put to death through stoning, the married woman, put to death through strangulation, and he hits his father or mother, which has to be deduced from the one or the other. It follows that one must incline to leniency. So even if the deduction were made from the phrase, ‘They shall surely be put to death,’ it would be still correct to say that one who hits his father or mother is strangled.]”*
- I. *He said to him, “What troubled him was the case of all of the others who are put to death through stoning. For if it is from the phrase, ‘They shall surely be put to death,’ that we derive the fact that the mode of executing them is through stoning, why derive that fact from the case of the necromancer or wizard? Derive it from the case of the married woman who committed adultery [on the principle that we impose the more lenient form of the death penalty].”*

Unit I.1 contributes the information of who is put to death through the mode of execution at hand, with the not-incidental information of why death is inflicted in just this way, namely, there is no mark on the body. Unit I.2 then presents a much

more complex problem of the scriptural basis for imposing the death penalty in this way, linked, as is clear, to unit I's proof on the basis of the adultery of the woman. So the composition is quite cogent, even though the two units are entirely distinct from one another — a fine piece of construction.

### 7:4A-R

- A. These are [the felons] who are put to death by stoning:
- B. He who has sexual relations with his mother, with the wife of his father, with his daughter-in-law, with a male, and with a cow;
- C. and the women who brings an ox on top of herself;
- D. and he who blasphemes, he who performs an act of worship for an idol, he who gives of his seed to Molech, he who is a familiar spirit, and he who is a soothsayer;
- E. he who profanes the Sabbath,
- F. he who curses his father or his mother.
- G. he who has sexual relations with a betrothed maiden,
- H. he who beguiles [entices a whole town to idolatry],
- I. a sorcerer,
- J. and a stubborn and incorrigible son.
- K. He who has sexual relations with his mother is liable on her account because of her being his mother and because of her being his father's wife [Lev. 18:6-7, 20:11].
- L. R. Judah says, "He is liable only on account of her being his mother alone."
- M. He who has sexual relations with his father's wife is liable on her account because of her being his father's wife and because of her being a married woman,
- N. whether this is in the lifetime of his father or after the death of his father,
- O. whether she is only betrothed or already married [to the father].
- P. He who has sexual relations with his daughter-in-law is liable on her account because of her being his daughter-in-law and because of her being another man's wife,
- Q. whether this is in the lifetime of his son or after the death of his son [Lev. 20:12,
- R. whether she is only betrothed or already married [to the son].

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

- B. R. Judah says, "If his mother was not fit to be married to his father, he is liable only on the count of her being his mother [but not on the count of her being a married woman] [T. San. 10:1A].
- C. *What is the meaning of his statement if she was not fit to be married to his father? Should we say that it is a marriage forbidden on pain of liability to extirpation and liability to the death penalty at the hands of a court? [That is, the father is subject to the death penalty either at the hands of heaven or at human hands on account of his marriage to this woman]. Then it would follow that the rabbis take the view that even though the woman is not fit for the father, [there is*

*a twofold penalty]. But [given the penalties of death] the father in point of fact has no sacramental bond to his woman at all! [So how can the son incur the penalty of having sexual relations with a married woman, when in point of fact she is not a married woman?] It must follow that [Judah's sense is that she is not fit for the father because the couple falls into the category of those who, if they marry], are subject to the penalty for violating a negative commandment [but not to the penalty of extirpation or execution by a court]. Then it follows that R. Judah concurs with R. Aqiba, who held that there is no sacramental bond between a couple who, [if they wed,] are subject to liability for violating a negative commandment.*

- D. *To this proposition, R. Oshaia raised the objection, “[A general rule did they lay down in regard to the levirate woman, widow of a deceased childless brother: any sister-in-law who is prohibited as one of the forbidden degrees of Leviticus Chapter Eighteen neither executes the rite of removing the shoe, specified at Deu.25:5-10, nor is taken into levirate marriage.] [If she is prohibited to her brother-in-law by reason of a prohibition on account of a commandment or a prohibition on account of sanctity, she executes the rite of removing the shoe but is not taken in levirate marriage. [53B] A prohibition on account of a commandment is a secondary grade of forbidden degrees on account of the rulings of scribes [M. Yeb. 2:3, 2:4A].*
- E. *“Now why do they call such [marriages] ‘prohibited on account of a commandment as a secondary grade of forbidden degrees on account of rulings of scribes’? Because it is a commandment to obey the teaching of sages.*
- F. *“A prohibition on account of the sanctity of the levir is a widow married to a high priest, or a divorcee or a woman who has executed the rite of removing the shoe married to an ordinary priest [M. Yeb. 2:4B].*
- G. *“And why do they call such marriages ‘prohibited on account of the sanctity of the levir’ Because it is written, ‘The priests shall be holy unto their God’ (Lev 21: 6).*
- H. *“And in this connection it has been taught on Tannaite authority: R. Judah reverses these definitions. [T. Yeb. 2:4J: R. Judah says, ‘A widow wed to a high priest, or a divorcee or a woman who has undergone the rite of removing the shoe wed to an ordinary priest, fall into the category of those prohibited on account of a commandment. A secondary grade of forbidden degrees (listed at Leviticus Chapter Eighteen) on account of rulings of scribes constitutes a prohibition on account of sanctity.’] Now while he reverses the definition, for both categories he nonetheless requires the rite of removing the shoe, [hence recognizing that a marital bond of some sort existed between the priest and the woman improperly wed to him, that is, in violation of the negative commandment that such a woman not be wed to a priest.] If, then, you maintain the view that R. Judah accords with R. Aqiba, then, since in R. Aqiba's view, couples who, if they wed, are liable for violating a negative commandment are in the status of couples who, if they wed, are subject to extirpation, and couples who, if they wed, become liable to the penalty of extirpation do not fall into the category of a marriage sufficiently strong to impose the obligation to undergo the rite of removing the shoe, let alone the obligation of levirate marriage should the*

*husband die childless [there being no valid and legal connection between this man and this woman at all], [how could Judah concur that there is any obligation, in the present context, to undergo the rite of removing the shoe? Aqiba would never impose such an obligation, as we see.]”*

- I. *[The reply:] [Judah] made his statement in accord with the position of the anonymous authority of the Mishnah-paragraph at hand but, in point of fact, he does not concur with the premises of that authority. [Judah maintains that there is no requirement of either removing the shoe or levirate marriage.]*

**II.1** A. *When R. Isaac came, he repeated the Mishnah passage as we have learned it: ‘R. Judah says, “He is liable only on account of her being his mother” [M. 7:4L].’*

- B. *[He then said,] “And what is the scriptural basis for his view [that the rule applies not only when she is forbidden to the father, but under all circumstances?]”*
- C. *Said Abbaye, “It is because Scripture has said, ‘[The nakedness of your father or the nakedness of your mother you shall not uncover;] she is your mother’ (Lev. 18: 7).*
- D. *“It is **because she is his mother** that you impose liability, and you do not impose liability because she is a married woman.”*
- E. *How then do you deal with the following: “The nakedness of your father’s wife you shall not uncover; it is your father’s nakedness,” (Lev. 18: 8)? [Surely it means] you impose liability because she is his father’s wife, and you do not impose liability [in this case] because she is his mother [his step-mother]?*
- F. *Rather, in the present case, we deal with his mother who is his father’s wife, then [Freedman:] one verse implies the exclusion of maternal incest [as the offense], and the other excludes incest with his father’s wife [as the offense]. [Freedman, p. 362, n.1]: thus leaving no grounds for punishment at all.]*
- G. *Now if she is his mother but not his father’s wife, he is liable, and, if she is his father’s wife but not his mother, he is liable. But if she is his mother and also his father’s wife, will he not be liable at all? [That is absurd!] And furthermore, from the viewpoint of rabbis too, is it not written, “She is your mother” (Lev. 18: 7)?*
- H. *Rather, they require that verse to make the point of R. Shisha, son of R. Idi [given presently].*
- I. *R. Judah also requires the same verse to make the point of R. Shisha, son of R. Idi.*
- J. *[We shall now prove the sought point from the viewpoint of rabbis, that a double-liability is incurred, in line with M. 7:4K and against Judah’s view at M. 7:4L:] The matter is in line with what R. Aha, son of R. Iqa, said, “Scripture has stated, ‘[...you shall not uncover] her nakedness’ (Lev. Lev. 18: 8). On one count of nakedness you impose liability, and you do not impose liability on two counts of nakedness.”*
- K. *How then do you deal with the following verse: “You shall not uncover the nakedness of your daughter-in-law; she is your son’s wife; you shall not uncover her nakedness” (Lev. 18:15). In this case, too, do we maintain that only on one*



count of nakedness you impose liability, but you do not impose liability on two counts of nakedness? *But have we not learned in the Mishnah: He who has sexual relations with his daughter-in-law is liable on her account because of her being his daughter-in-law and because of her being another man's wife, whether this is in the lifetime of his son or after the death of his son [M. 7:4P]. And here R. Judah does not differ! [So what has K contributed?]*

- L. *But since she is one person, even though there are prohibitions on two counts, it is written, "...her nakedness...", and here too, since she is one person, even though there are prohibitions on two counts, it is written, "...her nakedness..."*
- M. *Rather, [since the proposed proof does not work,] Raba said, "R. Judah takes the view that 'The nakedness of your father' refers to [the prohibition of sexual relations with] one's father's wife. Then, through the argument by analogy, he deduces that that is the case whether she is his father's wife who is also his mother, or his father's wife who is not also his mother.*
- N. "How, further, do we know that the penalty applies if he has sexual relations with his mother who is not his father's wife? Scripture says, '... the nakedness of your mother you will not uncover, she is your mother' (Lev. 18: 8). [Then Judah concludes], 'On the count of her being his mother you impose liability upon him, and you do not impose liability upon him on the count of her being his father's wife.'" [Freedman, p. 362, n. 1, states: Thus, Raba agrees with Abbaye that R. Judah's reason is the limitation implied in the phrase 'she is thy mother'. But he disposes of the consequent difficulty, viz., that of the verse, it is thy father's nakedness, in the following way: The dictum, The nakedness of thy father shalt thou not uncover, refers to his father's wife, whether his mother or not; and so far, (without an additional limiting phrase) it is implied that in both cases the interdict is on account of paternal, not maternal consanguinity. Hence, when the following verse states, (The nakedness of thy father's wife thou shalt not uncover:) it is thy father's nakedness, it cannot mean that guilt is incurred only on account of paternal, but not maternal relationship, since that has already been implied in the preceding verse, the nakedness of thy father ... shalt thou not uncover. Therefore the limitation undoubtedly intended by the latter verse must be otherwise interpreted. (This is done further on.) Now, since the nakedness of thy father would imply that whether she is his mother or not he is penalized on account of paternal consanguinity, it follows that when the same verse inserts a limiting clause, 'she is thy mother', the limitation must apply to that which has already been expressed, viz., that the father's wife, if also one's mother, is forbidden on account of maternal, not paternal, consanguinity.]
- O. **[54A]:** *In support of Raba's view it has been taught on Tannaite authority to the same effect:*
- P. "[And the man who lies with his father's wife has uncovered his father's nakedness; both of them shall surely be put to death; their blood shall be upon them" (Lev. 20:11)]; "A man" excludes a minor.
- Q. "...who lies with his father's wife ..." bears the implication that that is whether it is his father's wife who is his mother, or his father's wife who is not his mother.
- R. How then do I know that the rule applies to his mother who is not his father's wife?

- S. Scripture states, "He who has uncovered his father's nakedness." And that phrase bears no meaning on its own [since its point is self-evident], and so it is available to establish an analogy, from which the law may be derived on the basis of [Freedman]: identity of meaning [which will be spelled out in a moment]
- T. "They shall surely be put to death" — through execution by stoning.
- U. You maintain that it is execution by stoning, but perhaps it means only execution by any one of the modes of execution that are prescribed in the Torah?
- V. Here it is stated, "Their blood shall be upon them" and in the case of the necromancer or wizard, it is stated, "Their blood shall be upon them" (Lev. 20:27).
- W. Just as in that passage, the mode of execution is stoning, so here the mode of execution is stoning.
- X. Now we have deduced the penalty [to be inflicted]. Whence do we derive an admonition [indicating that the act is forbidden to begin with? The verse at hand serves to impose a penalty, but not to prohibit the deed.]
- Y. Scripture states, "The nakedness of your father you shall not uncover" (Lev. 18: 7).
- Z. "The nakedness of your father" refers to the wife of your father.
- AA. You say that it refers to the wife of your father. But perhaps it refers literally to the nakedness of your father? [The prohibition then is against having sexual relations with one's father.]
- BB. Here it is stated, "The nakedness of your father you shall not uncover" (Lev. 18: 8) and elsewhere it is stated, "The nakedness of his father he has uncovered" (Lev. 20: 1).
- CC. Just as in that passage Scripture speaks of sexual relations between man and woman, so here too it is of sexual relations between man and woman that Scripture speaks.
- DD. And the implication is that that is the case whether it is his father's wife who also is his mother, or his father's wife who is not his mother.
- EE. Then how do I know that the prohibition applies also to his mother who is not his father's wife?
- FF. Scripture says, "The nakedness of your mother you shall not uncover" (Lev. 18: 7).
- GG. I thus deduce only that one is admonished not to do so, for Scripture has treated his mother who is not his father's wife as equivalent to his mother who is also his father's wife.
- HH. How then do I know from in Scripture the penalty [to be inflicted for such a deed]?
- II. Here it is stated, "You shall not uncover the nakedness of your father" (Lev. 18: 8) and elsewhere it is written, "The nakedness of his father he has uncovered" (Lev. 20:11).
- JJ. Just as, in the [matter of the] admonition, the Scripture has treated his mother who is not his father's wife as equivalent to his mother who is his father's wife, so with respect to the penalty [to be inflicted], the Scripture treats his mother who is not his father's wife as equivalent to his mother who is his father's wife.

- KK. “She is his mother” teaches that it is on account of her being his mother that you impose liability upon him, and you do not impose liability upon him because she is his father’s wife [as Judah would have it].
- LL. *And rabbis?* this refers literally to his father’s nakedness.
- MM. *But that prohibition surely derives from the statement, “You shall not lie with mankind as with womankind” (Lev. 18:22).*
- NN. On the basis of that verse, a penalty on two counts is incurred [in the case of relationship between father and son].
- OO. *And that accords with the view of R. Judah.*
- PP. For R. Judah has said, “A ‘gentile’ who has sexual relations with his father is liable on two counts.”
- QQ. “One who has sexual relations with his uncle is liable on two counts.”
- RR. *Said Raba, “It stands to reason that this statement of R. Judah speaks of an Israelite, [who has committed] an unwitting act, and [refers to the issue of] an offering. The reference to a gentile serves merely as a euphemism. For if you maintain that he referred literally to a gentile, then the penalty for the act is death, and you surely are not going to execute him twice! [So the point that there are two counts of liability is senseless, unless it refers, as Raba says, to an Israelite, an unwitting act, and the issue of the number of sin-offerings he must bring.]”*
- SS. *So too it has been taught on Tannaite authority:* He who has sexual relations with his father is liable on two counts. He who has sexual relations with his uncle is liable on two counts.
- TT. *There are those who maintain that that statement does not accord with the position of R. Judah [of our Mishnah] [for obvious reasons] and there are those who maintain that that statement accords even with R. Judah.*
- UU. [As to the view of the latter:] He derives evidence [of a twofold penalty in this case] on the basis of an argument a fortiori derived from the case of the father’s brother.
- VV. Now if in the case of the father’s brother, who is [merely] a relative of the father, he is liable on two counts, in the case of the father will he not all the more so be liable on two counts? [Freedman, p. 35, n. 3: The liability of the son on account of sexual relations with the father’s brother is deduced from the verse, “You shall not uncover the nakedness of your father’s brother, you shall not approach his wife” (Lev. 18:14). Since his wife is specifically prohibited, the first half of the verse must be understood literally. Consequently, it is twice prohibited, for it is also included in the prohibition of Lev. 17:22, and hence a double penalty is incurred.
- WW. *And at issue is the dispute of Abbaye and Raba [on the issue of whether we impose penalties merely on the basis of logical argument]. One authority holds that we do impose penalty for a crime merely on the basis of a logical argument [such as just now has been given]. And the other party maintains the view that we do not impose a penalty on the basis of a logical argument.*

- XX. [Reverting to the issue at hand:] in the view of rabbis, how do we derive an admonition not to commit adultery with the wife of one's father [since they interpret "the nakedness of your father" literally (Freedman, p. 365, n. 6)]?
- YY. *They derive it from the statement, "The nakedness of your father's wife you shall not uncover" (Lev. 18: 8).*
- ZZ. *And R. Judah? He takes the view that that verse serves to admonish one not to have sexual relations with the father's wife after the father has died.*
- AAA. *And the rabbis? They derive that point from the end of the verse at hand: "It is your father's nakedness [even after death]."*
- BBB. *And R. Judah? He derives from that statement the fact that one is penalized on the count of her being his father's wife, but he is not penalized on the count that she is a married woman.*
- CCC. *But lo, we have learned in the Mishnah: **He who has sexual relations with his father's wife is liable on her account because she is his father's wife and also, because she is a married woman, whether this is in the lifetime of his father or after the death of his father [M. 7:4M-N].** And R. Judah does not express disagreement with that statement. [So how can he take the position just now imputed to him?]*
- DDD. *Said Abbaye, "He does not dispute it in the external teaching on Tannaite authority [but not in the Mishnah's version of the same matter]."*
- EEE. *And how do rabbis derive from Scripture that one who has sexual relations with his father's wife after his father's death is punished? Now from the viewpoint of R. Judah, there is no problem, for he finds evidence in an argument by analogy. But how do the rabbis prove the same point?*
- FFF. *They will say to you, "He has uncovered his father's nakedness" (Lev. 20:11), on the basis of which R. Judah establishes his argument by analogy, from our viewpoint serves to prove that one is punished if he has sexual relations with his father's wife after his father's death."*
- GGG. *And how do rabbis prove that he is punished if he has sexual relations with his mother who is not his father's wife?*
- HHH. *Said R. Shisha, son of R. Idi, "Scripture has said, 'She is your mother' (Lev. 18: 7). This shows that Scripture has treated his mother who is not his father's wife as equivalent to his mother who is his father's wife [on the basis of the analogy of the word mother]."*

### **III.1 A. He who has sexual relations with his daughter-in-law (M. 7:4P).**

- B. *[While the Mishnah imposes liability on the count of her being his daughter-in-law and on the count of her being another man's wife,] why not in addition impose a penalty on the count of her being his son's wife?*
- C. *Said Abbaye, "Scripture began its statement by referring to his daughter-in-law [at Lev. 28:15: 'You shall not uncover the nakedness of your daughter-in-law...she is your son's wife, you shall not uncover her nakedness'] and then concluded with a reference 'to his son's wife,' to tell you that his daughter-in-law falls into the same category as his son's wife, [and so a single count is involved]."*

Unit I.1 presents a different version of Judah's position, M. 7:4L, since the Mishnah does not introduce the issue of her not being "fit to be married" to the

father, while the external Tannaite version does add that consideration. That issue then carries in its wake the question of the grounds on which the woman is not fit to be married to her husband. So the exegetical interest lies in the explanation of the Tosefta's version. Unit II.1 introduces the more complicated question of the number of counts on which a person is going to be punished, the scriptural basis for the several views, and the diverse issues emerging on the basis of those facts. The discussion is substantial, but continuous and cogent. Unit III.1 then briefly raises the same question for M. 7:4P. So the Talmud ignores the bulk of the Mishnah's materials and deals principally with one clause only.

### 7:4S-V

- S. **He who has sexual relations with a male [Lev. 20:13, 15-16], or a cow, and the woman who brings an ox on top of herself.**
  - T. **if the human being has committed a sin, what sin has the beast committed?**
  - U. **But because a human being has offended through it, therefore the Scripture has said, "Let it be stoned."**
  - V. **Another matter: So that the beast should not amble through the market place, with people saying, "This is the one on account of which Mr. So-and-so got himself stoned."**
- I.1** A. *How do we know [on the basis of Scripture] that the penalty of pederasty is stoning?*
- B. *It is in line with what our rabbis have taught on Tannaite authority:*
  - C. ["If a man lies with a man, as the lyings of a woman, both of them have committed an abomination; they shall surely be put to death; their blood shall be upon them" (Lev. 20:13)]: "A man" — excluding a minor.
  - D. "...lies also with a man..." — whether adult or minor.
  - E. "...as the lyings of a woman..." — Scripture thus informs you that there are two modes of sexual relations with a woman.
  - F. Said R. Ishmael, "Lo, this comes to teach a lesson but is itself subject to a lesson. [Freedman, p. 367, n. 5: For the phrase "the lyings of a woman" is redundant insofar as it teaches that even unnatural pederasty is punishable, since all pederasty is such. Hence its teaching is thrown back upon itself, viz., that unnatural cohabitation is punishable when committed incestuously.]"
  - G. "They shall surely be put to death" — by stoning.
  - H. You say that it is by stoning. But perhaps it is by one of the other modes of inflicting the death penalty prescribed in the Torah.
  - I. Here it is stated, "Their blood shall be upon them," and in the case of the necromancer and the wizard, it is stated, "Their blood shall be upon them" is. Just as in that passage, the mode of execution is stoning, so here the mode of execution is stoning.
  - J. **[54B]** Accordingly, we have deduced the mode of execution. Whence do we derive an admonition [that the act is forbidden to begin with]?
  - K. Scripture states, "You shall not lie with mankind as with womankind; it is an abomination" (Lev. 18:22).

- L. From this passage we derive the admonition that applies to the one who lies [with the male].
- M. Where in Scripture do we find an admonition that applies to the passive partner?
- N. “Scripture states, ‘There shall be no sodomite among the sons of Israel’ (Deu. 23:18), and it is said, ‘And there were also sodomites in the land, and they did according to the abominations of the nations which the Lord has cast out before the children of Israel,’ (1Ki. 14:24). [Freedman, p. 368, n. 1: Just as abomination applies to sodomy in the latter verse, so it applies to it in the former too; thus it is as though the former verse read, ‘There shall be no sodomite among the sons of Israel, it is an abomination.’ And just as the ‘abomination’ implicit here applies to both parties, so the ‘abomination’ explicitly stated in Lev. 18:22 refers to both],” the words of R. Ishmael.
- O. R. Aqiba says, “It is not necessary [to derive proof in that way]. Lo, Scripture says, ‘You shall not lie with mankind as with womankind’ (Lev. 20:13). Read it as, ‘You shall not be lain with....’”

- II.1 A. [He who has sexual relations...a cow:]** How on the basis of Scripture do we know that the rule applies to a beast?
- B. *It is in accord with that which our rabbis have taught on Tannaite authority:*
  - C. [“And if a man lie with a beast, he shall surely be put to death, and you shall slay the beast” (Lev. 20:15)]: “A man” — excludes a minor.
  - D. “...lie with a beast” — whether young or mature.
  - E. “He shall surely be put to death” — by stoning.
  - F. You say that it is by stoning. But perhaps it is by one of the other modes of inflicting the death penalty that are prescribed in the Torah.
  - G. Here it is stated, “And you shall kill the beast,” and elsewhere it is stated, “You shall surely kill him [and you shall stone him with stones]” (Deu. 13:10).
  - H. Just as, in that passage, the mode of execution is stoning, so here, too, the mode of execution is stoning.
  - I. In this way we have learned how the penalty is inflicted on one who has sexual relations [with a beast].
  - J. Whence do we learn that the same penalty applies to [the beast] who is so treated?
  - K. Scripture says, “Whosoever lies with a beast shall surely be put to death” (Exo. 22:18).
  - L. Now since this passage is not required to deal with the one who has sexual relations with the beast [who is dealt with in the passage just now cited], then apply it to the beast with which a man has sexual relations.
  - M. So we have derived the penalty applying both to the active and to the passive party.
  - N. Whence do we derive an admonition [that one not to do so]?
  - O. Scripture states, “Neither shall you lie with any beast to defile yourself with it” (Lev 18:23).
  - P. “In this passage we derive an admonition for the one who as sexual relations with a beast.



- Q. “Whence do we derive an admonition against permitting a beast to have sexual relations with a human being?
- R. “Scripture says, ‘There shall be no sodomite of the sons of Israel, (Deu. 23:18), and elsewhere it is stated, ‘And there were also sodomites in the land...’ (1Ki. 14:24),” the words of R. Ishmael.
- S. R. Aqiba says, “This proof is not necessary. Lo, Scripture says, ‘You shall not lie with any beast’, meaning, you shall not permit any sort of lying.”

**II.2 A.** He who has sexual relations with a male or serves as a passive partner of a male —

- B. Said R. Abbahu, “In the view of R. Ishmael, he is liable on two counts, one on the count of, ‘You shall not lie with mankind,’ and the other on the count, ‘There shall not be a sodomite of the sons of Israel.
- C. “But on the view of R. Aqiba, he is liable on only one count, ‘You shall not lie’ and ‘you shall not be lain with’ constitute a single statement [each one based on revocalization of a single passage].”
- D. He who has sexual relations with a beast and he who serves as a passive partner of a beast —
- E. “Said R. Abbahu, “In the view of R. Ishmael, he is liable on two counts, one based on, ‘You shall not lie with any beast,’ and the other based on, ‘There shall be no sodomite of the sons of Israel.’
- F. “But in the view of R. Aqiba, he is liable only on one count, since, ‘your lying’ and ‘your being lain with’, constitute a single admonition.”
- G. Abbayye said, “Even in the view of R. Ishmael, one is liable on only one count. For ‘There shall be no sodomite’ speaks of sexual relations among men [not beasts].”
- H. *Then what is the scriptural basis, in R. Ishmael’s view, for an admonition against playing the passive partner [with a beast]?*
- I. *One may derive it from the following verse: “Whosoever lies with a beast shall surely be put do death” (Ex: 23:18). Now if this does not refer to one who takes the active part [since that matter is covered by Lev. 18:23], apply it to the one who takes the passive role. The All-Merciful thus refers to the passive partner in the language applying to the active partner, so indicating that, just as the active partner is subject to a penalty and an admonition, so the passive partner is subject to a penalty and an admonition.*

**II.3 A.** He who is a passive partner for a male and for a beast —

- B. Said R. Abbahu, “In the view of R. Aqiba, he is liable on two counts, one on the count of, ‘You shall not lie [with mankind]’ (Lev. 18: 2), and the other on the count, ‘You shall not lie [with any beast]’ (Lev. 18:23).
- C. “But in the view of R. Ishmael, he is liable on only one count, both items deriving from the verse, ‘There shall be no sodomite’ (Deu. 23:18).”
- D. *Abbayye said, “Even in the view of R. Ishmael, he is liable on two counts, for it is written, ‘Whosoever lies with a beast shall surely be put to death’ (Exo. 22:18). If*

*this does not refer to the active partner [since that is dealt with elsewhere], apply the verse to the passive partner.*

- E. *“And the All-Merciful has singled out the passive partner with a phrase referring to the active partner to indicate that, just as the active partner is subject to a penalty and an admonition, so the passive partner is subject to a penalty and an admonition.”*
- F. But one who has sexual relations with a male or serves as a passive partner for him, and one who has sexual relations with a beast or serves as a passive partner for him, whether in the view of R. Abbahu and whether in the view of Abbaye,
- G. so far as R. Ishmael is concerned is liable on three counts,
- H. and so far as R. Aqiba is concerned, is liable on two counts.

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

- B. As to sexual relations with a male, sages have not treated a minor boy as equivalent to an adult, but as to sexual relations with a beast, sages have treated a minor girl as equivalent to an adult.
- C. *What is the meaning of “sages have not treated a minor boy as equivalent to an adult?”*
- D. Said Rab, “They have not treated sexual relations of a male less than nine years old as equivalent to sexual relations of a male of nine years [or older].”
- E. And Samuel said, “They have not treated sexual relations with a minor girl less than three years as equivalent to sexual relations with a minor girl of three years [or older].”
- F. *What principle is under dispute?*
- G. *Rab takes the view that whoever is subject to laws governing sexual relations with another is subject to the laws governing a passive partner, and whoever is not subject to the laws governing sexual relations with another is not subject to the laws governing a passive partner. [The nine-year-old is able to have sexual relations so is subject to the prohibition of serving as a passive partner].*
- H. *And Samuel takes the view that what is written is “...as with the lyings of a woman” (Lev. 18:22, [which take effect from the age of three years].*
  - I. *It has been taught in accord with the view of Rab on Tannaite authority:*
  - J. A male nine years and one day old **[55A]** who has sexual relations with a beast, whether vaginally or anally, and a woman who serves as passive partner to a beast, whether in vaginally or anally, is liable.

**III.1 A.** **[and the woman who brings an ox on top of herself:]** R. Nahman son of R. Hisda expounded, “In the case of a woman there are two ways in which sexual relations may take place, but in the case of a beast, only one.” [Freedman, p. 372, n.1: The reference is to bestiality. If a woman allows herself to be made the subject thereof, whether naturally or not, she is guilty. But if a man commits bestiality, he is liable only for a connection in a natural manner, but not otherwise. — Thus Rashi. Tosafot, more plausibly, explains it thus: If one commits incest or adultery with a woman, whether naturally or not, guilt is incurred; but bestiality is punishable only for a connection in a natural manner, but not otherwise.]

- B. *R. Pappa objected, "To the contrary, in the case of a woman, since it is the natural thing, one is liable only on account of normal sexual relations, but as to 'some other thing' one should not be liable. In the case of a beast, in which the entire procedure is not natural, one should be liable on account of having sexual relations with any orifice at all."* [Freedman, p. 372, n.2: The meaning according to the interpretation of Tosafot is clear. Yet R. Pappa's objection is not made in order to prove that unnatural incest is not culpable (which, in fact, it is), but that if a distinction is to be drawn, unnatural bestiality is far more likely to be liable than unnatural incest. On Rashi's interpretation, R. Pappa's objection is explained thus: Since a woman is naturally the passive object of sexual intercourse, it follows that she should be punished for bestiality only when the connection is carried out in a natural way. But as man is the active offender in an unnatural crime he should be punished even for unnatural connection. It must be confessed that this is not without difficulty, and hence Tosafot rejects Rashi's explanation, which is based on a slightly different reading.]

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

- B. A male nine years and one day old who has sexual relations with a beast, whether via the vagina or the anus,  
 C. And a woman who has sexual relations with a beast, whether via the vagina or the anus, is liable.

### **III.3** A. Said Rabina to Raba, "As to him who commits the first stage of sexual relations with a male, what is the law?"

- B. What is the law? He who commits the first stage of sexual relations with a male falls into the category of the verse of Scripture, "...with mankind as with womankind" (Lev. 18:20)  
 C. But as to one who commits the first stage of sexual relations with a beast, what is the law?  
 D. *He said to him, "Since [Freeman:] the culpability of the first stage of incest, which is explicitly stated with reference to one's paternal or maternal aunt, is redundant there, for it is likened to the first state of intercourse with a menstruating woman, apply its teaching to the first stage of bestiality [as being punishable].* [Freedman, p. 372-3, n.6: In respect of one's paternal or maternal aunt, Scripture states, 'And you shall not uncover the nakedness of your mother's sister or of your father's sister, for he uncovers his near kin' (Lev. 20:19). The word for 'he uncovers' is understood as meaning the first stage of sexual intercourse, and this verse teaches that this is a culpable offense. But this teaching is superfluous, for in the preceding verse the same is taught of a menstruating woman, which serves as a model for all forbidden human sexual intercourse. Hence the teaching, being redundant, here is applied to the first stage of bestiality.]"  
 E. *Now since sexual relations with a beast constitute a crime punishable by death at the hands of a court, why should Scripture treat the commission of the first stage of such an act as subject to liability to extirpation? [That is the punishment for sexual relations with an aunt.] It should rather have been stated with respect to crimes punishable by death at the hand of a court, so that one might derive*

*liability to the death penalty in a court from a crime which is likewise subject to the death liability.*

- F. *Since the entire verse at hand [Lev. 20:19, on sexual relations with an aunt] is stated for the purpose of deriving new rulings, another such derivation is included in the verse.*

**III.4** A. R. Ahadboi bar Ammi asked R. Sheshet, “He who reaches the first stage of sexual activity through masturbation — what is the law?”

- B. *He said to him, “You disgust us.”*

- C. *Said R. Ashi, “What is the issue that troubles you? In the case at hand it is not possible. Where it is possible is where one has sexual relations with a flaccid penis. In the view of him who ruled that he who has sexual relations, with a flaccid penis, with consanguineous relations is exempt from all penalty, here too such a one is exempt. And in the view of him who ruled that such a one is liable, here too he is liable, on two counts, since he is [Freedman:] simultaneously the active and passive partner of the deed.”*

**III.5** A. *The question was asked of R. Sheshet, “As to an idolator who had sexual relations with a beast — what is the law? [For the stoning of the beast], we require both a stumbling stock and disgrace, and while the beast indeed is a stumbling block, there is no consideration of disgrace [since gentiles do this sort of thing routinely]. Or perhaps if there is a stumbling block even though there is no consideration of disgrace, [the beast is put to death].”*

- B. *Said R. Sheshet, “You have learned on Tannaite authority: ‘If trees, which neither eat nor drink nor breathe, are subject to the decree of the Torah to be destroyed and burned up [at Deu. 12:3, “And you shall burn their groves with fire”], because they have served man as a stumbling block, he who diverts his fellow from the paths of life to the paths of death how much the more so!’ [The beast, then, should be destroyed.]”*

- C. *In that case, what about the case of an idolator who worships his beast? Should it not be forbidden and put to death?*

- D. *But is there anything which is not forbidden for an Israelite but is forbidden for a gentile? [If an Israelite worships his cow, it is not forbidden. So there surely can be no prohibition if a gentile worships it.]*

- E. *But if an Israelite worshipped it, it should be forbidden, along the lines of a beast that is subjected to sexual relations by a man.*

- F. *Said Abbaye, “In that case [that of an act of bestiality], the disgrace is great, while in this case [animal worship] the disgrace is little.”*

- G. *But take the case of trees [as above, Deu. 12:3], in which the disgrace is slight, and the Torah has said that they are to be burned and destroyed.*

- H. *We speak of the case of animate creatures, on which the All-Merciful has had pity. [Freeman, p. 275, n.2: Hence, only where there is much degradation, as in bestiality, is an animal destroyed; but trees are destroyed even when the disgrace is not great.]*

- I. *Raba said, “The Torah has said that it is because the animal derived benefit from the sin that it is to be put to death.”*

- J. But lo, the trees did not derive benefit from the sin, and the Torah has said that they are to be burned and destroyed.
- K. *We speak of the case of animate creatures, for the All-Merciful has had pity on them.*
- L. [Answering the question with which we began,] *come and take note: Another matter: So that the beast should not amble through the market place, with people saying, “This is the one on account of which Mr. So-and-so got himself stoned: [M. 7:4V]. Now since this second reason [55B] involves both a stumbling block and disgrace, does the first reason [at M. 7:4U, “Because a human being has offended through it”] involve a stumbling block with disgrace, for instance, when a gentile has sexual relations with a beast?*
- M. *No, the considerations in the second of the two reasons involve both a stumbling block and disgrace. And as to the first of the two reasons, what is proposed to tell us is that, even in a case where there is disgrace without a stumbling block, there also would be liability.*
- N. *What would that involve? It would be the case of an Israelite who by inadvertence had sexual relations with a beast, in accord with the inquiry of R. Hamnuna. [Freedman, p. 375, n.7: When bestiality is committed in ignorance, one has not sinned, yet he has greatly degraded himself.]*
- O. *For R. Hamnuna raised the question, “In the case of an Israelite who inadvertently had sexual relations with a beast, what is the law? We require both a stumbling block and disgrace, and here, while we do have a matter of disgrace, we do not have a stumbling block. Or perhaps it suffices that there be disgrace even though there is no consideration of a stumbling block.”*
- P. [Answering the question with which we began,] *said R. Joseph, “Come and take note: 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 one can be held 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 [of what lies beneath]. If she was married to a priest, she may eat food in the status of priestly rations. If one of those who are unfit for marriage with her had intercourse with her, he has rendered her unfit to marry into the priesthood. If any of those who are forbidden in the Torah to have intercourse with her had intercourse with her, he is put to death on her account, but she is free of responsibility [M. Nid. 5:4]. Any of those who are forbidden — even a beast! And lo, in this case there is disgrace, but there is no consideration of a stumbling block, and yet it is taught that such a one is put to death on her account.”*
- Q. *In that case, since the girl does it intentionally, there also is the consideration of a stumbling block, but it is the All-Merciful who has had pity on her — on her, not on the beast.*
- R. [Answering the question with which we began,] *said Raba, “Come and take note: A boy nine years and one day old who had intercourse with his childless brother’s widow has acquired her. But he cannot give her a writ of divorce until he comes of age. And he is made unclean by a menstruating woman, to*

convey uncleanness to the lower as to the upper layer. And he disqualifies, but does not render a woman qualified to eat heave-offering. And through bestiality he spoils a beast for use on the altar, and it is stoned on his account. And if he had intercourse with any of all the prohibited relationships stated in the Torah, they are put to death on his account. But he is free of responsibility [M. **Nid. 5:5**]. *Now here is a case where there is disgrace but no stumbling block, and it is taught that it is stoned on his account!"*

- S. *Since it was a deliberate act, it also was a stumbling block, and it is the All-Merciful that had pity on him — on him the All-Merciful had pity, but not on the beast.*
- T. [Answering the question with which we began,] *Come and take note: Another matter: So that the beast should not amble through the market place, with people saying, "This is the one on account of which Mr. So-and-so got himself stoned" [M. 7:4V]. Now is it not the case that, since the second of the two reasons deals with a case in which there was a stumbling block and also disgrace, in the first of the two reasons we have a disgrace without a stumbling block? And what would such a case involve? An Israelite who inadvertently had sexual relations with a beast.*
- U. *No, the second of the two reasons involves a stumbling block and a disgrace, and the first involves a stumbling block without disgrace. And what would such a case involve? An idolator who had sexual relations, along the lines of the question addressed to R. Sheshet.*

Unit I.1 provides a scriptural basis for the law of M. 7:4S, that stoning applies to the sin at hand. Unit II.1 goes on to the execution of the cow of M. 7:4S. Unit III.1 then raises a secondary question, flowing from unit II, and unit III.2 is continuous with unit III.1. The further units ten develop themes pertinent to the rule at hand but in no way constructed to serve as exegesis or amplification for that rule.

## 7:5

- A. **He who blasphemes [M. 7:4D1] [Lev. 24:10] is liable only when he has fully pronounced the divine Name.**
- B. **Said R. Joshua b. Qorha, [56A] "On every day of a trial they examine the witnesses with a substituted name, [such as], 'May Yosé smite Yosé.'**
- C. **"[Once] the trial is over, they would not put him to death [on the basis of evidence given] with the substituted euphemism, but they clear the court and ask the most important of the witnesses, saying to him, 'Say, what exactly did you hear [in detail]?"**
- D. **"And he says what he heard.**
- E. **"And the judges stand on their feet and tear their clothing, and never sew them back up.**
- F. **"And the second witness says, 'Also I [heard] what he heard.'**
- G. **"And the third witness says, 'Also I [heard] what he heard.'"**
- I.1 A.** *A Tannaite authority [states], "... When he has cursed the divine Name by Name."*
- B. *What is the source of this rule?*



- C. *Said Samuel, "It is because Scripture has stated, 'And he who blasphemes the name of the Lord...when he blasphemes the name of the Lord shall be put to death' (Lev. 24:16). [Freeman: The repetition shows that the Divine Name must be cursed by the Divine Name]."*
- D. *How do we know that the word, "blaspheme" means curse?*
- E. *Because it is written, "How shall I curse [using the same root] whom God has not cursed" (Num. 23: 8).*
- F. *The admonition not to do so derives from here: "You shall not curse God" (Exo. 22:27).*
- G. *And might I suggest that the same word means "to pierce," [so that one may not rip up a piece of paper on which the divine Name is written]?*
- H. *For it is written, "[So Jehoiada the priest took a chest] and [using the same root] pierced a hole in the lid of it" (2Ki. 12:10).*
- I. *And the admonition would derive from here: "You shall destroy the names of the [idols] out of that place. You shall not do so to the Lord your God" (Deu. 12:3-4).*
- J. *We require that the Name be cursed by use of the divine Name, and that is not present [in the cited passage].*
- K. *But perhaps what is involved is placing two slips with the divine Name together, and piercing both of them?*
- L. *Then that would be a case in which one pierced the one and only then pierced the other [not piercing one with the other simultaneously].*
- M. *And might I suggest that what is involved is engraving the divine Name on the point of a knife and with that knife piercing [a slip on which the divine Name is written]?*
- N. *But then it is the point of the knife that does the piercing.*
- O. *And might I suggest that what is involved is the pronunciation of the Name. For it is written, "And Moses and Aaron took these men who were identified [using the same root] by their names" (Num. 1:17), with the admonition against doing so in the following: "You shall fear the Lord your God" (Deu. 6:13)?*
- P. *First, we require cursing of the Name by the use of the Name, and that is absent. Furthermore, you have here the case of an admonition in the form of an affirmative commandment, and an admonition in the form of an affirmative commandment does not fall into the category of an admonition at all.*
- Q. *If you like, I shall suggest that Scripture has said, "And the Israelite woman's son blasphemed and cursed" (Lev. 24:11), indicating that blasphemy takes the form of a curse.*
- R. *Than perhaps the prohibited deed involves doing both [blaspheming and cursing]?*
- S. *Do not let it enter your mind, for it is written, "Bring forth him who has cursed" (Lev. 24:14), and it is not written, "Bring forth him who blasphemed and cursed." [That proves that only a single action is involved.]*

## **The Religious Obligations of the Children of Noah: Idolators and Slaves**

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



- B. ["Any man who curses his God shall bear his sin" (Lev. 24:15)]: [It would have been clear had the text simply said,] "A man." Why does it specify, "Any"?
- C. It serves to encompass idolators, who are admonished not to curse the Name, just as Israelites are so admonished.
- D. And they are put to death only by decapitation, for the sole form of inflicting the death penalty in the case of the sons of Noah is by decapitation.
- E. *How do we deduce from the cited verse [that idolators are not to blaspheme]?*
- F. *It derives from the following verse: "The Lord" (Gen. 2:16) [each word of the verse at hand being subjected to an exegetical exercise, as we shall see below] signifies that cursing the divine Name [is forbidden for gentiles as much as for Israelites].*
- G. *Said R. Isaac the Smith, "The phrase cited earlier ['any man'] serves to encompass even the use of euphemisms, and it is framed in accord with the principle of R. Meir."*
- H. *For it has been taught on Tannaite authority:*
- I. "'Any man who curses his God shall bear his sin' (Lev. 24:15).
- J. "Why is this passage stated? Is it not already said, 'And he who blasphemes the name of the Lord shall surely be put to death' (Lev. 24:16)?
- K. "Since that passage specifies, '...blasphemes the Name....,' one might think that a person is liable only on account of cursing the ineffable Name. How do I know that encompassed within the prohibition are also euphemisms?
- L. "Scripture states, 'Any man who curses his God' — in any manner whatsoever," the word of R. Meir.
- M. And sages say, "On account of using the ineffable Name, one is subject to the death penalty, but as for euphemisms, one is subject to the admonition [not to do so, but not to the death penalty if he does so]."
- N. *[Isaac's view] differs from that of R. Miasha.*
- O. For R. Miasha said, "A son of Noah who cursed the Name by using euphemisms in the opinion of rabbis is liable [to the death penalty].
- P. *"What is the scriptural basis for that claim? Scripture has said, 'As well the stranger as he that is born in the land [when he blasphemes the name of the Lord shall be put to death]' (Lev. 24:16). So in the case of the proselyte or the homeborn [before we inflict the death penalty] we require cursing by the use of the divine Name in particular, but in the case of the idolator, even if he uses only a euphemism [he is subject to the death penalty]."*
- Q. *Then how [within this theory] does R. Meir interpret the words, "as well the stranger as he that is born in the land"?*
- R. The proselyte and the homeborn [who are guilty of blasphemy] are put to death by stoning, but the idolator [who is guilty of blasphemy] is put to death by decapitation.
- S. *One might have supposed that, since the law was extended to encompass them, it encompassed them for all purposes. So we are informed that that is not the case.*
- T. *And as to the theory of R. Isaac the Smith vis a vis rabbis, how are we to interpret the phrase, "as well the stranger as he that is born in the land"?*

- U. *We require that phrase to indicate that [in the case of an Israelite, guilt is incurred only if he curses] the divine Name by using the divine Name, while in the case of the idolator, we do not require the use of the divine Name in cursing the divine Name [before we impose a penalty].*
- V. Why then has Scripture used the phrase, “When any man...”? The Torah speaks in the language used by ordinary men.

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

- B. **Concerning seven religious requirements were the children of Noah commanded: setting up courts of justice, idolatry, blasphemy, [cursing the Name of God], fornication, bloodshed, thievery, and cutting a limb from a living beast [T. A.Z. 8:4].**
- C. **[56B] R. Hananiah b. Gamaliel says, “Also on account of blood deriving from a living beast.”**
- D. **R. Hidqa says, “Also on account of castration.”**
- E. **R. Simeon says, “Also on account of witchcraft.”**
- F. **R. Yosé says, “On account of whatever is stated in the pericope regarding the children of Noah are they subject to warning, as it is said, ‘There shall not be found among you any one who burns his son or his daughter as an offering, any one who practices divination, a soothsayer or an augur or a sorcerer or a charmer or a medium or a wizard or a necromancer’ (Deu. 18:10-11).**
- G. **“Is it possible then that Scripture has imposed a punishment without imparting a prior warning?”**
- H. **“But it provides a warning and afterward imposes the punishment.**
- I. **“This teaches that he warned them first and then punished them.”**
- J. **R. Eleazar says, “Also as to mixed seeds, it is permitted for a child of Noah to sow seeds which are mixed species and to wear garments of mixed species of wool and linen. But it is prohibited to breed a hybrid beast or to graft trees” [T. A.Z. 8:6K-O, 8:7, 8:8].**
- K. *What is the scriptural basis for this rule?*
- L. *Said R. Yohanan, “It is in the following verse of Scripture: ‘And the Lord God commanded Adam saying, Of every tree of the garden you may freely eat’ (Gen. 2:16).*
- M. **“‘And he commanded’ — this refers to setting up courts of justice, for Scripture says, ‘For I know him, that he will command his children and his household after him, and they shall keep the way of the Lord, to do justice and judgment’ (Gen. 18:19).**
- N. **“‘The Lord’ — this refers to blasphemy, and so it is written, ‘And he who blasphemes the name of the Lord shall surely be put to death’ (Lev. 24:16).**
- O. **“‘God’ — this refers to idolatry, as it is written, ‘You shall have no other gods before me’ (Exo. 20: 3).**
- P. **“‘Adam’ — this refers to murder, as it is written, ‘Whoever sheds the blood of a man, by man shall his blood be shed’ (Gen. 9: 6).**

- Q. “‘Saying’ — this refers to adultery, as it is written, ‘They say, If a man put away his wife and she go from him and became another man’s (Jer. 3: 1). [Freedman, p. 383, n.5: Thus ‘saying’ is used in connection with adultery.]
- R. “‘Of every tree of the garden’ — but not of robbery. [A person may not eat what does not belong to that person. Freedman, p. 383, n. 6: Since it was necessary to authorize Adam to eat of the trees of the garden, it follows that without such authorization—when something belongs to another—it is forbidden.]
- S. “‘You may freely eat’ — but not a limb cut from a living animal.”
- T. *When R. Dimi came, he repeated matters in reverse:*
- U. “‘God’ — this refers to courts of justice.”
- W. *Surely “God” refers to courts of justice, for it is written, “And the householder will come near to God” (Exo. 22: 7).*
- X. *But on what basis do we conclude that, “And he commanded” refers to idolatry?*
- Y. *R. Hisda and R. Isaac bar Abedimi: One said, “‘They have turned aside quickly out of the way which I commanded them; they have made them a molten calf’ (Exo. 32: 8).”*
- Z. *The other said, “‘Ephraim is oppressed and broken in judgment, because he willingly walked after the commandment’ (Hos. 5:11) [in which context, ‘commandment’ speaks of idolatry].”*
- AA. *What is at issue between them?*
- BB. *At issue is the case of an idolator who made an idol but did not bow down to it.*
- CC. *In the view of him who has said that [the prohibition of gentiles’ idol-worship is in the verse,] “They have made them a golden calf,”] one is liable from the time of the making of the idol [even without worshipping it].*
- DD. *In the view of him who has said that the source of the prohibition is in the verse, “Because he willingly walked after the commandment,” one is liable only after he has followed the idol and worshipped it.*
- EE. Said Raba, “And is there anyone who maintains that if an idolator merely makes an idol but does not worship it, he is liable? *Has it not been taught on Tannaite authority: **On account of things for which an Israelite court inflicts the death penalty, the children of Noah are subject to warning. If the Israelite court does not inflict a death penalty, the children of Noah are not admonished concerning such actions** [cf. T. A.Z. 8:4G]. What then is excluded by that statement? Is it not to exclude the case of an idolator who made an idol but did not bow down to it [an act for which a court will not inflict the death penalty on an Israelite]?”*
- FF. *Said R. Pappa, “No, it serves to exclude the acts of embracing and kissing idols [which actions are not punishable].”*
- GG. *Embracing and kissing what sort of idols? If I should say that it refers to doing so with an idol that is usually worshipped in this way, then such a one is subject to the death penalty anyhow. Rather, it serves to exclude*

*[punishment for doing so with idols that are] not usually worshipped in this way.*

- HH. **Setting up courts of justice:** *Are the children of Noah subject to a commandment in this regard? And has it not been taught on Tannaite authority:* The Israelites were given ten commandments at Marah, seven of which the children of Noah had already accepted, to which were added [for Israel] the laws of setting up courts of justice, observing the Sabbath, and honoring father and mother. **Courts of justice**, as it is written, “There [at Marah] he made for them a statute and an ordinance” (Exo. 15:25). **Sabbath observance, and honoring of father and mother**, as it is written, “as the Lord thy God commanded thee” (Deu. 5:15 and 5:16). [The term “commanded thee,” used in both the fourth and fifth commandments, suggests that both of these had been given before the giving of the Decalogue at Sinai. These must therefore constitute the statute and ordinance of Marah.]
- II. Said R. Judah, “‘As he commanded thee’ refers to the events at Marah.”
- JJ. Said R. Nahman in the name of Rabbah bar Abbuha, “[The commandment at Marah] served to institute trial by an assembly of judges, with witnesses and formal admonition.”
- KK. *If so, why say “to which courts of justice were added” [since that addition involved only legal procedure and not actual laws]?*
- LL. Rather, said Raba, “[The commandment at Marah] served to institute penal fines.”
- MM. *But even so, should it not have been said, “and courts of justice were added”?*
- NN. *Rather, said R. Aha b. Jacob, “[The commandment at Marah] served to indicate that they must establish courts in every district and town.”*
- OO. *But were not the children of Noah already commanded to do this? And has it not been taught on Tannaite authority: **Just as Israelites are commanded to call into session in every district and town courts of justice, so the sons of Noah were commanded to call into session in every district and town courts of justice [T. A.Z. 8:4D].***
- PP. *Rather, said Raba, “The Tannaite authority at hand [who claims that the requirement to establish courts of justice in gentile communities was added at Marah, and not earlier] is a Tannaite authority of the house of Manasseh, who omits references, in the list of the commandments to the sons of Noah, to courts of law and to blasphemy, and instead adds to the list the prohibitions of emasculation and mixing seeds. For a Tannaite authority of the house of Manasseh [said], ‘Seven commandments were assigned to the children of Noah: the prohibition of idolatry, adultery, murder, robbery, cutting a limb from a living creature, emasculation, and mixing seeds.’*
- QQ. “R. Judah says, ‘The first man was commanded only concerning idolatry, for it is said, “And the Lord God commanded Adam” (Gen. 2:16).’
- RR. “R. Judah b. Baterah says, “‘Also concerning cursing the divine Name.’”
- SS. “And there are those who say, “‘Also concerning setting up courts of justice.’”
- TT. *In accord with which authority is the following statement that R. Judah said Rab said, “[God said to Adam,] ‘I am God. Do not curse me. I am God. Do not exchange me for another. I am God. Let my fear of me be upon you [and so establish justice].*

- UU. *In accord with whom? It is in accord with “there are those who say.”*
- VV. *Now if the Tannaite authority of the house of Manasseh interprets the verse, “And God commanded...” (Gen. 2:16), then even these other [commandments, listed earlier, also should be on his list, and not only the ones he includes]. If he does not interpret the verse, “And God commanded...” (Gen. 2:16), then what is the scriptural basis for the items he does include?*
- WW. *Indeed he does not interpret the cited verse, and he derives each item from a verse of its own.*
- XX. *As to idolatry and adultery, [57A] it is written, “The earth also was corrupt before God” (Gen. 6:11), and a Tannaite authority of the house of R. Ishmael [taught], “In every passage in which it is stated, ‘was corrupt,’ the reference is always to adultery and idolatry.*
- YY. *Adultery, as it is said, ‘For all flesh had corrupted its way upon the earth’ (Gen. 5:11).*
- ZZ. *Idolatry, for it is written, ‘Lest you corrupt yourselves and make you a graven image...’ (Deu. 4:16).*
- AAA. *And the other party [who interprets the verse, “And the Lord commanded...” (Gen. 6:11)]?*
- BBB. *The cited verse simply reveals the way they did things.*
- CCC. *Murder, as it is written, “Whoever sheds a man’s blood...” (Gen. 9: 6).*
- DDD. *And the other party?*
- EEE. *The verse at hand simply indicates that [murderers] are to be executed.*
- FFF. *Robbery, as it is written, “As the wild herbs, have I given you all things” (Lev. 9: 3), and R. Levi said, “As the wild herbs and not as garden herbs [which belong to private individuals].”*
- GGG. *And the other party? The cited verse serves the purpose of permitting people to eat meat.*
- HHH. *Cutting a limb from a living animal, as it is written, “But flesh with the life thereof, which is the blood thereof, shall you not eat” (Gen. 9: 4).*
- III. *And the other party? That verse serves to permit people to eat creeping things.*
- JJJ. *Emasculation, as it is written, “Bring forth abundantly in the earth and multiply therein” (Gen. 9: 4).*
- KKK. *That verse serves merely to speak of a blessing in general.*
- LLL. *Mixing seeds, as it is written, “Of fowl after their kind” (Gen. 6:20).*
- MMM. *And the other party? That refers to mating [indicating merely that the species mate more readily with one another than with outsiders.*

- I.4 A.** *Said R. Joseph, “[Disciples] of the house of one master said, ‘On account of [violating] three religious duties are children of Noah put to death: on account of adultery, murder, and blasphemy.’”*
- B.** *To this statement, R. Sheshet objected, “There is no problem with regard to murder, for it is written, ‘Whoever sheds the blood of man by man shall his blood be shed’ (Gen. 9: 6). But what is the source for the other two? If one derives*

*them from the matter of murder, then all of them should also be subject to the death penalty, and not only those listed. If it is because they are included through the reference to 'any man' (Lev. 24:15, Lev. 18:6, thus covering blasphemy and adultery), then they should also encompass idolatry [from the use of the phrase, 'any man [at Lev. 20:2]."*

- C. *Rather, said R. Sheshet, "[Disciples] of the house of one master have said, 'On account of four commandments a son of Noah may be put to death [on account of idolatry, plus those listed at A]."*
- D. *And is a son of Noah put to death on account of idolatry?*
- E. *And has it not been taught with reference to idolatry: **Because of matters on account of which an Israelite court inflicts the death penalty, the children of Noah are subject to warning [T. A.Z. 8:4G].** They are subject to warning, but they are not put to death.*
- F. *Said R. Nahman bar Isaac, "A warning that pertains to them constitutes also a sentence of death."*

**I.5 A.** *R. Huna, R. Judah, and all the disciples of Rab say, "On account of seven commandments a son of Noah is put to death. *The All-Merciful revealed that fact of one of them, and the same rule applies to all of them.*"*

- B. *Is a son of Noah put to death on account of robbery? And has it not been taught on Tannaite authority: **Concerning robbery: if one has stolen or robbed and so too in the case of stealing a beautiful captive woman and in similar cases, a gentile doing so to a gentile, or a gentile doing so to an Israelite — it [what is stolen] is prohibited. And an Israelite doing so to a gentile — it [what is stolen] is permitted [T. A.Z. 8:5C-E].** Now if matters were [as you say], should it not teach, "One is liable," [not "permitted", treating only the stolen object]!*
- C. *It is because the framer of the passage wished to repeat at the end, "**An Israelite doing so to a gentile — it [the stolen object] is permitted,**" that he used the language in the opening clause, **It is prohibited.**'*
- D. *But in every passage in which there is liability to a penalty, it is made explicit, for the opening clause states: **Concerning bloodshed, a gentile who kills a gentile, and a gentile who kills an Israelite are liable, but an Israelite who kills a gentile is exempt [T. A.Z. 8:5A-B].***
- E. *In that passage how else might the framer of the passage expressed matters? Could he have said, "It is forbidden..it is permitted..."? [Surely not.]*
- F. *And has it not been stated on Tannaite authority: **Gentiles and shepherds of small cattle and those who raise them make no difference one way or the other [in figuring out whose lost object to seek first] [T. B.M. 2:33A].***
- G. ***And similar acts, in the case of robbery: what would be an example?** Said R. Aha bar Jacob, "It is necessary only to cover the case of a worker in a vineyard [who munches as he eats]." But when would this be culpable? If it is at the time that the work is complete, then it is permitted. If it is not at the time that the work is complete, it is a perfectly standard form of robbery.*
- H. *Rather, said R. Pappa, "It is necessary to take account of robbery of something of value of less than a perutah."*



- I. *If that is the case, why should it be stated that if a Samaritan does so to an Israelite, it is forbidden [to keep the object]? Does [the Israelite] not write off the object?*
- J. *Granted that afterward he indeed does write off the object, at the time that [the theft] takes place, it does give distress to the owner.*
- K. *[Now you say that] the commission of such an act by one Samaritan against another falls into the same category of similar acts. But since [we assume that] the Samaritan will not write off the object, it again is a perfectly standard form of robbery.*
- L. But R. Aha the son of R. Iqa says, "It covers the case of one who withholds the wages of a hired man. A gentile who does so to a gentile, or a gentile who does so to an Israelite, are liable. But an Israelite who does so to a gentile is exempt."
- M. And similar acts **in the case of a beautiful captive woman**: *what would be an example?*
- N. When R. Dimi came, he said R. Eleazar said R. Hanina said, "A son of Noah who designated a slave-girl for his slave-boy and [thereafter] had sexual relations with her is put to death on that account."
- O. *And similar acts in the case of murder is not listed at all in the Tannaite teaching.*
- P. Said Abbaye, "If it were found to have been taught on Tannaite authority, then it would represent the view of R. Jonathan b. Saul."
- Q. *For it has been taught on Tannaite authority:* R. Jonathan b. Saul says, "[If a man] pursues his fellow to kill him, and [the pursued] could save himself by lopping off one of the [pursuer's] limbs and did not do so [but rather killed him], **[57B]** he is put to death on his account."
- L.6 A.** *R. Jacob bar Aha found that it was written in the book of the lore of the house of Rab, "A son of Noah is put to death by a court consisting of a single judge,*
- B. *"on the testimony of a single witness,*
- C. *"not after appropriate admonition,*
- D. *"on the testimony of a man but not on the testimony of a woman,*
- E. *"but even if the witness is a relative."*
- F. In the name of R. Ishmael it is said, "He is put to death even for the murder of an embryo."
- G. *What is the source of this statement?*
- H. Said R. Judah, "Scripture says, "'And surely the blood of your lives will I require". (Gen. 9: 5)
- I. "[The fact that it is I who shall require" indicates that] it may be a court made of even one judge alone.
- J. "'At the hand of every thing will I require it' (Gen. 9: 5) — even without admonition.
- K. "'And at the hand of man' (Gen. 9: 5) — even a single witness.
- L. "'At the hand of man' (Gen. 9: 5) — not at the hand of a woman.
- M. "'His brother' — even a relative."
- N. In the name of R. Ishmael it is said, "He is put to death even for the murder of an embryo."



- O. *What is the scriptural basis of the view of R. Ishmael?*
- P. Since it is written, “Whoever sheds the blood of a man within a man [B’DM], his blood shall be shed” (Gen. 9: 6).
- Q. What sort of “man” is located “within a ‘man’”?
- R. One must say it is the embryo in the mother’s womb.
- S. *And the former of the two authorities [who reject as Ishmael’s view]?*
- T. *He is a Tannaite authority of the house of Menasseh, who has said, “As to all death penalties that pertain to sons children of Noah, they are carried out in all cases only by strangulation.” He then assigns the phrase, “within a man” to the concluding part of the verse at hand, and he interprets it in this way: “By man [B’DM] his blood will be shed.”*
- U. *What then is the form of bloodshed of a human being which takes place in such a way that [the blood remains] within the man’s body? One must say it is strangulation.*
- V. *R. Hammuna objected [to the proposition that gentile women do not have to impose justice and so may not testify, as stated at D,L], “And is a woman not subject to the same commandment? Lo, it is written, ‘For I know him that he will command his sons and household after him, and they shall keep the way of the Lord to exercise charity and judgment’ (Gen. 18:19) [and the household includes women].”*
- W. *[Hammuna] raised the question and he settled it: “‘His sons’ — to impose justice, and ‘his household’ — to do righteousness [that is, acts of charity].”*

**I.7 A.** Said R. Abia the elder to R. Pappa, “Might I propose that a daughter of Noah who committed murder should not be put to death?”

- B. “‘At the hand of man [who committed murder] ‘— and not the hand of woman’ is what is written [at Gen. 9:6].”
- C. *He said to him, “This is what R. Judah said, “‘He who sheds the blood of man’ — under any circumstances.”*
- D. *“May I propose that a daughter of Noah who committed adultery should not be put to death, for it is written, ‘Therefore shall a man forsake his father and mother and cleave to his wife’ (Gen. 2:24), meaning, a man and not a woman?”*
- E. *He said to him, “This is what R. Judah said, “‘And they shall be as one flesh’ (Gen. 2:24), so that Scripture went and treated the two as one [applying the statement to both parties].”*

**I.8 A.** *Our rabbis have taught on Tannaite authority:*

- B. “[A man, a man shall not approach any who is near of kin to him, to uncover their nakedness” (Lev. 18: 6):] As to the word, “A man,” why does Scripture say it twice? It serves to encompass Samaritans [gentiles], indicating that they are admonished, just like Israelites, against sexual relations with close relatives.
- C. *Does that proposition derive from the present passage? Surely it derives from the following: “‘[And the Lord commanded...,] saying...’ (Gen. 2:16) [as interpreted above, 56B] — this refers to adultery.”*

- D. *That passage refers to adultery within their own group, the present passage refers to adultery with our group. For it has been taught on Tannaite authority at the end of the passage at hand:*
- E. *If [a Samaritan (gentile)] had sexual relations with an Israelite, he is tried in accord with the laws governing Israelites.*
- F. *What practical difference does this law make [since the penalty in both cases is death]?*
- G. *Said R. Nahman said Rabbah bar Abbuha, "It is necessary only [to indicate] that there must be a 'congregation' of judges [twenty-three], appropriate testimony, and admonition."*
- H. *Is this act [of adultery] with a Jewish woman a lesser offense [that the protection of Jewish law should be accorded to him]? [Had the act been committed with a Samaritan woman, he would not enjoy the protection of the provisions in the foregoing list.]*
- I. *Said R. Yohanan, "The law is necessary only to cover the case of [his committing adultery with] a betrothed girl, for in their law, there is no such category. In that case we try by him by our law."*
- J. *But as to [his adultery with] a married woman, do we try him in accord with their law? Has it not been taught on Tannaite authority:*
- K. *If he had sexual relations with a betrothed girl, he is put to death by stoning. If with a married woman, he is put to death by strangulation.*
- L. *Now if he is judged in accord with their law, he should be put to death by decapitation.*
- M. *Said R. Nahman bar Isaac, "What is the sense of 'a married woman' in the passage at hand? It would be a case in which the woman had entered the marriage canopy but the marriage had not been consummated. In their law, there is no such category [as a capital crime], so he is judged in accord with our law [as though she were fully married]."*
- N. *For R. Hanina taught on Tannaite authority: "The category of a married woman who has had sexual relations exists to their legal system, but the category of a married woman who has entered the marriage canopy but not yet had sexual relations does not exist in their legal system."*

**I.9 A.** *It has been taught on Tannaite authority in accord with the view of R. Yohanan: In the case of any form of prohibited sexual relationship for which an Israelite court inflicts the death penalty, the children of Noah are subject to warning. If an Israelite court does not inflict the death penalty in the case at hand, a son of Noah is not subject to warning with respect to it," the words of R. Meir. And sages say, "There are many prohibited relationships with respect to which an Israelite court does not inflict the death-penalty, and the children of Noah are warned with respect to them. If one has had sexual relations with a woman prohibited by Israelite law, he is tried in accord with Israelite law. If he had sexual relations in violation of Noahide law, he is judged in accord with Noahide law. But only the prohibition of sexual relations with a betrothed maiden falls into the category at hand, in which Israelite law prohibits such a relationship and Noahide law does not]" [T.*

**A.Z. 8:G-I].** *But [included in that last category, in which Israelite law prohibits a type of relationship gentile law permits] is the case, also, of the woman who has entered the marriage canopy but not had sexual relations [and who, by Jewish law, is regarded as a married woman]?*

- B. *This Tannaite authority is the one of the house of Manasseh, who has said that in the case of every death penalty imposed on Noahides, the mode of execution is strangulation, and both for Israelite and for foreign law, in the present case, the mode of execution is the same, namely strangulation.*
- C. *And does R. Meir maintain that **in the case of any form of prohibited sexual relationship for which an Israelite court inflicts the death penalty, the children of Noah are subject to warning?** And lo, it has been taught on Tannaite authority: A proselyte [58A] whose mother, when she conceived him, was not in a state of sanctification but who [because, while pregnant, the mother had converted to Judaism] was [then] born in a state of sanctification, is subject to the laws of consanguinity on his mother's side, but he is not subject to the laws of consanguinity on his father's side. How so? If he married his sister on his mother's side [a half-sister, born of his mother and a different father], he must divorce her. [If it was] a [half-] sister on his father's side [born of a different mother], he may keep her [as his wife]. If it was his father's sister by his father's mother, he must put her away. If it was his father's sister by his father's father, he may remain wed to her. If it was his mother's sister by her mother, he must put her away. If it was his mother's sister by her father, R. Meir says, "He must put her away." But sages say, "He may keep her."*
- D. For R. Meir held, "In the case of any consanguineous relationship on the mother's side, he must put away [such a woman]. If it is on his father's side, he may keep her. [Freedman, p. 394, n. 1: The guiding principle in all this is: 'a proselyte is as a new born babe', who stands in absolutely no relationship to any pre-conversion relation. Consequently, his brothers and sisters, father, mother, etc. from before his conversion lose his relationship on his conversion. Should they too subsequently become converted, they are regarded as strangers to him, and he might marry, e.g., his mother or sister. This is the Biblical law. But since heathens themselves recognized the law of incest in respect of maternal relations, the Rabbis decreed that this should hold good for a proselyte too, i.e., that he is forbidden to marry his maternal relations who were forbidden to him before his conversion, so that it should not be said that he abandoned a faith with a higher degree of sanctity than the one he has embraced (since he cannot be expected to understand the principle of complete annulment of relationships). In this case, since he was born in sanctity, he is really not a proselyte at all, He is so styled because he too is legally a stranger to all his father's and mother's pre-conversion relations. As for his mother's paternal sister, R. Meir held that since she is partly maternally related, she is forbidden, as otherwise it would be thought that a proselyte is permitted to marry his maternal relations. But the Rabbis held that there was no fear of this, and since the relationship is in its source paternal, it is not forbidden]. And he is permitted to marry his brother's wife [Freedman, p. 394, n.3: even his brother by his mother], his father's brother's wife, and all other relations deemed consanguineous by affinity of marital ties are permitted to him, *including the wife*

*of his father.* If he has [already] married a woman and her daughter, he may consummate the marriage with one of them and put away the other. But to begin with, he should not do so at all. If his wife died, he may marry his mother-in-law.” Others say [in his view], “He may not marry her.” [Freedman, p. 384, n. 5: Now in this Baraita a number of relations forbidden to Jews on pain of death, e.g., his father’s wife and his mother-in-law, are permitted to the proselyte, and hence to heathens in general; whilst a number of relations not forbidden on pain of death, e.g., his sister, his paternal and maternal aunts, are prohibited to him. This, taught in R. Meir’s name, contradicts his other ruling that all forbidden degrees of consanguinity punishable by death are forbidden to heathens.]

- E. *Said R. Judah, “There is no contradiction between the one passage and the other. The one has R. Meir presenting the matter in accord with the view of R. Eliezer, the other has R. Meir presenting the matter in accord with the view of R. Aqiba.” For it has been taught on Tannaite authority.’*
- F. “Therefore shall a man leave his father and his mother” (Gen. 2:24):
- G. R. Eliezer says, “‘His father’ means the sister of his father, ‘his mother’ means the sister of his mother,’ [whom he may not marry].”
- H. R. Aqiba says, “‘His father’ means his father’s wife [by another marriage, for example], and ‘his mother’ refers literally to his mother.”
- I. “And he shall cleave” — and not to a male.
- J. “To his wife” — and not to his fellow’s wife.
- K. “And they shall become one flesh” — one with whom one can become one flesh [in an offspring], excluding domesticated beasts and wild beasts, who cannot produce an offspring with man. [Freedman, p. 395, n. 5: Hence (since this rule applies to Noahides) Meir’s dictum that heathens are forbidden those relations which are prohibited to Jews on pain of death, e.g., the father’s wife, reflects Aqiba’s teaching, while his ruling in the Baraita that a proselyte may marry his father’s wife is the view of Eliezer, who does not interpret ‘his father’ as his father’s wife.]
- L. A master has said [in expanding upon the foregoing], “R. Eliezer says, “‘His father’ means his father’s sister.””
  - M. *But might I say it means literally, his father?*
  - N. *That is covered by the statement, “‘And he will cleave’ — and not to a male.”*
  - O. *Might I say it means, “His father’s wife?” That is covered by “‘his wife’ and not the wife of his fellow.”*
  - P. *Might I say that this would apply after death?*
  - Q. *It is similar to the prohibition of his mother. Just as his mother [Freedman] is not a relation by marriage, so “his father” must refer to a non-marriage relationship.*
  - R. “His mother” refers to his mother’s sister. *But might I say that it refers literally to his mother?*
  - S. *That is covered by the reference to “‘His wife’ and not to the wife of his fellow.”*
  - T. *And might I say that it would apply even after death?*

- U. *It is similar to the prohibition of “his father.” Just as “his father” is not literally so, so “his mother” is not literally so.*
- V. “R. Aqiba says, “‘His father’ means his father’s wife.”
- W. *But might I say that it refers literally to his father?*
- X. *This is covered by the statement “And he shall cleave’ — and not to a male.”*
- Y. *If that is the mode of argument, then may we invoke the proof already given, namely, “‘His wife’ — and not the wife of his fellow?”*
- Z. *The passage at hand teaches that even after death [the father’s wife] is forbidden to him.”*
- AA. “His mother is literally his mother.”
- BB. *But is this not covered by, “‘To his wife’ and not to his fellow’s wife”?*
- CC. *At issue is his mother [who is related to his father because] his father had raped her [but not married her].*
- DD. *At what point is there a dispute?*
- EE. R. Eliezer maintains the view that **[58B]** [Freedman:] *only by referring to collateral relations can “his father” and “his mother” bear similar interpretations.* [Freedman, p. 396, n. 2: For they cannot both be literal, since his father is prohibited by “and he shall cleave,” nor can they both refer to relationship by marriage, since his mother is a blood-relation.]
- FF. R. Aqiba takes the position that it is better to refer the phrase of “his father” to his father’s wife, who is covered by the reference [at Lev. 18: 8] to “the nakedness of his father,” and not to his father’s sister, who falls merely in the category [at Lev. 18:12] of “his father’s kin” and not his father’s nakedness.
- GG. *Come and take note: “And Amram took Jochebed, his aunt, as his wife” (Exo. 6:20): Was this not his aunt on his mother’s side [as against Eliezer’s view]?*
- HH. No, it was his aunt on his father’s side. [His father’s maternal sister would have been forbidden (Freedman)].
- II. *Come and take note: “And yet indeed she is my sister, she is the daughter of my father but not of my mother” (Gen. 20:12). Would this not contain the implication that the daughter of the mother is forbidden [as against Aqiba’s view?] [Freedman, p. 396, n. 8: For since he interprets the verse as referring to his father’s wife and his mother, who are forbidden on pain of death, he evidently regards those who are forbidden under penalty of excision as permissible, and his mother’s daughter is only thus forbidden, but not on pain of death.]*
- JJ. *But do you think so? Was she his sister? She was the daughter of his brother, and since that was the case, there is no difference whether this was his brother by the same father or by the same mother, being permitted in either case.*
- KK. *But this is the sense of what [Abraham] said to [Abimelech], “I have a relationship with her as a sister on my father’s side [she is the daughter of*

*my half-brother by my father], but not on my mother's side. [Freedman, p. 396, n. 10: Not that she would have been forbidden in that case, but this was stated merely for the sake of exactness.]*

LL. *Come and take note:* On what account did Adam not marry his daughter? It was so that Cain would be able to marry his sister, as it is said, "For I said the world shall be built up by grace" (Psa. 89: 2). *But were it not the case [that it was an act of grace,] she would have been forbidden [to Cain, because one cannot marry a paternal sister].*

MM. *[To the contrary,] once that relationship was permitted, it remained so.*

NN. Said R. Huna, "A Samaritan is permitted to marry his daughter.

OO. "And if you say, 'On what account did Adam not marry his daughter?' It was so that Cain would be able to marry his sister, so that 'the world shall be built up by grace' (Psa. 89: 2)."

PP. *There are those who say,* Said R. Huna, "A Samaritan may not marry his daughter.

QQ. "You may know that that is the fact, for Adam did not marry his daughter."

RR. *But that is not the correct implication to draw. The reason in that case was* so that Cain could marry his sister, so that "the world shall be built up by grace" (Psa. 89: 2).

**I.10** A. Said R. Hisda, "A slave is permitted to marry his mother and permitted to marry his daughter,

B. "for he has ceased to fall into the category of the Samaritan [gentile] and has not yet entered the category of Israelite."

**I.11** A. When R. Dimi came, he said R. Eliezer said R. Hanina said, "A Noahide who set aside a slave-girl for his slave-boy and then had sexual relations with her is put to death on her account."

B. *From what point [is she so designated]?*

C. *Said R. Nahman, "From the time that he referred to her as the girl friend of so-and-so."*

D. When is she no longer bound to him?

E. Said R. Huna, "From the time that she walks about in the market with her head uncovered."

**I.12** A. Said R. Eleazar said R. Hanina, "A son of Noah who had anal intercourse with his wife is liable, for it is said, 'And he shall cleave' (Gen. 2:24) — [by vaginal] and not by anal intercourse."

B. Said Raba, "Is there anything on account of which an Israelite is not liable and a Samaritan is liable?"

C. Rather, said Raba, "A son of Noah who had anal intercourse with the wife of his fellow is exempt."

D. *What is the scriptural basis for that view?*

E. "'... to his wife' and not to the wife of his fellow, 'And he shall cleave ...' [by vaginal] and not by anal intercourse."

- I.13** A. Said R. Hanina, “An idolator who hit an Israelite is liable to the death penalty.
- B. “For it is said, ‘And he looked this way and that way, and when he saw that there was no man, he slew the Egyptian’ (Exo. 2:12). [Freedman, p. 398, n. 6: Thus Moses slew the Egyptian for striking an Israelite, proving that he had merited it.]”
- C. And R. Hanina said, “He who hits an Israelite’s jaw is as if he hits the jaw of the Presence of God.
- D. “For it is said, ‘One who smites man [an Israelite] attacks the Holy One’ (Pro. 20:25).”
- I.14** A. Said R. Simeon b. Laqish, “He who raises his hand against his fellow, even though he did not actually hit him, is called a wicked man.
- B. “For it is said, ‘And he said to the wicked man, Why would you smite your fellow’ (Exo. 2:13).
- C. “It does not say, ‘Why did you smite,’ but rather, ‘Why would you smite.’ Thus, even though he had not actually hit him, he is called a wicked man.”
- D. Said Zeiri said R. Hanina, “He is called a sinner, as it is said, ‘But if not, I will take it by force’ (1Sa. 2:16), and it is written, ‘Wherefore the sin of the young men was very great before the Lord’ (1Sa. 2:16).”
- E. R. Huna said, “His hand should be cut off, for it is said, ‘The uplifted arm should be broken’ (Job. 38:15).”
- F. *R. Huna ordered a hand to be cut off.*
- G. R. Eleazar says, “His only remedy is burial, for it is written, ‘And as for a man of uplifted arm, for him is the earth’ (Job. 22: 8) [Freedman].”
- H. And R. Eleazar said, “The ground has been given over only for strong-armed men, as it is said, ‘But as for the strong-armed man, for him is the earth’ (Job. 22: 8).”
- I.15** A. And R. Simeon b. Laqish said, “*What is the meaning of the verse of Scripture, ‘He who serves his land [meaning: tills his plot] shall be satisfied with bread’ (Pro. 12:11)?*
- B. “If a man turns himself into a slave for his property, he shall have enough bread, and if not, he shall not have enough bread.”
- I.16** A. And R. Simeon b. Laqish said, “An idolator who keeps the Sabbath incurs the death penalty,
- B. “for it is said, ‘And a day and a night they shall not rest’ (Gen. 8:22).
- C. “And a master has said, ‘The very admonition concerning them carries with it the death penalty.’”
- D. *Said Rabina, “Even if he observed Monday as the Sabbath [he is liable].”*
- E. *And why is this not included in the seven Noahide commandments?*
- F. *Included there are laws which one observes by abstention, not by positive action.*
- G. **[59A]** *And lo, establishing courts of justice is a matter of taking positive action, and that item is included in the list!*
- H. *That is both a positive commandment and commandment involving abstention [from injustice].*



- I.17** A. And R. Yohanan said, “An idolator who takes up study of the Torah incurs the death penalty.
- B. “For it is said, ‘Moses commanded the Torah for us, an inheritance’ (Deu. 33: 4) — for us an inheritance, and not for them.”
- C. *And why is this not included in the seven Noahide commandments?*
- D. *If we read the word as “inheritance,” then he is subject to prohibition against stealing it, and if we read it as “a betrothed girl” [by changing the pronunciation of the Hebrew word], then [Torah] falls into the category of a betrothed girl, and one who violates her is punished by stoning.*
- E. *An objection was raised:*
- F. R. Meir says, “Whence do we know that even an idolator, should he take up study of the Torah, is equivalent to a high priest?
- G. “For it is said, ‘[You shall therefore keep my statutes and my judgments,] which, if a man do them, he shall live by them’ (Lev. 18: 5); priests, Levites, and Israelites are not specified, but only a man.
- H. “From that formulation you learn that even an idolator, should he engage in study of the Torah, is equivalent to a high priest.”
- I. *The reference [to a gentile’s study of Torah] is among the seven commandments that apply to them.*

- I.18** A. R. Hanina says, “Also [children of Noah must not eat] blood drawn from a living beast.”
- B. *Our rabbis have taught on Tannaite authority:*
- C. “But flesh with the life thereof, which is the blood thereof, you shall not eat” (Gen. 9: 4).
- D. This refers to not eating a limb cut from a living beast.
- E. R. Hanina b. Gamaliel says, “It refers also to blood drawn from a living beast.”
- F. *What is the scriptural basis for the view of R. Hanina b. Gamaliel?*
- G. *He reads the cited verse in this way:* “Flesh with its life you shall not eat, blood with its life you shall not eat.”
- H. *And rabbis? That verse serves to permit the eating of creeping things.*
- I. Along these same lines, you may say: “Only be sure that you do not eat the blood, for the blood is the life, and you may not eat the life with the flesh” (Deu. 12:23) [Freedman, p. 401, n. 2: Thus the blood being equated with the life, it may not be eaten while “the life is with the flesh,” that is, while the animal remains alive.]
- J. *And rabbis? They interpret the verse to refer to the blood of the arteries, with which the soul flows out. [That blood is forbidden too.]*

- I.19** A. *Why was it necessary to state [the commandments just cited] to the sons of Noah and then to repeat them at Sinai?*
- B. *The answer accords with what R. Yosé b. R. Hanina said.*

- C. For R. Yosé b. R. Hanina said, “Every religious duty that was stated to the children of Noah and then repeated at Sinai applies both to this group [the gentiles] and to that group [the Israelites].
- D. “If it was stated to the children of Noah and not repeated at Sinai it is intended for the Israelites, not for the children of Noah.
- E. “And [in that category] was have only the prohibition of [meat containing] the sciatic nerve, *speaking in accord with the view of R. Judah, [who holds that it was forbidden to the children of Jacob].*”
- F. Said a Master, “Every religious duty that was stated to the children of Noah and then repeated at Sinai applies both to this group and to that group.”
- G. *To the contrary, since the law was repeated at Sinai, surely it was stated to Israel and not to the children of Noah!*
- H. *Since the practice of idolatry was stated at Sinai and we find that idolators are penalized on its account, it follows that that prohibition [and hence others in its category] was stated both to this group and to that group.*
- I. “If it was stated to the children of Noah and not repeated at Sinai, it is for the Israelites, not for the children of Noah.”
- J. *To the contrary, since it was not stated at Sinai, it was addressed to the children of Noah and not to Israel.*
- K. *There is nothing that is permitted to Israelites and forbidden to idolators.*
- L. *There is nothing? Lo, there is the case of the beautiful captive woman.*
- M. *The reason in that case is that the gentiles are not permitted to make conquests anyhow.*
- N. And there is the theft of something worth less than a penny [which gentiles treated as a crime but Israelites do not].
- O. *The idolators are not forgiving [and so regard such a paltry sum as of value, so if someone steals such a sum, he is punished. Israelite courts would not punish a theft of such a sum.]*
- P. “Every religious duty that was stated to the children of Noah and then repeated at Sinai applies both to this group and to that group.”
- Q. **[59B]** Lo, there is the case of circumcision, which was stated to the children of Noah, for it is written, “You shall keep my covenant” (Gen. 17: 9), and it was repeated at Sinai: “And in the eighth day the flesh of his foreskin shall be circumcised” (Lev. 12: 3). Now that commandment was addressed to Israel and not to the sons of Noah.
- R. *That [repetition of the rule] served the purpose of permitting [the observance of the rite on the Sabbath. [How so?]*
- S. “By day” — even [if the eighth day falls] on the Sabbath.
- T. And lo, there is the commandment to be fruitful and multiply, which was stated to the children of Noah, for it is written, “And you, be fruitful and multiply (Gen. 9: 7), and was repeated at Sinai, as it is written, “Go say to them, get you into your tents again” (Deu. 5:27).
- U. Yet the religious duty to be fruitful and multiply applies to Israel and not to the children of Noah.

- V. *The latter statement serves to indicate that in any matter adopted by a vote [of sages], another vote is necessary for repeal.* [Deu. 5:27 is taken to allow people to resume sexual relations that had been suspended, as described at Exo. 19:15, three days before the giving of the Torah.]
- W. *If so, then each of the Noahide laws may be explained away as serving another purpose.*
- X. *This is the sense of the statement at hand: "As to the admonition, what need was there to go and repeat it?"*
- Y. *"And in that category we have only the instance of the prohibition of [meat containing] the sciatic nerve, stated in accord with the view of R. Judah."*
- Z. *But [circumcision and procreation] also were not repeated [at Sinai].* [Freedman, p. 403, n. 5: For ... their repetition being for a definite purpose is not a repetition at all.]
- AA. [Freedman:] *These two were repeated, though for a purpose, but this [other item] was not repeated at all.*
- BB. *[As to the question about stating the rule of circumcision to the Noahides and repeating it at Sinai], if you wish, I shall explain as follows:*
- CC. *As to circumcision, to begin with it was addressed to Abraham by the All Merciful [and not to the children of Noah]: "You shall keep my covenant therefore, you and your seed after you in their generations" (Gen. 17: 9) — you and your seed will do so, but others need not do so.*
- DD. *Then how about the sons of Ishmael? They too should be liable.*
- EE. [Not so, for the verse states,] *"For in Isaac shall your seed be called" (Gen. 21:22).*
- FF. *Then the children of Esau should be liable?*
- GG. *"In Isaac," but not all [descendants of] Isaac.*
- HH. *R. Oshaia objected, "But how about the children of Keturah. They then should not be liable [to circumcise but they are liable to do so]."*
- II. *Has not R. Yosé bar Abin, and some say, R. Yosé bar Hanina, said, "[And the uncircumcised child, the flesh of whose foreskin is not circumcised, that soul shall be cut off from his people:] he has broken my covenant" (Gen. 17:14) — serving to encompass the children of Keturah?"*

**I.20 A.** Said R. Judah said Rab, "As to the first man, he was not permitted to eat meat.

- B. "For it is written, 'Therefore I have given you all the herbs], to you it shall be for food and to all the beasts of the earth' (Gen. 1:29-30) — [herbs], and the beasts of the earth shall not be for you [to eat].
- C. "And when the children of Noah came, [God] permitted [meat] to them.
- D. "For it is said, '[Every moving thing that lives shall be meat for you:] even as the green herb [now] have I given you all things' (Gen. 9: 3).
- E. "Is it possible to suppose that the prohibition of cutting a limb from a living beast should not apply to [the children of Noah]?
- F. "Scripture says, 'But flesh with the life thereof, which is the blood thereof, you shall not eat' (Gen. 9: 4).
- G. "Is it possible that the rule applies even to creeping things?

- H. “Scripture says, ‘But’ [implying a limitation on the applicability of the rule at hand].”
- I. *What is the basis of that conclusion?*
- J. Said R. Huna, “‘... the blood thereof ...’ refers to a creature whose blood is distinct from the flesh. That then excludes creeping things, whose blood is not distinct from the flesh.”
- K. *It was objected [to Rab’s proposition about Adam as a vegetarian]: “And rule over the fish of the sea” (Gen. 1:28): Is this not for purposes of eating?*
- L. *No, it is for purposes of work.*
- M. *And do fish work?*
- N. *Indeed so, in accord with the inquiry of Rahbah. For Rahbah raised the question, “If one drove a wagon with a goat and a shibbuta-fish [would this involve a violation of the rule not to plow with an ox and an ass together, Deu. 22:10]?”*
- O. *Come and take note: “... and over the fowl of the heaven” (Gen. 1:28): Is this not for the purposes of eating?*
- P. *No, it is for purposes of work.*
- Q. *And do fowl work?*
- R. *Indeed so, in accord with the inquiry of Rabbah b. R. Huna, “If one has threshed [grain] using geese or cocks, in the view of R. Yosé b. R. Judah [who rules on Deu. 25:4, not muzzling the ox while it treads out grain], what is the rule?”*
- S. *Come and take note: “... and over every wild beast that crawls on the earth” (Gen. 1:28): That statement serves to encompass even the snake.*
- T. *It is in line with that which has been taught on Tannaite authority:*
- U. R. Simeon b. Menassia says, “Woe for the valuable servant that has perished from the earth. For had the snake not been cursed, every Israelite would have assigned to him two valuable snakes. One would he send to the north and one he would send to the south, to bring back to him gemstones, precious stones, and pearls. And not only so, but they should tie a strap under its tail, with which it would produce earth for the gardens and untilled ground [of the Israelites].”
- V. *An objection was raised [to the foregoing claim that Adam was not permitted to eat meat]: R. Judah b. Tema would say, “The first man reclined in the Garden of Eden, and the ministering angels roasted meat for him and strained wine for him. The snake looked in and saw all of this glory [that was coming to Adam] and envied him.”*
- W. *That refers to meat that came down from heaven.*
- Y. *And is there such a thing as meat that comes down from heaven?*
- Z. *Indeed so, in line with the following: R. Simeon b. Halafta was walking along the way. Lions met him and growled at him. He cited the verse, “The young lions roar for prey” (Psa. 104:21). Two pieces of meat came down [from him]. One they ate, the other they left. He took it along and came to the school house. He asked about it, “Is this an unclean thing or is it a clean [and edible] one?”*
- AA. They said to him, “Nothing unclean comes down from heaven.”
- DD. *R. Zira asked R. Abbahu, “If something came down from heaven in the form of an ass, what is the law?”*

EE. *He said to him, "You screeching jackal! Lo, they have said to him, 'Nothing unclean comes down from heaven.'"*

**I.21 A. R. Simeon says, "Also witchcraft [is forbidden to the children of Noah]" [T. A.Z. 8:6M]:**

- B. *What is the scriptural basis for the view of R. Simeon?*
- C. *It accords with what is written in Scripture: [60A] "You shall not permit a witch to live" (Exo. 22:17), and thereafter: "Whoever lies with a beast shall surely be put to death" (Exo. 22:18). Whoever falls into the category of "whoever lies with a beast" [thus including the children of Noah] falls into the category of "You shall not permit a witch to live."*

**I.22 A. R. Eleazar says, "Also as to mixed seeds" [T. A.Z. 8:8A]:**

- B. *What is the scriptural basis for this position?*
- C. Said Samuel, "Scripture states, 'You shall keep my statutes ... ' (Lev. 19:19), meaning the statutes that I have already ordained for you, hence: 'You shall not let your cattle gender with a diverse kind; you shall not sow your field with mixed seed' (Lev. 19:19).
- D. "Just as for your beast, the prohibition is against hybridization, so in respect to your field, the prohibition is against hybridization.
- E. "Just as the prohibition applies to your beast whether in the Land or outside of the Land, so with respect to your field, the prohibition applies whether it is in the Land or outside of the Land."
- F. Then how do you deal with the following:
- G. "You shall therefore keep my statutes" (Lev. 18:26)? *Does this too refer to statutes that I have already ordained? [In that case the children of Noah have to keep all the commandments.]*
- H. *There it means, "You shall keep my statutes [which I already have given]". Here, "You shall keep my statutes" — meaning, statutes which to begin with [I now give] you shall keep. [The version of Lev. 19:19 places "statutes" first in the verse, that is, those already in hand, but in Lev. 18:26, "You shall keep" comes first, so "the statutes that follow" are beginning at that point (Freedman, p. 407, n. 1)].*

**II.1 A. Said R. Joshua b. Qorha ... [M. 7:5B]:**

- B. Said R. Aha bar Jacob, "One is liable only if he curses the name made up of four letters, *thus excluding a name made up of two letters, which is not subject to a curse [and use of which is not punishable].*"
- C. *That is self-evident, since we have learned in the Mishnah: May Yosé smite Yosé [M. 7:5B] [in which "Yosé" stands for the four-lettered name of God].*
- D. *What might you have supposed? That the framer of the passage chose a phrase at random? So we are informed that that is not the case [and Yosé stands for the four-lettered name of God].*
- E. *There are those who report as follows:*
- F. Said R. Aha bar Jacob, "That implies that the four-lettered name of God also falls into the category of a name of God."

- G. *That is self-evident. Have we not learned in the Mishnah, May Yosé smite Yosé [M. 7:5B]?*
- H. *What might you have supposed? That the penalty for cursing God applies only if one makes use of the great name of God [containing forty-two letters], and the framer of the passage has chosen a phrase at random?*
- I. *So we are informed that that is not the case.*

### **III.1 A. Once the trial is over [M. 7:5C]:**

- B. *How do we know that [the judges] rise to their feet [M. 7:5E]?*
- C. Said R. Isaac bar Ammi, "Scripture has said, 'And Ehud came to him, and he was sitting in a summer room, which he had for himself alone, and Ehud said, I have a message from God to you. And he rose out of his seat' (Judges 3:20).
- D. "Now is it not an argument a fortiori? If Eglon, king of Moab, who was a gentile and knew God only by a nickname, rose up, in the case of an Israelite, involving the Ineffable Name, now much the more so!?"
- E. And how do we know that **they tear their clothing [M. 7:5E]**?
- F. From the following: "Then came Eliakim, the son of Hiliiah, who was superintendent of the household, and Shebna the scribe, and Joah the son of Asaph the recorder, to Hezekiah, with their clothes torn, and told them the words of Rab-Shakeh" (2Ki. 18:37).

### **IV.1 A. And never sew them back up [M. 7:5E]:**

- B. *How do we know this?*
- C. Said R. Abbahu, "We derive an analogy on the basis of the use of the word 'tear.' Here it says, 'With their clothes torn' (2Ki. 18:37). And elsewhere it is said, 'And Elisha saw [Elijah's ascension] and he cried, My father, my father, the chariot of Israel and the horsemen thereof.' And he saw him no more; and he took hold of his own clothes and tore in them two shreds' (2Ki. 2:12). Since it says, 'tore them in two,' would I not know that they were shreds? Why then does Scripture specify, 'tears'? It teaches that they were to remain torn forever."

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

- B. All the same are the one who actually hears [the blasphemy] and the one who hears it from the one who heard it. Both are liable to tear their garments.
- C. But the witnesses are not liable to tear their garments, for they already did so at the moment when they heard the original blasphemy.
- D. But if they did so at the moment when they heard the original blasphemy, *what difference does that make? Lo, they are now hearing it again!*
- E. *Do not let that argument enter your mind, for it is written, "And it came to pass, when King Hezekiah heard it, that he tore his clothes? (2Ki. 18:37).*
- F. King Hezekiah tore his clothes, but they did not tear their clothes.

- IV.3 A.** Said R. Judah said Samuel, "He who hears the name of God [blasphemed] by an idolator does not have to tear his clothes, whose blasphemy the king and court tore their clothes], in point of fact, he was an Israelite apostate.
- B. And R. Judah said Samuel said, "People tear their clothes only on account of the four-lettered name of God [used as a curse]."

- C. *That then would exclude hearing a euphemism, on account of which one does not [tear clothes].*
- D. *And this differs from the view of R. Hiyya in two matters.*
- E. For R. Hiyya said, "He who hears the name of God blasphemed these days is not liable to tear his clothes, for if you do not take that position, it will result that peoples' entire garments will be full of rents [Freedman: one's garments would be reduced to tatters]."
- F. *Now from whom [would one hear these curses]? Should you say that it is from Israelites, are the Israelites so wanton?*
- G. *Rather, it is clear that he assumes the curses come from idolators.*
- H. *And if you should propose that what they are saying is that four-lettered name of God, do they know it?*
- I. *Does it not, rather mean, that they curse by using a euphemism?*
- J. *And it further follows that he speaks of the present age, in which one is not liable, but in olden times, one was liable.*
- K. *That proves it.*

**V.1 A. And the second witness says, "Also I heard what he heard" [M. 7:5F]:**

- B. Said R. Simeon b. Laqish, "It follows from this rule that the language, 'Also I heard what he heard,' is valid in property cases as well as in capital cases.
- C. *"But rabbis imposed a stricter rule [in requiring each witness to speak for himself]. But here, because it is not possible [to allow the second to repeat what the first has said], rabbis established the practice as permitted by the law of the Torah. For if it should enter your mind that this is an invalid mode of testimony, then merely on account of the notion that it is not possible [to do things otherwise], are we going to put a man to death? [Surely not.]"*

**VI.1 A. And the third witness says, "Also I heard what he heard" [M. 7:5G]:**

- B. *The unattributed statement at hand accords with the principle of R. Aqiba, who treats three witnesses as equivalent to two.*  
 I.1, II.1ff., serve as Mishnah-exegesis. A large composite on the Noahide commandments is then inserted on account of the issue of whether gentiles who curse God are punished on that account. One of the seven Noahide commandments was to refrain from blasphemy. The cited passage of Tosefta then is subjected to a systematic analysis in what follows. I can think of no more persuasive evidence that the entire construction represents a compositor's theory of how matters should be compiled and arranged. Once we deal with the Tosefta-passage, we proceed to follow up each of its elements. The topic of the Noahide commandments draws in its wake interest in the rights and obligations of gentiles in general, as well as in the status of the first man. So, in all, we have what elsewhere might fill up half a chapter of Talmud, all composed in a rather orderly way and inserted whole on a rather trivial pretext. As a subdivision, however, we can readily explain the flow of argument and therefore the rather solid logic of composition.



- A. [60B] He who performs an act of worship for an idol [M. 7:4D] —
- B. all the same are the one who performs an act of service, who [actually] sacrifices, who offers up incense, who pours out a libation offering, who bows down,
- C. and the one who accepts it upon himself as a god, saying to it, “You are my god.”
- D. But the one who hugs it, kisses it, polishes it, sweeps it, and washes it,
- E. anoints it, puts clothing on it, and puts shows on it, [merely] transgresses a negative commandment [Exo. 20:5].
- F. He who takes a vow in its name, and he who carries out a vow made in its name transgress a negative commandment [Exo. 23:13].
- G. He who uncovers himself to Baal Peor [is stoned, for] this is how one performs an act of service to it.
- H. He who tosses a pebble at Merkolis [Hermes] [is stoned, for] this is how one performs an act of service to it.

**I.1 A.** *What is the meaning of all the same are the one who performs an act of service [M. 7:5B]?*

- B. *Said R. Jeremiah, “This is the sense of the passage: All the same are the one who performs an act of service in the proper manner, [and] the one who sacrifices, the one who offers incense, the one who pours out a libation, and the one who bows down, even if [these other actions] are not the usual way [in which this particular statue is worshipped].”*
- C. *And why not take account, also, of tossing blood [of an animal to the god]?*
- D. *Said Abbayye, “‘Tossing blood’ falls into the category of a libation. For it is written, ‘Their drink libations of blood will I not offer’ (Psa. 16: 4). [So it is covered.]”*

**I.2 A.** *What is the biblical source [for the fact that these acts of worship impose guilt]?*

- B. *It is in accord with what our rabbis have taught on Tannaite authority:*
- C. *If Scripture had stated, “He who sacrifices shall be utterly destroyed” (Exo. 22:19) [without adding the words, “to any god,”] I might have reached the conclusion that Scripture speaks of one who sacrifices Holy Things outside of the Temple.*
- D. *Accordingly, Scripture states, “... to any gods,” indicating that Scripture speaks of any sort of idolatry.*
- E. *I know only that penalty applies to one who sacrifices. How do I know that there is a penalty for offering incense, making a libation offering [and the like]?*
- F. *Scripture says, “... except to the Lord alone” (Exo. 22:19), by which Scripture limited these forms of worship [regarding them as legitimate only when performed] for the divine name.*
- G. *Now since there is specific reference to “sacrificing,” supplying an analogy to all other acts of service that are performed within the Temple, how do I know that subject to the same prohibition of worship of other gods is an act of prostration?*

[That is, Deu. 17:2-5 refers to various acts of service in general. Exo. 22:19 speaks of sacrifice in particular. So one particular act of service is specified among the many covered by Deu. 17:3, thus defining what falls into that latter category by means of analogy to what is specified in the former. Whatever bears the traits of the specific items then falls into its category (Freedman, p. 411, n. 9).]

- H. [To encompass prostration, not performed in the Temple as part of an act of service], Scripture says, “And he went and served other gods and prostrated himself before them” (Deu. 17: 3), followed by, “You shall bring forth that man or that woman and you shall stone them with stones” (Deu. 17: 4).
- I. We have thereby derived evidence of the penalty for that action. How do we know to begin with that there is an admonition against doing it?
- J. Scripture states, “For you shall not prostrate yourself to any other god” (Exo. 34:14).
- K. Might I think that subject to the same rule are such actions as embracing the idol, kissing it, or putting on its shows [so that these acts too should be subject to the death penalty]?
- L. Scripture says, “He who sacrifices ...” (Exo. 22:19).
- M. The act of sacrifice was included in the general rule [specified at Deu. 17:2ff.], and why was it singled out? It was to draw an analogy on the basis of that action and to indicate that, just as the act of sacrifice is distinctive in that it is an act of service performed within the Temple, and it is an act of service on account of which people are liable to the death penalty [should they violate its taboos], so any act of service [performed for an idol] which is analogous to one that is carried on within the Temple and produces the death-penalty, is encompassed, thus excluding such actions as prostrating oneself to the idol.
- N. Prostration, accordingly, was singled out to testify to itself, while the act of sacrifice was singled out to impart its traits on all those actions that would fall into its category.

**I.3 A.** A master has said, “I might have reached the conclusion that Scripture speaks of one who sacrifices Holy Things outside of the Temple [rather than of idolatry].”

B. But one who sacrifices Holy Things outside of the Temple is subject to the penalty of extirpation [while in the passage at hand, the penalty is death, so how could someone have reached such a conclusions?]

C. *It might have entered your mind to maintain that if people gave him a warning, he is subject to a death penalty [as Scripture states], while if they did not give him a warning, he is subject to extirpation [in which case the passage could well speak of sacrificing Holy Things outside of the cult, not sacrificing to an idol].*

D. *So we are informed that that is not the case.*

**I.4 A.** Said Raba bar R. Hanan to Abbaye, “Might I say that prostration is subjected to explicit discussion to impose its traits on the general rule at hand [as against the view that claims prostration was singled out to testify to its own traits, not to impose its traits on the definition of other culpable actions]?”

B. *“And should you propose to reply that, in that case, why was the act of sacrifice singled out, my answer is that it was to make a point about itself.*

- C. *“Specifically we take account of the intention that a priest forms while performing one act of sacrifice, namely, one for God, to carry out that act of sacrifice with the intention of serving an idol. [That is, by referring at the passage at hand to an act of sacrifice, Scripture makes this point: If one is offering a beast to God and forms the intention of sprinkling its blood for the sake of an idol, that improper intention is taken into account and the priest is subject to punishment, even though the one sacrifice is to God and the other is to an idol.]*
- D. *“For it has been taught on Amoraic authority:*
- E. *“He who slaughters a beast, forming the intention of tossing its blood in honor of an idol and burning its fat in honor of an idol [even if he then properly slaughtered the beast with appropriate intent and did not sprinkle the blood or burn the fat in honor of an idol, so that the original, improper intent, is not actually effected in a concrete deed at all],*
- F. *“R. Yohanan said, [61A] ‘The carcass of the beast [thereafter] is forbidden [because of the original, improper intent. He thus invokes the rule that applies to an offering made with improper intent for the sake of God and applies it equally to an offering made with improper intent for the sake of an idol.]’*
- G. *“And R. Simeon b. Laqish said, ‘The carcass of the beast is permitted.’*
- H. *“[Now, to continue Raba bar R. Hanan’s question,] there is no problem from the viewpoint of R. Yohanan. [Freedman, p. 413, n. 2: Since Yohanan draws an analogy in respect to the animal itself, he can apply the same analogy to the offender. That is, an idolatrous intention in respect of one service is punishable, even though made in another act. Consequently, if prostration was singled out in order to illumine the entire law, the special statement of sacrificing is superfluous. Hence we are forced to the conclusion that prostration was singled out only for itself].*
- I. *“But from the viewpoint of R. Simeon b. Laqish, the verse of Scripture is required [to prove the point at hand, that prostration was singled out in order to throw light upon the general law]. [Freedman, p. 413, n. 3: Since Simeon b. Laqish does not accept the analogy, we can argue thus: prostration was singled out to illumine the whole. Sacrificing was singled out to teach that though an unlawful intention in respect of one act of service made in the course of another does not affect the animal’s fitness for use, it is nevertheless punishable.]”*
- J. *R. Pappa raised an objection, “And from the viewpoint of R. Yohanan, is there no need for a verse of Scripture? One might argue that R. Yohanan to be sure imposes a prohibition on use of the carcass of the beast, but the man who forms the improper intention is not liable to be put to death. Then the verse comes along [and is needed] to impose upon him the liability to the death penalty.”*
- K. *R. Aha, son of R. Iqa, objected, “And from the viewpoint of R. Simeon b. Laqish, is a verse of necessary actually required for the stated purpose at all?”*
- L. *“So far as R. Simeon b. Laqish rules that it is permitted, that ruling applies only to the use of the carcass of the beast. But as to the status of the man who has formed the improper intention, he assuredly is subject to the death penalty.*
- M. *“In this ruling, then, there would be a parallel to the case of one who prostrates himself to a mountain. The mountain remains permitted [for ordinary use and*

*enjoyment] but the one who worships it nonetheless is put to death through decapitation.”*

- N. *Said R. Aha of Difti to Rabina, “Now let us take up the question of Raba, bar R. Hanan, to Abbaye, ‘Might I say that prostration is subjected to explicit discussion to impose its traits on the general rule at hand?’*
- O. *“[If so,] then as to the verse, ‘[Take heed to yourself ... that you do not seek after their gods, saying,] How did these nations serve their gods? [Even so I will do the same]’ (Deu. 12:30) [A verse that implies that only the normal way of serving these gods is forbidden], what acts of service are excluded by the cited verse? [For if we claim that prostration serves to indicate that even acts of service outside of the Temple are punished, then what further acts are forbidden by the verse at hand? We already know the point that it evidently wishes to make (Freedman, pp. 413-4, n. 5)].*
- P. *“And should you say that it serves to exclude the act of showing one’s behind to those idols that are ordinarily served by having sacrifices made to them, that point derives, in fact, from the reference to prostration.*
- Q. *“Just as prostration is an act of honoring the idol, so every act that is interpreted as an honor [would be punished, thus excluding showing one’s behind to the idol].”*
- R. *[The reply:] Rather, it serves to exclude one who shows his behind to a statue of Mercury.*
- S. *You might have thought that one should rule, since its appropriate act of worship is an act of disgrace, so some other act of disgrace falls into the same category [and is punishable]. So we are informed that that is not the case.*
- T. *Then what about the statement of R. Eliezer: “How do we know that one who sacrifices a beast to Mercury is liable? For it is said, ‘They shall not more offer their sacrifices to demons’ (Lev. 17: 7)”?*
- U. *Now if it cannot speak of a mode of worship that is the ordinary and accepted one, since it is already stated, ‘How did these nations serve their gods ...’ (Deu. 12:30) [proving that routine modes of worship are penalized if done for idols], apply it to an unusual mode of worship of those gods. [In that case, such an abnormal mode of worship is subject to punishment.]”*
- V. *[Reverting to Raba’s thesis that the reference to prostration imposes the traits of that action on all others, with the result that abnormal modes of worship are punishable], surely an act of worship not in accord with the usual procedure would derive from the reference to prostration [and we know from that reference that such an act is punishable. We do not need to provide the proof that Eliezer gives. Would then Eliezer’s proof not show therefore that Raba’s thesis is wrong?]*
- W. *The verse at hand proves that one who makes a sacrifice [to Mercury] merely for spite [to God] [without regarding Mercury as a god] [nonetheless is subject to penalty.] [So Raba’s question is not obviated by the proof at hand and valid.]*

**I.5 A.** *R. Hamnuna’s oxen got lost on him. [While searching for them] he met Rabbah and laid out for him two passages of the Mishnah which he deemed to contradict one another: “We have learned in the Mishnah: **he who performs an act of***

**worship for an idol [M. 7:6A],** meaning that if he actually performed such an act, he is [liable] but if he merely said, 'I shall do it,' he is not liable. But we have also learned in the Mishnah: **He who says, 'I am going to worship,' 'I shall go and worship,' 'Let's go and worship' [M. 7:10N].** [This bears the implication that merely saying, not doing, also is penalized.]”

- B. He said to him, “The former passage speaks of one who says, ‘I shall not accept it upon me as a god until I perform an act of worship’ [so that passage, too, speaks of incurring liability only by making a statement].”
- C. *Said R. Joseph, “You have simply taken views at random of two Tannaite authorities [and not all Tannaite authorities are in agreement]. It is, in point of fact, a dispute among Tannaite authorities. For it has been taught on Tannaite authority:’*
- D. He who says, “Come and worship me” —
- E. R. Meir declares him liable [for enticing people to commit idolatry].
- F. And R. Judah declares him exempt.
- G. *But in a case of their actually bowing down [to that man], all parties concur, for it is said, “You shall not make for yourself any idol” (Exo. 20: 4). [Freedman, p. 415, n. 1: Hence, since they worshipped him, he is guilty as a seducer to idolatry]. Where there is a dispute, it concerns a case in which what is involved is merely a statement. R. Meir takes the view that a mere statement is consequential [and hence one is liable on that account, as a M. 7:10N], and R. Judah maintains that a mere statement is null [in lines with M. 7:6A].*
- H. *[Having made reference to the present dispute], R. Joseph retracted and said, “What I said is of no consequence, for even R. Judah concurs that a mere statement may well impose liability [without its being accompanied by a concrete action]. For it has been taught on Tannaite authority:*
- I. “R. Judah says, ‘Under no circumstances is one liable until he says, **“I am going to worship,” “I shall go and worship,” “Let’s go and worship” [M. 7:10N].**’ [This would then concur with Meir’s position, that a statement without action in the matter of incitement to idolatry is penalized.]
- J. *“At issue in the dispute [between Meir and Judah] is a case in which he incited others to worship him himself, and the people replied that they would do so.*
- K. *“One party maintains that if one incites people to worship himself, the others do pay attention to him, and when they said ‘Yes,’ they were telling the truth [and so, Meir holds, he is liable]. The other party takes the view that when one incites people to worship himself, they do not pay attention to him, for people say, ‘[61B] what difference is there between him and us?’ So when they say ‘Yes,’ they [are not telling the truth but] making fun of him. Now [to reconcile the two versions of the law], the Mishnah-rule refers [at M. 7:10N] to an individual who is reenticed to commit idolatry, while the one at hand refers to a community that was enticed to commit idolatry. Since an individual will not change his mind, he will certainly go in error after [the seducer to idolatry] [and hence the mere statement matters, as at M. 7:10N], but the community as a whole will surely change their minds and not go in error after him [hence the mere statement does not matter at M. 7:6A].”*

- L. *Said R. Joseph, "How do I know that [a mere statement attempting to incite an individual, not accompanied by a concrete deed, brings a penalty in the case of an individual]? As it is written, "[If your brother ... entice you ...], you shall not consent to him nor hearken to him" (Deu. 13: 9). Lo, if one had consented and hearkened to him, he would be liable."*
- M. *To this proof, Abbayye objected, "And is there any difference between a case in which an individual is enticed and a case in which the community is enticed [to idolatry]? Has it not been taught on Tannaite authority:*
- N. *"[If your brother, son of your mother, entice you" (Deu. 13: 7) — all the same is the case in which an individual is enticed and the case in which the community is enticed.*
- O. *"But the Scripture has made particular reference to an individual, as distinct from the community, and to the community, as distinct from the individual.*
- P. *"The reason that the individual is singled out from the community is so as to impose a strict penalty on the man's body and a lenient penalty on his property [which, in the case of an entire community, is destroyed along with the individual].*
- Q. *"The reason that the community is distinguished from the individual is to impose a lenient rule on the penalty applicable to their bodies] since they are decapitated, not stoned] but a more strict penalty on their property [which is destroyed].*
- R. *"Now [Abbayye continues], it is in that particular aspect that the case of the individual and that of the community are distinguished from one another. In all other aspects they are identical to one another, [and hence the proposed distinction of Joseph is null]."*
- S. *Rather, said Abbayye, "The one passage speaks of one who is enticed to commit idolatry by what he himself says, the other passage speaks of one who is enticed to commit idolatry by what someone else says. In the case of one who is enticed by what he himself says, he may change his mind [so that he actually does something, he is not subject to a penalty], but if he is enticed by what some else says, he will follow the other [and so is not likely to change his mind, so he is penalized for what he says, without actually doing a thing]."*
- T. *Said Abbayye, "How do I know it? Because it is written, 'You shall not consent to him nor hearken to him' (Deu. 13: 9). Lo, if one consented and hearkened [by agreeing with what a third party had to say], he is liable."*
- U. *Raba said, "Both this passage and that passage refer to a case of one who is enticed by what someone else says. The one speaks of a case in which one has said to him, 'This is what it eats, this is what it drinks, this is the good it does, this is the bad it does.' The other passage speaks of a case in which one has not said to him, 'This is what it eats, this is what it drinks, and so on.' [If one does not make the second set of statements, the hearer may reconsider, so we impose punishment only when he actually does an act of worship (Freedman, p. 416, n. 5).]"*
- V. *Said Raba, "How do I know it? As it is written, '[If your brother entice you ... saying, let us go and serve other gods ....] namely, of the gods of the people who are round about you, near to you or far from you' (Deu. 13: 8). What difference*



does it make to me whether they are near or far? *But this is what he said to him, 'From the quality of the ones that are near, you may learn the quality of those that are far.'* Does this then not refer to a case in which one said to him, 'This is what it eats, this is what it drinks, this is the good that it does, this is the bad that it does'?"

- W. *That indeed proves the case.*
- Y. *R. Ashi said, "The latter of the two passages of the Mishnah refers to an Israelite apostate [who is punished merely for what he says, not for what he does, since we assume he will do what he says. A loyal Israelite may change his mind.]"*
- Z. *Rabina said, The two passages mean to indicate 'not only this but even that.'* [Freedman, p. 417, n. 4: The first Mishnah-Passage states that the death penalty is imposed for engaging in idol worship; the second adds that this is so not only for actually worshipping idols but also for the mere statement of intention.]

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

- B. He who does an act of worship for an idol, whether from love or from fear,
- C. Abbaye said, "He is liable."
- D. Raba said, "He is exempt."
- E. *Abbaye said, "He is liable, for lo, he has worshipped it."*
- F. *Raba said, "He is exempt. If he had accepted it upon himself as a god, he would be liable, but if not, he would not be liable."*
- G. *Said Abbaye, "And on what basis do I take this position? It is in accord with what we have learned in the Mishnah: **He who performs an act of worship for an idol — all the same are the one who performs an act of service, etc.** [M. 7:6A-B]. Does this not mean, "All the same are he who worships out of love and he who worships out of fear'?"*
- H. *And Raba will tell you, "No, it is as R. Jeremiah has explained matters [at I A-C]."*
- I. *Said Abbaye, "And on what basis do I take this position? For it has been taught on Tannaite authority:*
- J. *"You shall not prostrate yourself to them" (Exo. 20: 5) —*
- K. *"To them you may not prostrate yourself, but you may prostrate yourself to a man such as yourself.*
- L. *"Is it possible that one may do so even to one who is worshipped like Haman?*
- M. *"Scripture says, "You will not worship them" (Exo. 20: 5)."*
- N. *"Now Haman was worshipped on account of fear. [So, it follows, one may not worship an idol whether from love or fear, and even though one has not accepted it upon himself as a god.]"*
- O. *And [what is] Raba's [view]? [He maintains that one may not bow down to one] like Haman or not like Haman: One may not bow down to one like Haman, because he himself was an idol. And not like Haman, because Haman was worshipped on account of fear, while the verse at hand speaks of worship not on account of fear."*
- P. *Said Abbaye, "And on what basis do I take this position? For it has been taught on Tannaite authority:*



- Q. “As to the case of an anointed high priest who has unwittingly worshipped an idol,
- R. “Rabbi says, “[He is liable] if the action was done inadvertently.”
- S. “And sages say, “He is liable only if the very principle [that one may not worship an idol] was forgotten by him.” [The high priest is liable for entire ignorance that the prohibition against idolatry exists, not merely for inadvertently doing the action while knowing it should not be done.]
- T. “And they concur that so far as his sacrifice in atonement is concerned, it is a she-goat, just as is brought by an individual.
- U. “And they further concur that he does not have to bring a suspensive guilt-offering.’
- V. *“Now as to inadvertently carrying out an act of idolatry, what sort of action can have been contemplated? If [the high priest] inadvertently imagined that [a temple] was a synagogue and he prostrated himself to the [idol’s temple] on that account, then his heart was directed to heaven [and there is no sin here at all]. Rather, we deal with a case in which he saw a statue of a man and prostrated himself to it. Now is he had accepted the idol as his god, then what he did was deliberate [and does not fall into the present category at all]. [62A] If he did not accept the idol as his god, then what he did was null. Rather, is it not a case in which it was done out of love and dear [Freedman, p. 419, n. 4: without knowing that this is idol worship. This constitutes inadvertency in respect of the action, but not forgetfulness or ignorance of the law, since he knows that idolatry per se is forbidden. Hence the passage supports Abbaye’s ruling.]”*
- W. And Raba? He will say to you, “Is it not a case in which the man says that it is permitted [to carry out such an act]?”
- X. But if it is a case in which the man says that it is permitted to carry out such an act, what we have is nothing other than a situation in which the very principle that idolatry per se is forbidden has been forgotten.
- Y. The present passage speaks of a case in which the person holds that it is entirely permitted to carry out such an action, while a case in which the principle that the act is prohibited is forgotten deals with a matter in which part of the action is to be carried out and part not carried out. [Freedman, p. 419, n. 5: If the priest declares that sacrificing and offering incense to idols are forbidden but prostration is permitted, that is called ignorance of the law; if he declares that idolatry is not prohibited at all, in Raba’s opinion it is regarded as inadvertency of action.]
- I.7 A.** *R. Zakkai repeated on Tannaite authority before R. Yohanan, “If a person sacrificed, burned incense, poured out a libation, and prostrated himself [to an idol] in one spell of inadvertence [not knowing that any form of service to an idol is forbidden], he is liable on only one count.”*
- B. *He said to him, “Go and repeat this in public.”*
- C. *Said R. Abba, “That which R. Zakkai has stated in point of fact represents a dispute between R. Yosé and R. Nathan.*
- D. *“For it has been taught on Tannaite authority:*
- E. “The prohibition of lighting a fire [on the Sabbath, which is covered under the general prohibition not to work on the Sabbath, Exo. 20:10, and did not require

specification], was singled out so as to indicate that it is [merely] a negative [commandment],’ the words of R. Yosé.

- F. “R. Nathan says, ‘It was singled out to signify that it is treated as distinct [from other actions, so showing that, overall, if on the Sabbath in a single spell of inadvertence one carried out a number of prohibited actions, he is liable on each count, and not solely on the single count covering all of them.]’ [This would place Zakkai in Yosé’s position, with Nathan rejecting the basic principle.]
- G. *“From the viewpoint of him who has said that the specific reference to kindling a flame was to indicate that that commandment was simply a negative one, the specific reference to prostration before an idol serves the same purpose, namely to place that act into the category of a negative commandment.*
- H. *“In the viewpoint of him who has said that the explicit prohibition of kindling a flame served to show that one is liable on each count of a number of actions in violation of the Sabbath done in a single spell of inadvertence, the same principle applies to the act of prostration, also singled out, so that if one does a number of distinct actions of service to an idol in a single spell of inadvertence, he is liable on each count.”*
- I. *To this proposition R. Joseph objected, “But it may well be that R. Yosé maintains that the specific reference to kindling a fire was made so as to place that act in the category of a negative commandment only because he is able to prove the other principle on the strength of a different proof-text altogether. Specifically, the fact that one should make distinctions among other acts of labor on the Sabbath [and impose liability for each one when many of them are done in a single spell of inadvertence] derives, in his view, from the verse, ‘... of one of them ...’ (Lev. 4: 2).*
- J. *“For it has been taught on Tannaite authority:*
- K. “R. Yosé says, “[If a soul shall sin through ignorance against any of the commandments of the Lord, concerning things which ought not to be done,] and shall do one of them (Lev. 4: 2) indicates that there are occasions on which is liable on one count for all actions, and there are occasions on which one is liable for each act individually.”
- L. *“And R. Jonathan said, ‘What is the scriptural basis for R. Yosé’s view? It is because it is written, “and shall do of one of them” (Lev. 4: 2).”* [Freedman, p. 421, n. 3: This is a peculiar construction. The Scripture should have written, ‘and shall do one (not of) of them,’ or, ‘and do of them’ (one being understood), or, ‘and shall do one’ (of them being understood). Instead of which, a partitive preposition is used before each. Hence each part of the pronoun is to be interpreted separately, teaching that he is liable for the transgression of ‘one’ precept; and for part of one (i.e., for ‘of one’): for ‘them’ (explained as referring to the principal acts); and for the derivatives ‘of them’ (acts forbidden because they partake of the same nature as the fundamentally prohibited acts); also, each pronoun reacts upon the other, as explained in the discussion.]
- M. [What follows, to the end of this paragraph, is Freedman’s translation, pp. 423-425, reproduced with only minor changes:] This teaches that liability is incurred for one complete act of violation [i.e., ‘one’]; and for one which is but a part of one [i.e., ‘of one’]; and for transgressing actions forbidden in themselves [i.e.,

‘them’], and for actions [the prohibited nature of which is derived] from others [i.e., ‘of them’]; further, that open transgression may involve liability for a number of sacrifices [i.e., ‘one’ = ‘them’], whilst many offenses may involve but one sacrifice [i.e., ‘them’ = ‘one’]. Thus: ‘one complete act of violation,’ — the writing [on the Sabbath] of Simeon; ‘one which is but a part of one,’ — the writing of Shem as part of Simeon, ‘actions forbidden in themselves’ [i.e., ‘them’] — the principal acts of labor forbidden on the Sabbath; ‘actions [the prohibited nature of which is derived] from others [i.e., “of them”]’ — the derivatives; ‘one transgression may involve liability for a number of sacrifices [i.e., “one” = “them”]’ — e.g., if one knew that it was the Sabbath [and that some work is forbidden on the Sabbath], but was unaware that these particular acts are forbidden; ‘many offenses may involve but one sacrifice [i.e., “them” = “one”]’ — e.g., if he was unaware that it was the Sabbath, but knew that his actions are forbidden on the Sabbath. But here [in idol worship], since separation of actions is not derived from elsewhere, may we not say that all agree [even R. Yosé] that prostration was singled out to indicate ‘separation’? [But this is so?] May not ‘separation’ of acts in the case of idolatry too be deduced from ‘of one of them’? Thus, ‘one complete act of idolatry’ — sacrificing [to idols]; a part of one [i.e., ‘of one’] — the cutting of one organ. ‘Actions forbidden in themselves’ [i.e., ‘them’] — principal acts, i.e., sacrificing, burning, incense, making libations, and prostration; ‘actions derived from others’ [i.e., ‘of them’] the derivatives of these — e.g., if he broke a stick before it; ‘one transgression may involve liability for a number of sacrifices,’ [i.e., ‘one’ = ‘them’], e.g., when one knows that it is an idol [and that idolatry is forbidden], but is unaware that the particular acts in question constitute idol-worship; many offenses may involve but one sacrifice, [i.e., ‘them’ = ‘one’]; if he is unaware that it is an idol, but knows that these acts are forbidden in idol worship.

- N. *As to an act of idolatry done in inadvertence, how would it be defined?*
- O. *If one should suppose that he was worshipping a synagogue when he bowed down to [a temple of an idol], lo, his heart was directed to heaven.*
- P. *Rather, he saw a statue of a man and bowed down to it.*
- Q. *But if he had accepted it as a god, then what he did was a deliberate violation of the law.*
- R. *And if he had not accepted it as a god, then what he did was null.*
- S. *Hence what he did was out of love and fear.*
- T. *That poses no problems to Abbayye, who has held that one is liable on that account.*
- U. *But from the viewpoint of Raba, who has said that one is exempt, what is there to be said?*
- V. It is that the man maintained that it is permitted [to worship an idol]. [Freedman, p. 423, n. 6: Though this does not constitute unawareness that a particular thing is an idol worship, yet it is a case where many transgressions involve but one sacrifice.]
- W. *On that basis you may work out the problem posed by Raba to R. Nahman: “If one is responsible for forgetting the principle of both [the Sabbath as a day on*

which labor is prohibited, and also that the given act of labor is prohibited on the Sabbath], what is the law?"

- X. *One may reach the conclusion that one is liable on only one count.* [Freedman, p. 424, n. 2: For if one declared that idolatry is permissible, it is as though he were unaware that a particular thing was an idol. Hence if we deduce from the verse that in idolatry only one sacrifice is needed for such inadvertence, the same must apply to the Sabbath. At this stage of the discussion it is assumed, however, that this deduction is impossible, as otherwise Raba would not have propounded his problem. Consequently the verse cannot be applied to idolatry, and Abba is justified in regarding kindling and prostration as interdependent both in interpretation and in the resultant laws and Zakkai's statement is admissible as correct — according to R. Yosé.]
- Y. *That is no objection. If you can solve the problem, solve it. [What difference does it make?]*
- Z. *But can you interpret the verse at hand to speak of idolatry? The cited verses speak of idolatry, while the verses under discussion concern sacrifices brought on account of the anointed priest, that is, a bullock; for the chief, a he-goat; and for an individual, a she-goat or lamb.*
- AA. *In regard to idolatry, we have learned: they concur that his sacrifice is a she-goat, as in the case of a private individual.*
- BB. *There is nothing further [to be said].* Freedman, p. 424, n. 8: Consequently this verse cannot teach separation of idolatrous actions.]
- CC. *When R. Samuel bar Judah came, he said, [62B] "This is what [Zakkai] taught on Tannaite authority before [Yohanan]: "There is a more strict rule that applies to the Sabbath than applies to other religious duties, and there is a more strict rule that applies to other religious duties that does not apply to the Sabbath.*
- DD. *"For in the case of the Sabbath, if one has done two forbidden actions in a single spell of inadvertence, he is liable for each one separately, a rule that does not apply to other religious duties.*
- EE. *"The more strict rule applying to other religious duties is that if one has performed a forbidden action inadvertently, without prior intention, he is liable, which is not the rule for the Sabbath."*
- FF. A master has said, "In the case of the Sabbath, if one has done two forbidden actions ...":
- GG. *How shall we illustrate that statement? If one should propose that a person did an act of reaping and one of grinding, then, in respect to other religious duties, it would be similar to eating both forbidden fat and blood. In such a case, one is liable on two counts, just as here he is liable on two counts.*
- HH. *Then with respect to other religious duties, what sort of case would yield the result that one is liable on only a single count?*
- II. *If one ate forbidden fat and then more forbidden fat.*
- JJ. *In a parallel case involving the Sabbath it would be if one performed an act of reaping and then another act of reaping.*
- KK. *In that case, however, in the one context [eating forbidden fat] he is liable on only one count, and in the other context, he also is liable on only one count.*

- LL. *That is why [R. Yohanan] said to him, "Go and repeat your tradition outside."*
- MM. *But what is the real problem at hand? Perhaps one may say to you that, as to the acts of reaping and grinding, subject to a rule distinct from other religious duties, the reference [to "other religious duties"] is specifically to idolatry, and it accords with what R. Ammi said.*
- NN. For R. Ammi said, "If one has sacrificed, offered incense, and poured out a libation, all in a single spell of inadvertence, he is liable on only a single count," [while in the case of the Sabbath, as we see, one is liable on more than a single count].
- OO. *You cannot assign the statement only to idolatry, for the end of the same sentence reads: "The more strict rule applying to other religious duties is that, if one has performed a forbidden action inadvertently, without prior intention, he is liable, which is not the rule for the Sabbath."*
- PP. *Now what, in reference to idolatry, can possibly fall into the category of an action that has been performed inadvertently, without intention?*
- QQ. If one supposed that a temple of an idol was a synagogue and prostrated himself to it, lo, his heart was directed to heaven.
- RR. *Rather, he saw a statue of a man and bowed to it.*
- SS. *If, then, he accepted it as a god, what he did was done deliberately.*
- TT. *If he did not accept it as a god, then what he did was null.*
- UU. *Rather, what he did was out of love and awe.*
- VV. *That poses no problems to Abbaye, who has said that, in such a case, he is liable.*
- WW. *But as to the view of Raba, who has said that he is exempt, what is there to be said?*
- XX. Rather, it is one who has the view that such an action is permitted. [Freedman, p. 425, n. 3: And since he has never known of any prohibition, it is not regarded as unwitting, but as unintentional too.]
- YY. *Then this is what is not the case for the Sabbath, for, in a similar circumstance, one would not be liable at all.*
- ZZ. *[But surely that conclusion is not possible], for when Raba poses his question to R. Nahman as to the rule governing a single spell of inadvertence in each of the two contexts, it is only whether one is liable on one count or on two counts. But it never entered his mind that one would be entirely exempt from all liability.*
- AAA. *What difficulty is at hand? Perhaps one may say to you indeed that the first clause speaks of idolatry and the remainder of other religious duties.*
- BBB. *The case of inadvertence, without intention, would be one in which one had the view that [when he found there was forbidden fat in his mouth], he thought that it was spit and swallowed it [rather than spitting it out], a rule which, in a parallel case on the Sabbath, would produce the ruling of non-liability. [How so?] If one had the intention of lifting up something that was already harvested but turned out to cut something yet attached to the ground, he is exempt. [Freedman, p. 426, n. 2: Cutting or tearing out anything growing in the earth is a forbidden labor on the Sabbath. His offense was both unwitting and unintentional for (i) he had no intention of tearing out anything and (ii) he did not know that this was growing in*

*the soil. Now, had he known that it was growing in the soil and deliberately uprooted it in ignorance of the forbidden nature of that action, his offense would have been unwitting but intentional. By analogy, had he intended to eat the melted fat, thinking that it was permitted, his offense would be regarded as unwitting but intentional. Since, however, he did not intend eating it at all, but accidentally swallowed it, thinking at the same time that it was spittle, his offense was both unwitting and unintentional.]*

CCC. *This is in line with what R. Nahman said Samuel said, "He who gets involved with forbidden fat or consanguineous sexual relationships is liable, for he derived benefit from the act. [That is, if one planned to eat permitted fat but inadvertently ate forbidden fat, or planned to have sexual relations with his wife but inadvertently had them with his sister, he is liable.] If by contrast one was involved in a forbidden action on the Sabbath [and thereby did what he did not intend to do], he is exempt, for it is a deed involving full deliberation that the Torah has prohibited."*

DDD. *R. Yohanan is consistent with his views expressed elsewhere, for he does not wish to apply one paragraph of a Mishnah-teaching to one circumstance, and a later paragraph to a different circumstance." [We now have an example of that same approach of consistency.]*

EEE. *For R. Yohanan said, "For whoever explains for me the Mishnah-paragraph of 'a barrel' in such a way that it accords with the position of a single Tannaite authority, I shall carry his clothes to the baths."* [Freedman, p. 427, n. 2: This reference is to a Mishnah on B.M. 40b: If a barrel was entrusted to a man's keeping, a particular place being assigned to it, and this man moved it from the place where it was first set down, and it was broken — Now, where it was broken whilst he was handling it, then if he was moving it for his own purposes (e.g., to stand on it), he must pay for it; if for its sake (e.g., if it was exposed to harm in the first place), he is not liable. But if it was broken after he had set it down, then in both cases he is not liable. If the owner, however, had assigned a place to it, and this man moved it, and it was broken, whether whilst in his hand or after he had set it down: if he moved it for his sake, he is liable; if for its own, he is not. The Talmud then proceeds to explain that the first clause is in accordance with R. Ishmael, who maintained that if one stole an article and returned it without informing its owner, he is free from all further liability in respect of it. Consequently, if he moved the barrel for his own purpose (which is like stealing), and set it down elsewhere, no particular place being assigned to it, his liability has ceased. But the second clause agrees with R. Aqiba's ruling that if an article is stolen and returned, the liability remains until the owner is informed of its return. Consequently, if he moved it for his own purpose, he remains liable even after it is set down. But R. Yohanan was dissatisfied with this explanation, holding that both clauses should agree with one Tanna. Now, the Talmud does actually explain that it can agree with one Tanna, viz., by assuming that in the first clause the barrel was subsequently returned to its original place, but that in the second clause it was not. Consequently, it concurs entirely with R. Ishmael, but his liability continues in the second instance because he did not return it to its first

place. But R. Johanan rejects this explanation, not deeming it plausible to conceive of such different circumstances in the two clauses of the Mishnah. For the same reason, when R. Zakkai taught that sometimes the Sabbath is more stringent than other precepts, and sometimes it is the reverse, R. Johanan would not accept an interpretation whereby ‘other precepts’ in the first clause means idolatry, whilst in the second it referred to forbidden fat.]

FFF. *Returning to the body of the text just now cited:*

GGG. [63A] Said R. Ammi, “If one sacrificed to an idol, burned incense, and poured out a libation to it, in a single spell of inadvertence, he is liable on only a single count.”

HHH. *Said Abbaye, “What is the scriptural basis for the view of R. Ammi? ‘[You shall not bow down to them] nor serve them’ (Exo. 20: 5), by which formulation Scripture has treated all of them as a single act of service.”*

III. *But did Abbaye make such a statement?*

JJJ. And has not Abbaye said, “Why is reference in three settings made to the prohibition of bowing down for an idol [at Exo. 20:5]?”

KKK. “One covers doing so in the proper way, one covers doing so not in the proper way, and the third serves to impose a distinct liability for each act of doing so [so that if one does so three times in a single spell of inadvertence, he is liable on three counts]”?

LLL. *[Abbaye’s statement] was in fact a report of R. Ammi’s viewpoint, but [Abbaye] does not concur with that viewpoint.*

MMM. *Returning to the text just now cited:*

NNN. Said Abbaye, “Why is reference made to the prohibition of bowing down for an idol in three settings [at Exo. 20:5]? One covers doing so in the proper way, one covers doing so not in the proper way, and the third serves to impose a distinct liability for each act of doing so.”

OOO. *But as to doing so in the proper way, is this not derived from the verse, “[How did these nations serve their gods? Even so will I do likewise]” (Deu. 12:30)?*

PPP. Rather: “one of the references to prostration deals with a case in which one worships the idol in a normal but somewhat unusual way, one deals with the case in which one worships it not in its normal way at all, and the third serves to impose a distinct liability for each act of doing so.”

## **II.1 A. The one who accepts it upon himself as a god, saying to it, “You are my god” [M. 7:6C]:**

B. Said R. Nahman said Rabbah bar Abbuha said Rab, “Once one has said to it, ‘You are my god,’ he is liable.”

C. *For what? If it is for the death penalty, that is the explicit statement of the Mishnah-passage.*

D. Rather, it is for an offering.



- E. *But is that even from the viewpoint of rabbis? For has it not been taught on Tannaite authority: **One is liable only on account of something which is of practical consequence, such as sacrificing, burning incense, pouring out a libation, or prostrating oneself** [T. 10:3B]. And in this connection R. Simeon b. Laqish said, “Who is the Tannaite authority who includes the matter of prostration [which is hardly a concrete action in the category of a sacrifice]? It is R. Aqiba, who maintains the view that we do not require that there be a concrete deed at all [to impose liability for idolatry].*
- F. *It surely must follow that rabbis take the view that we do require a concrete deed [and Rab’s statement would then not represent the position of rabbis but only of an individual authority].*
- G. *When Rab made that statement, it was from the viewpoint of R. Aqiba.*
- H. *But if it was from the viewpoint of R. Aqiba, that is a self-evident fact. The person at hand falls into the category of a blasphemer.*
- I. *What might you have said? R. Aqiba imposes the requirement of bringing an offering only in the case of a blasphemer, in which case Scripture makes explicit reference to extirpation. But here, in which case there is no explicit reference in Scripture to extirpation, I might have said that that was not the case. So we are informed that there is an analogy to be drawn [between saying “You are my god” and blasphemy,] for it is written, “They have made a molten calf and have worshipped it and have sacrificed to it and have said, ‘[These are your gods, O Israel who brought you up out of the land of Egypt]’ (Exo. 32: 8). [So sacrificing and declaring that this is one’s god are regarded as analogous actions, as Aqiba maintains].*
- J. *Said R. Yohanan, “Were it not for the indication of the plural in the verb, ‘who have brought you up,’ the Israelites would have become liable to destruction. [The calf then is not the sole god, the Israelites’ language indicating that God also was a divinity.]”*
- K. *This is subject to a dispute on Tannaite authority:*
- L. *Others say, “Were it not for the indication of the plural in the verb, ‘who have brought you up,’ the Israelites would have become liable to destruction.”*
- M. *Said to him R. Simeon b. Yohai, “Is it not the case that whoever joins together the Name of heaven and the name of ‘something else’ [an idol] is uprooted from the world, as it is said, ‘He who sacrifices to any god, save to the Lord alone, shall be utterly destroyed’ (Exo. 22:19)?*
- N. *“What is the meaning of the plural verb?*
- O. *“It indicates that they desired many gods.”*

### **III.1 A. But the one who hugs it, kisses it, polishes it, sweeps it... [M. 7:6D]:**

- B. *When R. Dimi came [from Palestine], he said R. Eleazar [said], “On account of all [of the actions listed at M. 7:6Dff.] one is given a flogging, except for the **one who takes a vow in its name or who carries out a vow made in its name** [M. 7:6R].”*
- C. *What distinguishes one who takes a vow in its name or who carries out a vow made in its name that such a one is not flogged?*

- D. It is because that constitutes a violation of a negative commandment that does not involve a concrete action.
- E. *The other items also constitute prohibitions based on a negative commandment phrased in general terms, and people do not administer a flogging for the violation of a prohibition based on a negative commandment phrased in general terms.*
- F. *For it has been taught on Tannaite authority:*
- G. How do we know that if someone eats meat from a beast before it has died, he violates a negative commandment?
- H. Scripture says, “You shall not eat anything with the blood” (Lev. 19:26).
- I. Another matter: “You shall not eat anything with the blood” means you shall not eat meat while the blood is still in the bowl [and not sprinkled].
- J. R. Dosa says, “How do we know that people do not provide a mourners’ meal on account of those who are executed by a court? Scripture says, ‘You shall not eat anything for one whose blood has been shed.’”
- K. R. Aqiba says, “How do we know that a sanhedrin who put someone to death should not taste any food all that day?
- L. “Scripture says, ‘You shall not eat anything with bloodshed.’”
- M. R. Yohanan says, “How do we know that there is an admonition against the wayward and rebellious son? Scripture says, ‘You shall not do anything to cause bloodshed’ (Lev. 19:26) [Freedman’s translation].”
- N. *And said R. Abin bar Hiyya, and some say, R. Abin bar Kahana, “In the case of all of these, one is not flogged, for each of these constitutes a prohibition based on a general principle.”*
- O. But when Rabin came [from Palestine], he said R. Eleazar [said], “In the case of all of them, one is not flogged, except for **the case of one who takes an oath by [the idol’s] name or carries out an oath made in its name.**
- P. *“What is the reason that these are differentiated so that one is not flogged?*
- Q. *“It is because these items constitute prohibitions based on a negative commandment phrased in general terms.”*
- R. *But these other items constitute violations of a negative commandments that do not involve concrete actions.*
- S. *The rule follows the view of R. Judah, who has said, “As to a negative commandment that does not involve a concrete action, the court nonetheless administers a flogging on account of a violation of such a commandment.”*
- T. *For it has been taught on Tannaite authority:*
- U. ““You shall let nothing of it remain until the morning, and that which remains of it until the morning you shall burn with fire’ (Exo. 12:10).
- V. “In framing matters this way, the Scripture has stated a positive commandment following a negative commandment, **[63B]** so as to indicate to you that the court does not inflict a flogging on that account,” the words of R. Judah.
- W. R. Jacob says, “That is not the principle at hand. Rather it is because what we deal with is a negative commandment that does not contain a concrete deed, and on account of the violation of a negative commandment that does not involve a concrete deed, the court does not inflict a flogging.”

- X. *It must follow that R. Judah takes the view that, on such an account, the court does inflict a flogging.*

**IV.1 A. He who takes a vow in its name and he who carries out a vow made in its name transgress a negative commandment [M. 7:6F]:**

- B. *How do we know that this is the case for him who vows in its name or who carries out a vow made in its name?*
- C. *As it has been taught on Tannaite authority:*
- D. “And you shall make no mention of the name of other gods” (Exo. 23:13):
- E. **This means that one should not say to his fellow, “Wait for me by the idol of so and so,”**
- F. **or, “I’ll wait for you by the idol of such-and-such” [T. A.Z. 6:11A-C].**
- G. “And neither let it be heard of your mouth” — that one should not take a vow or carry out a vow made by its name, nor should he cause others [gentiles] to take a vow by its name or to carry out a vow by its name.
- H. Another matter: “Let it not be heard out of your mouth” — this is an admonition against one who incites or entices Israelites to practice idolatry.
- I. *But the matter of inciting is stated explicitly, for it is written in that connection, “And all Israel shall hear and fear and shall do no more any such wickedness as this is among you” (Deu. 13:12).*
- J. This is an admonition against one who causes Israelites to practice idolatry.
- K. “Nor should he cause others [gentiles] to take a vow by its name:”
- L. *This supports the viewpoint of Samuel’s father.*
- M. For Samuel’s father said, “It is forbidden for a person to form a partnership with an idolator, lest he become liable to take an oath to him and have to take thee oath by his idol.
- N. “For the Torah has said, ‘Neither let it be heard out of your mouth’ (Exo. 23:13).”

**IV.2 A. When Ulla came, he stayed at the City of Nebo. Said Raba to him, “And where did the master lodge?”**

- B. *He said to him, “In the City of Nebo.”*
- C. *He said to him, “Is it not written, ‘And do not mention the name of other gods’ (Exo. 23:13)?”*
- D. He said to him, “This is what R. Yohanan has said, ‘It is permitted to mention the name of any idol that is written in the Torah.’”
- E. *“And where is this one written?”*
- F. “As it is written, ‘Bel bows down, Nebo stoops’ (Isa. 46: 1).”
- G. *And if it is not written in the Torah, may one not mention it?*
- H. *To that proposition R. Mesharshia objected, “If one saw a flux as profuse as three, which is sufficient for one to go from Gad Yon to Shiloah, which is time enough for two immersions and two dryings, lo, this one is entirely a zab [M. Zab. 1:5A-D]. [Clearly, the framer of the Mishnah was willing to refer to a town named for an idol.]”*
- I. *Said Rabina, “Gad too is mentioned in the Torah: ‘That prepare a table for Gad’ (Isa. 65: 2).”*

**IV.3** A. Said R. Nahman, “Any form of mockery is forbidden except for mockery of idolatry, which is permitted. For it is written, ‘Bel bows down. Nebo stoops... they stoop, they bow down together, they could not deliver the burden’ (Isa. 46: 1). And it is written, ‘They have spoken: the inhabitants of Samaria shall fear because of the calves of Beth Aven; for the people therefore shall mourn over it, and the priests thereof that rejoiced on it for the glory thereof, which is departed from it’ (Hos. 10: 5). Do not read ‘its glory’ but ‘his weight.’”

**IV.4** A. Said R. Isaac, “What is the meaning of the following verse of Scripture: ‘And now they sin more and more and have made for themselves molten images of their silver and idols in their image’ (Hos. 13: 2)?

B. “What is the meaning of ‘idols in their image’? This teaches that each one of them made an image of his god and put it in his pocket. When he called it to mind, he took it out of his pocket and embraced it and kissed it.”

C. What is the meaning of, “Let the men that sacrifice kiss the calves” (Hos. 13: 2)?

D. Said R. Isaac of the house of R. Ammi, “The servants of the idols would look enviously at wealthy men. They would starve the calves and make images of [the rich men] and set them up at the side of the cribs and then bring the calves out. When the calves would see the men, they would run after them and nuzzle them. [The servants] would say to the men, ‘The idol wants you. Let him come and sacrifice himself to him.’ [Freedman, p. 433, n. 7: Thus the verse is translated: They sacrifice themselves in their homage to the calves.]”

E. Said Raba, “Then the verse, ‘Let the men that sacrifice kiss the calves’ should read, ‘Let the calves kiss the men that sacrifice.’”

F. Rather said Raba, “‘Whoever sacrifices his son to an idol would have the priest say to him, ‘You have offered a great gift to it. Come and kiss it.’”

**IV.5** A. Said R. Judah said Rab, “‘And the men of Babylonia made Succoth-benoth’ (2Ki. 17:30) [among idols brought by gentiles who resettled Samaria after the deportation].

B. “What was it? It was a chicken.

C. “‘And the men of Cuth made Negral (NRGL)’ (2Ki. 17:30).

D. “What was it? It was a cock (TRNGL).

E. “‘And the men of Hamath made Ashima’ (2Ki. 17:30).

F. “What was it? It was a bald buck.

G. “‘And the Avites made Nibhaz an Tarak’ (2Ki. 17:30).

H. “What are these? A dog and an ass.

I. “‘And the Sepharvites burned their children in fire to Adrammelech and Anammelech, the gods of Sepharvaim’ (2Ki. 17:30).

J. “What were they? A mule and a horse.

K. “‘Adrammelech’ means that [the mule] honors its master in carrying its load.

L. “‘Anammelech’ means that the horse answers its master in battle.

M. “Also the father of Hezekiah, king of Judah, wanted to do the same to him [namely, to burn him in fire], but his mother covered him with salamander [blood and so made him fire-proof].”

- IV.6** A. Said R. Judah said Rab, “The Israelites know that idolatry was of no substance and did not perform acts of idolatry except with the intent of allowing themselves publicly to engage in consanguineous sexual relations.”
- B. *R. Mesharsheyya objected*, “‘As those who remember their children, so they longed for their altars, and their graves by the green trees’ (Jer. 17: 2).
- C. “And R. Eleazar said, ‘It was like a man who yearned for his son.’ [So their belief in idols was sincere.]”
- D. This was after they had cleaved to idolatry [and gotten used to it].
- E. *Come and take note*:
- F. “And I will cast your carcasses upon the carcasses of your idols” (Lev. 26:30):
- G. They say: Elijah, the righteous man, was searching among those who are starving in Jerusalem. One time he found a child who was starving and who was thrown into a dung heap. He said to him, “From what family do you come?”
- H. He said to him, “From such and such a family do I come.”
- I. He said to him, “Has anyone survived from that family?”
- J. He said to him, “No one but me.”
- K. He said to him, “If I teach you something by which you will live, will you learn it?”
- L. He said to him, “Yes.”
- M. He said to him, “Say every day, ‘Hear O Israel, the Lord our God, the Lord is one.’”
- N. He said to him, “[64A] Be silent, so as not to make mention of the name of the Lord.”
- O. It was because his father and mother had not taught him [the worship of the Lord]. He forthwith took out his little idol from his bosom and began to hug it and kiss it, until his stomach burst and his idol fell to the ground, and he fell on it.
- P. This was to carry out that which is said, “And I shall cast your carcasses upon the carcasses of your idols” (Lev. 26:30). [Thus we see that the Israelites were sincere in their idolatry.]
- Q. *This came after they had cleaved to idolatry [and gotten used to it].*
- R. *Come and take note*:
- S. “And they cried with a loud voice to the Lord their God” (Neh. 9: 4) [when the Israelites came back to Zion in the time of Ezra].
- T. *What did they say?*
- U. *Said R. Judah, and some say, R. Jonathan*, “‘Woe, woe, this is what destroyed the house and wiped out the temple, killed the righteous and caused Israel to go into exile from its land, and it still is dancing among us. Is it not so that you put it among us only so that we could gain a reward [for resisting it]. We don’t want it, we don’t want the reward for resisting it!’” [So they were deeply attracted to the idolatry.]
- V. *This came after they had cleaved to idolatry.*
- W. [Judah continues,] “They sat in a fast for three days and prayed for mercy. A message came down from the firmament, with the word ‘truth’ written on it.”
- X. Said R. Hanina, “This proves that the seal of the Holy One, blessed be he, is truth.”

- Y. *[Judah goes on,] “Something in the shape of a lion’s whelp made of fire came forth from the house of the Holy of Holies and said to the prophet to Israel, ‘This is the tempter of idolatry.’ While they held it, its hairs fell out of it, and its roar could be heard for four hundred parasangs. They said, ‘What shall we do? Perhaps from heaven there will be mercy for it.’*
- Z. *“The prophet said to them, ‘Throw it into a lead pot and cover it with lead to stifle its voice.’*
- AA. *“For it is written, ‘And he said, This is wickedness, and he cast it into the midst of the ephah and he cast the weight of lead upon the mouth of it’ (Zec. 5: 8).*
- BB. *“They said, ‘Since it is a propitious time, let us pray for mercy about the tempter of sin [so we may be saved from it].’*
- CC. *“They prayed for mercy, and it was given into their hands, and they imprisoned it for three days.*
- DD. *“People went looking for a fresh egg for a sick person and could not find it. [All sexual activity had ceased.]*
- EE. *“They said, ‘What should we do? If we ask for half-and-half [so that the power of temptation be limited by half], it will not be granted to us.’*
- FF. *“They blinded its eye with rouge, so that a man will not lust for his close female relations.”*

- IV.7** A. Said R. Judah said Rab, “There was the case of a gentile woman who was very sick. She said, ‘If that woman [I] survive this illness, she will go and worship every idol in the world.’
- B. “She recovered from the illness and went and worshipped every idol in the world.
  - C. “When she came to Peor, she asked its keepers how people worship this idol.
  - D. “They said to her, ‘People eat beets and drink beer and then show their behinds [and fart] before it.’
  - E. “She said, ‘It would be better for that woman [me] to fall sick again but not to worship that idol in such a way.’
  - F. [Rab continues], “But you, house of Israel, were not this way, ‘who were joined to Baal Peor’ (Num. 25: 5) — joined like a tightly fitting seal.
  - G. ““But you who cleave to the Lord your God’ (Deu. 4: 4) — like two dates that are stuck together.”
  - H. *In a Tannaite passage it is taught:*
  - I. “That were joined to Baal Peor” (Num. 25: 5) — like a woman’s bracelet.
  - J. “And you who cleave to the Lord your God” (Deu. 4: 4) — literally cleaving.

**IV.8** A. *Our rabbis have taught on Tannaite authority:*

- B. There is the case of Sabta of Eles, who hired his ass to a gentile woman. When she came to Peor, she said to him, “Wait for me while I go in and come out.”
- C. After she came out, he said to her, “Now you wait for me while I go in and come out.”
- D. She said to him, “Aren’t you a Jew?”
- E. *He said to her, “And what difference does it make to you?”*



- F. He went in, showed his behind to the idol and wiped his ass on its nose, and the servants of the idol praised him, saying, “There never has been a person who served it in such a way.”
- G. [That is line with M. 7:6G, thus] **He who shows his behind to Baal Peor — lo, this is the way it is served, even though the person who does so has the intent of committing a disgrace against it.**
- H. **He who throws a pebble at Mercury [M. 7:6H] — lo, this is the way it is served, even though the person who does so has the intent of stoning it.**

**IV.9** A. R. Menassia was going along to Be Torta. They pointed out to him, “There is an idol standing here.”

- B. He took a stone and threw it at it.
- C. They said to him, “It is Mercury.”
- D. He said to them, “What we have learned in the Mishnah is: **He who tosses a pebble at Merkolis [M. 7:6H].**”
- E. He came to the school house and asked [whether he had committed a sin, having intended to express contempt].
- F. They said to him, “We have learned in the Mishnah: **He who tosses a pebble at Merkolis [M. 7:6H] — even though one’s intent is to stone it.**”
- G. He said to them, “Then I shall go and take it away [the heap of stones that constitutes the idol].”
- H. They said to him, “All the same are the one who takes a stone away and the one who places a stone on it — both are liable, for each one [removed] leaves room for another stone.”

Unit I.1 clarifies the sense of the Mishnah’s language. Unit I.2 then seeks the biblical source for the Mishnah’s rule. The inquiry proceeds through units I.3,4. Unit I.5 then takes up the contradiction in the implications of M. 7:6A and M. 7:10N. Units I.6, 7 are inserted because of the clarification of M. 7:6A-B. I cannot claim to have done justice to unit I.7, and, as indicated, rely upon Freedman’s exposition of the passage as well as on his translation. Unit II.1 brings us to M. 7:6C, unit III.1 to M. 7:6D, unit IV.1 to M. 7:6F. Despite the diffuse appearance of sizable components of the composition at hand, the bulk of the materials are put together systematically to clarify the Mishnah’s statements.

### 7:7A-E

- A. **He who gives of his seed [child] to Molech [M. 7:4D] [Lev. 20:2] is liable only when he will both have given him to Molech and have passed him through fire.**
- B. **[If] he gave him to Molech but did not pass him through fire.**
- C. **passed him through fire but did not give him to Molech,**
- D. **he is not liable —**
- E. **until he will both have given him to Molech and have passed him through fire.**



- I.1** A. *The Mishnah [at M. 7:4] refers to both idolatry in general and giving to Molech in particular [treating them as separate. This would imply that giving a child to Molech is not an act of idolatry.]*
- B. *Said R. Abin, “Our Mishnah-passage is framed in accord with him who has said that Molech is not an idol.”*
- C. *For it has been taught on Tannaite authority:*
- D. **One is liable for [worshipping] Molech or any other idol.**
- E. **R. Eleazar b. R. Simeon says, “One is liable for doing so for Molech, and exempt for doing so not for Molech” [T. San. 10:5D-E].**
- F. *Said Abbaye, “R. Eleazar b. R. Simeon and R. Hanina b. Antigonus have said the same thing.*
- G. *“R. Eleazar b. R. Simeon has said that which we have just now cited.*
- H. *“R. Hanina b. Antigonus, as it has been taught on Tannaite authority:*
- I. *“R. Hanina b. Antigonus says, ‘On what account did the Torah use the word Molech [with the same root as the word for king]? It is to indicate that the prohibition pertains to any sort of thing which people have made a king over themselves, even a pebble or a splinter. [Freedman, p. 438, n. 1: This shows that he too regards any fetish as a Molech.]’”*
- J. *Said Raba, “At issue between [Eleazar and Hanina] is the case of a Molech of a temporary character. [Freedman, p. 438, n. 3: Anything which was only temporarily worshipped as Molech, such as a pebble, which would obviously not be a permanent idol. According to Hanina, one is liable, and Eleazar applies the law only to a permanent idol worshipped as Molech.]”*
- I.2** A. **[64B]** *Said R. Yannai, “One is liable only if he hands his son over to the worshippers of an idol.*
- B. *“For it is said, ‘And you shall not give of your seed to pass through the fire to Molech’ (Lev. 18:21). [Freedman, p. 438, n. 5: This proves that the offense consists of two parts, formal delivery to the priests and causing the seed to pass through the fire.]”*
- C. *So too it has been taught on Tannaite authority:*
- D. *Is it possible to suppose that **if one passed his son through fire but did not give him to Molech [M. 7:7C],** he might be liable?*
- E. *Scripture states, “You shall not give” (Lev. 18:21).*
- F. *Is it possible to suppose that **if he handed his son over but did not pass him through fire [M. 7:7B],** he might be liable?*
- G. *Scripture states, “To pass through....”*
- H. *If he handed over his son [to the priests] and passed him through fire, but not to Molech, is it possible that he might be liable?*
- I. *Scripture says, “...to Molech.”*
- J. *If one handed his son over and passed him to Molech, but not through fire, is it possible that he might be liable?*
- K. *Here it is said, “to pass through....,” and elsewhere it is said, “There shall not be found among you any one who makes his son or daughter pass through fire” (Deu. 18:10).*

- L. Just as in that passage it must be through fire, so in the present case it must be through fire.
- M. Just as in the present case it must involve Molech, so in that case it must involve Molech.

**I.3 A.** Said R. Aha, son of Raba, "If one passed all of his children through fire, he is exempt.

B. "For it is said, 'Of your seed,' but not all your seed."

**I.4 A.** *R. Ashi raised the question*, "If one passed a blind son through fire, what is the law?

B. "If he passed through a son who was asleep, what is the law?

C. "If he passed through the son of his son or the son of his daughter, what is the law?"

D. *In any event one may solve one of these questions.*

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

F. "Because he has given of his seed to Molech" (Lev. 20: 2).

G. *What is the sense of Scripture here?*

H. Since it is said, "There shall not be found among you any one who makes his son or his daughter pass through the fire" (Deu. 18:10), I know only that the law applies to one's own son or daughter. How do we know that it encompasses the son of his son or the son of his daughter?

I. Scripture says, "When he gives of his seed to Molech" (Lev. 20: 4).

J. *The Tannaite authority opens with the verse*, "Because he has given of his seed" (Lev. 20: 2) *and concludes with the verse*, "When he gives of his seed" (Lev. 20: 4). *This serves to provide the occasion for yet another interpretation.* [Freedman, p. 439, n. 8: From the first verse we learn that the law applies to one's grandsons too; "When he gives" is stated in order that another law may be deducted.]

K. So "Because he has given of his seed" (Lev. 20: 2):

L. I know that the rule applies to giving one's legitimate children.

M. How do I know that the law encompasses also invalid offspring?

N. Scripture says, "When he gives of his seed" (Lev. 20: 4) [a superfluous statement leading to the inclusion of the other sort of offspring].

**I.5 A.** Said R. Judah, **"One is liable only when he will have passed him through fire in the usual way [T. San. 10:4B]."**

B. *What would this mean?*

C. *Said Abbaye*, "A pile of bricks was in the middle, with fire on one side and on the other side."

D. *Raba said*, "It was like the bouncing about on Purim."

E. *There is a Tannaite teaching in accord with the view of Raba:*

F. **And he is liable only when he will have passed him through fire in the usual way.**

G. **[If] he passed him through fire by foot, he is exempt.**

- H. **And he is liable, moreover, only on account of those who are his natural children [T. San. 10:4B-D].**
- I. **How so? If it was his son or daughter, he is liable.**
- J. **[He who passes] his father, mother, or sister through fire [for Molech] is exempt.**
- K. **He who passes through himself is exempt.**
- L. **R. Eleazar b. R. Simeon declares him liable.**
- M. **All the same is doing so for Molech and for any other idol: one is liable.**
- N. **And R. Simeon says, "He is liable only on account of Molech alone" [T. San. 10:5A-E].**
  - O. *Said Ulla, "What is the scriptural basis for the view of R. Eleazar b. R. Simeon?"*
  - P. "Scripture says, 'There shall not be found among you' (Deu. 18:10) — 'among you' meaning 'within you.'"
  - Q. *And rabbis? They do not interpret the clause, "Within you."*
  - R. *But have we not learned in the Mishnah: **If one has to choose between seeking what he has lost and what his father has lost, his own takes precedence [M. B.M. 2:11A-B].** And in this connection, we said, "What is the Scriptural basis for that view?" And R. Judah said, "Scripture has said, 'Save that there shall be no poor among you' (Deu. 15: 4), meaning that what is among you [personally, your own family] takes precedence over what belongs to anyone else." [So rabbis do interpret the word "among you."]*
  - S. *That follows the exclusionary phrase, "Save that...."*

- I.6 A.** Said R. Yosé bar Hanina, "The three references to extirpation on account of idolatry serve what purpose? [These are at Lev. 20:2-5, 'Whoever gives of his seed to Molech will I cut off from among his people,' 'And if the people of the land kill him not, then I will set my face against that man... and will cut him off,' and, at Num. 15:30: 'But the soul that does something presumptuously... shall be cut off from among his people.']
- B. "One serves to state the penalty for worship in the normal way, one serves to state the penalty for idol worship not in the normal way, and one states the penalty for worship of Molech."
  - C. *And in the view of him who has said that Molech falls into the general category of idolatry, what need is therefore a specific reference to extirpation as the penalty for serving Molech?*
  - D. It states the penalty for him who passes his son through fire but not in the normal way.
  - E. *And as to him who has said that the blasphemer falls into the category of one who has served an idol, what need is there to specify that extirpation applies to the blasphemer [at Num. 15:30]?*
  - F. *It is in accord with that which has been taught on Tannaite authority:*
  - G. "That soul, being cut off, shall be cut off" (Num. 15:30).

- H. “‘Being cut off’ in this world; ‘shall be cut off,’ in the world to come,” the words of R. Aqiba.
- I. Said R. Ishmael to him, “And has it not already been said, ‘That soul shall be cut off’ (Num. 15:30). Are there then three worlds?”
- J. “Rather: ‘And that soul shall be cut off’ in this world; ‘he is to be cut off’ in the world to come.
- K. “The repetition is because the Torah uses ordinary human speech [and bears no further meaning at all].”

Unit I.1 takes up M. 7:4A, and the clarification of the Mishnah is worked out at units I.2, 3. Unit I.4 raises some secondary questions based on the foregoing. Unit I.5 goes over the Tosefta’s complement, and unit I.6 deals with the scriptural relevant verses. So the entire construction follows the established exegetical program.

### 7:7F-I

- F. [65A] He who has a familiar spirit [M. 7:4D4] [Lev. 20:27] — this is a ventriloquist, who speaks from his armpits;
- G. and he who is a soothsayer [M. 7:4D5] — this is one whose [spirit] speaks through his mouth —
- H. lo, these are put to death by stoning.
- I. And the one who makes inquiry of them is subject to a warning [Lev. 19:31, Deu. 18:10-11].

- I.1 A. *What is the reason that, in the present passage, the framer of the passage refers to both one who has a familiar spirit and also a soothsayer [at M. 7:7F, G], while at the list of those who are put to their death through extirpation, the one who has a familiar spirit is included in the list, but the one who is a soothsayer is omitted [at M. Ker. 1:1]?*
- B. Said R. Yohanan, “It is because both of them are encompassed in a single negative commandment [at Lev. 19:31, ‘Do not recognize those who have familiar spirits or soothsayers’].”
- C. R. Simeon b. Laqish said, “The soothsayer is omitted [at M. Ker. 1:1], because there is no concrete deed that he does.”
- D. *And as to R. Yohanan, why did the framer [of the passage at M. Ker. 1:1] refer to one who has a familiar spirit [and leave out the other item]?*
- E. *Because it is with that one that Scripture [Lev. 19:31] began discourse.*
- F. *And as to R. Simeon b. Laqish, why does he not explain matters as does R. Yohanan?*
- G. Said R. Pappa, “Because the two [categories of sorcerer] are treated distinctly when it comes to the specification of the death penalty [at Lev. 20:27: ‘A man who has a familiar spirit or a soothsayer will surely be put to death.’ The ‘or’ distinguishes the two.]”
- H. *And R. Yohanan? Deeds that are distinct when they are stated in a verse that prohibits them are regarded as truly distinct, while distinctions in the expression of the death penalty applying to such deeds do not impose a difference.*

- I. *And why does R. Yohanan not explain matters in accord with the view of R. Simeon b. Laqish?*
- J. *He will reply to you that the Mishnah-paragraph of tractate Keritot represents the position of R. Aqiba, who has taken the view that we do not require a concrete deed [to impose the penalty of having to bring a sin-offering for an unwitting act of idolatry]. [He includes the blasphemer on the list of M. Ker. 1:1, as against the view of rabbis, who would omit the blasphemer because he is one who has not performed a concrete deed.]*
- K. *And R. Simeon b. Laqish?*
- L. *Granted that R. Aqiba does not require a substantial deed [for imposition of liability], he does require some sort of slight action [before he will require the bringing of a sin-offering for an inadvertent act of blasphemy].*
- M. *But as to the blasphemer, what sort of action is involved?*
- N. *The use of the lips constitutes an action.*
- O. *And what sort of action does a one who has a familiar spirit perform?*
- P. *He flaps his arms [so that the voice of the dead appears to come from his armpits], and that constitutes an action.*
- Q. *Is this the case even from the viewpoint of rabbis? But it has been taught on Tannaite authority:*
- R. **One is liable only for something that involves a concrete deed, such as sacrificing, offering incense, pouring out a libation, or prostrating oneself [T. San. 10:3B-C].**
- S. *In this regard Simeon b. Laqish said, "What Tannaite authority stands behind the inclusion of prostration? It is R. Aqiba, who has said that we do not require a concrete deed [to impose liability, as before]."*
- T. *And R. Yohanan said, "You may even maintain that it is the viewpoint of rabbis, since bending one's body in rabbis' view constitutes a deed."*
- U. *Now in R. Simeon b. Laqish's view of rabbis' opinion, so far as rabbis are concerned, bending one's body in prostration does not constitute a deed, while flapping one's arms, as done by a person who has a familiar spirit, does constitute a concrete deed! [What difference can there be between these obviously similar acts?]*
- V. *When R. Simeon b. Laqish made his statement [that the one who has a familiar spirit carries out an action], it was within the context of the viewpoint of R. Aqiba, but so far as rabbis are concerned, that is not the case.*
- W. *If so, then [the Mishnah-passage at M. Ker. 1:1 should specify that just as a blasphemer does not have to bring a sin-offering for inadvertent blasphemy, there being no action, so too] the one who consults a familiar spirit likewise should be excluded [from those required to bring a sin-offering] [there being no concrete action involved in what he has done either].*
- X. *Rather, said Ulla, "We deal with one who has a familiar spirit who burned incense to a demon [and that involves a concrete action]."*

- Y. Said Raba to him, “But burning incense to a shade constitutes an act of idolatry. [That is a separate item on the list and cannot be subsumed within the reference to one who has a familiar spirit.]”
- Z. Rather, said Raba, “The passage [at M. **Ker. 1:1**] refers to one who has a familiar spirit who burned incense as a charm.”
- AA. Said Abbaye to him, “Burning incense as a charm constitutes merely an act of charming, [and that is merely prohibited by a negative precept (Freedman)].”
- BB. Indeed so, and the Torah has said that one who acts as a charmer is put to death through stoning. [Freedman, p. 444, n. 2: Consequently, for unwitting transgression a sin offering is due.]
- CC. *Our rabbis have taught on Tannaite authority:*
- DD. “There shall not be found among you... a charmer” (Deu. 18:11):
- EE. All the same are the one who charms large objects and the one who charms small objects, and even snakes and scorpions.
- FF. *Said Abbaye, “Therefore one who seals up wasps or scorpions [using charms to do so], even though he intends only that they not do harm to anyone, violates a prohibition.”*
- GG. *And why does R. Yohanan maintain that bending over in prostration constitutes a concrete action in rabbis’ view, while in their view moving the lips does not constitute a concrete action?*
- HH. Said Raba, “The case of the blasphemer is different, because the issue there is what is in the heart.”
- II. **[65B]** *[To this explanation of what is at issue] R. Zira objected, “A conspiracy of perjurers is excluded [from the list at M. **Ker. 1:1**, those obligation to a sin-offering for inadvertent offense] because there is no concrete deed involved in what they have done.’ Now why should this be the case? Lo, is the issue there not what is in the heart?”*
- JJ. Said Raba, “That case, involving a conspiracy of perjurers, is different, since there it is a matter of speech [‘the voice’].”
- KK. And in R. Yohanan’s view, does not an act of speech constitute an act?
- LL. *Lo, it has been stated on Tannaite authority:* If one frightened a beast by his act of speech or drove off animals by his act of speech, R. Yohanan said, “He is liable.” R. Simeon b. Laqish said, “He is exempt.”
- MM. R. Yohanan said liable [because in his view] the movement of the lips constitutes a concrete deed.
- NN. R. Simeon b. Laqish said, “Exempt [because in his view] the movement of the lips does not constitute a concrete action.”
- OO. Rather, said Raba, “The case of the conspiracy of perjurers is different, since they are subject to having caused an offense by what they have seen [in using their eyes, and there there is no concrete action whatsoever].”

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

- B. **He who has a familiar spirit — this is one who has a ventriloquist which speaks [M. **7:7F**] from between his joints and from between his elbows.**



- C. **A soothsayer [M. 7:7G] — this one who has the bone of a familiar spirit in his mouth, and it speaks on its own [T. San. 10:6A-B].**
- D. *The following objection was raised: “And your voice shall be as of one who has a familiar spirit, out of the ground” (Isa. 29: 4).*
- E. *Does this not mean that it speaks in a natural way?*
- F. *No, it comes up and takes a seat between his joints and speaks*
- G. *Come and take note: “And the woman said to Saul, I saw a god-like form ascending out of the earth” (1Sa. 28:13).*
- H. *Does that not mean that it speaks in a natural way?*
- I. *No, it took a seat between her joints and then spoke.*

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

- B. **He who inquires of the dead (Deu. 18:11) — all the same are the one who raises up the dead by divining and the one who makes inquiry of a skull.**
- C. **What is the difference between one who makes inquiry of a skull and one who raises up the dead by witchcraft?**
- D. **For the one who raises up the dead by witchcraft — the ghost does not come up in his normal way and does not come up on the Sabbath.**
- E. **But the one who makes inquiry of a skull — [the spirit] comes up in the normal way and comes up on the Sabbath [T. San. 10:7A-D].**
- F. **It goes up — but where to? Lo, [the skull (E)] is lying before him.**
- G. **Rather say, It answers in the normal way and it answers on the Sabbath.**

**I.4 A.** And so too did Turnus Rufus ask R. Aqiba, “What distinguishes one day [the Sabbath] from all other days?”

- B. He said to him, “What distinguishes one man from all other men?”
- C. *“Because that is what my lord [the emperor] wants.”*
- D. *“As to the Sabbath, too, that is what my Lord wants.”*
- E. *He said to him, “What I meant to ask you was this: Who tells you that this particular day is the Sabbath?”*
- F. He said to him, “The Sabbath river will prove the matter, the one who has a familiar spirit will prove the matter, your father’s grave will prove the matter, from which no smoke goes up on the Sabbath.”
- G. He said to him, “You have shamed, disgraced, and cursed him.”

**I.5 A.** One who asks a question of a familiar spirit — is this not the same as one who seeks after the death?

- B. *So it has been taught on Tannaite authority:*
- C. *“Or who consults the dead” (Deu. 18:11):*
- D. This refers to one who fasts and goes and spends the night in a cemetery, so that the unclean spirit will come to rest on him.
- E. Now when R. Aqiba would come to this verse of Scripture, he would cry, “And if one who fasts so as to have rest on him an unclean spirit succeeds so that an unclean spirit does rest on him, he who fasts in order that a clean spirit will come to rest on him — how much the more so [should he succeed]!”



- F. “But what can I do? For our sins have caused us [to be unable to fast with such a result], for it is said, ‘But your iniquities have separated between you and your God’ (Isa. 59: 2).”
- G. *Said Raba, “If they wanted, the righteous could create a world for it is said, ‘But your iniquities have distinguished’ (Isa. 59: 2).”*
- H. *Rabbah created a man. He sent it to R. Zira, who talked with him, but he did not answer him.*
- I. *He said to him, “You have come by means of enchantment, go back to the dust you came from.”*
  - J. *R. Hanina and R. Oshaia went into session every Friday afternoon and took up the study of the Book of Creation. They made a third-grown calf and ate it.*

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

- B. **One who observes the times (Deu. 18:10) —**
- C. **R. Simeon says, “This is one who rubs the semen of seven sorts of men in his eyes.”**
- D. **And sages say, “This is one who holds peoples’ eyes [giving them hallucinations].”**
- E. **R. Aqiba says, “This is one who reckons the times and hours, saying, ‘Today is a good to go out.’ ‘Tomorrow is a good day to make a purchase.’ ‘The wheat that ripens on the eve of the Seventh Year usually is sound.’ ‘Let beans be pulled up to save them from becoming wormy’” [T. [Shab. 7:14](#)].**
- F. *Our rabbis have taught on Tannaite authority:*
- G. **[In T’s version] Who is an enchanter?**
- H. **One who says, “My staff has fallen from my hand.”**
- I. **“My bread has fallen from my mouth.”**
- J. **“Mr. So-and-so has called me from behind me.”**
- K. **“A crow has called to me.”**
- L. **“A dog has barked at me.”**
- M. **“A snake has passed at my right and a fox at my left.”**
- N. **[66A] “Do not begin with me, for lo, it is dawn.”**
- O. **“It is a new moon.”**
- P. **“It is Saturday night” [T. [Shab. 7:13](#)].**
- Q. *Our rabbis have taught on Tannaite authority:*
- R. **“You shall not use enchantments or observe times” (Lev. 19:26):**
- S. **This speaks of those who use enchantment through weasels, birds, or fish.**

Unit I.1 deals with the relationship between M. San. 7:7 and M. Ker. 1:1. Units I.2, 3-4 take up the Tosefta’s complement to our Mishnah. Units I.5, 6 define various pertinent categories of law-violators in the present context.

## 7:8A

**A. He who profanes the Sabbath [M. 7:4E] — in regard to a matter, on account of the deliberate doing of which they are liable to extirpation, and on account of the inadvertent doing of which they are liable to a sin-offering.**

**I.1 A.** *This statement bears the implication that there is a form of profanation of the Sabbath on account of which people are not liable to a sin-offering should they do it inadvertently, or to extirpation if they do it deliberately.*

B. *What would it be?*

C. *It is violation of the law of boundaries, in the view of R. Aqiba,*

D. *or of the law against kindling a fire, in the view of R. Yosé.*

The Talmud lightly clarifies the implications of the Mishnah's statement.

## 7:8B-E

**B. He who curses his father and his mother [M. 7:4F] is liable only when he will have cursed them by the divine Name.**

**C. [If] he cursed them with a euphemism,**

**D. R. Meir declares him liable.**

**E. And sages declare him exempt.**

**I.1 A.** *Who are the sages [of M. 7:8E]?*

B. *They represent the view of R. Menahem, son of R. Yosé.*

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

D. R. Menahem, son of R. Yosé, says, “‘When he blasphemes the name of the Lord, he shall be put to death’ (Lev. 24:16).”

E. “‘Why is ‘the Name’ stated here [since the verse earlier refers to it, ‘And he who blasphemes the Name of the Lord shall surely be put to death’]?”

F. “‘The usage teaches that the one who curses his father and mother he is liable only if he curses them with the divine Name.’”

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

B. “[For any man that curses his father or his mother shall surely be put to death; his father and his mother he has cursed; his blood shall be upon him” (Lev. 20: 9).] Why does Scripture say “any man”?”

C. It serves to encompass a daughter, one of undefined sexual traits, and one who exhibits the traits of both sexes.

D. “‘Who curses his father or his mother’ — I know only that the law covers his father and his mother. How do I know that it covers his father but not his mother, or his mother but not his father?”

E. “‘Scripture says, ‘His father and his mother he has cursed; his blood shall be upon him’ (Lev. 20: 9), that is, ‘he has cursed his father,’ ‘he has cursed his mother,’” the words of R. Josiah.

F. R. Jonathan says, “‘The verse bears the implication that it speaks of the two of them simultaneously, and it bears the implication that it speaks of each by himself or herself, unless the text explicitly treats the two of them together.’”

- I.3 A.** “He shall surely be put to death” (Lev. 20: 9). That is, by execution through stoning.
- B. You say that it is through stoning. But perhaps it is by any one of the other modes of execution that are listed in the Torah.
- C. Here the Scripture states, “His blood shall be upon him” (Lev. 20: 9), and elsewhere it states, “[A man... who has a familiar spirit or a wizard shall surely be put to death; they shall stone them with stones;] their blood shall be upon them” (Lev. 20:27).
- D. Just as in that latter passage the mode of execution is through stoning, so in the present passage the mode of execution is through stoning.
- E. We thereby have derived evidence on the character of the penalty. Whence do we find evidence of an admonition [against the act itself]?
- F. Scripture states, “You shall not curse the judges nor curse the ruler of your people” (Exo. 22:27).
- G. If [the wayward’s son’s] father was a judge, he is covered by the general statement, “You shall not curse the judges.”
- H. If he was the chief, he is covered in the statement, “Nor curse the ruler of your people.”
- I. But if he is neither a judge nor a leader, how do we know [that he is not to be cursed]?
- J. This is how to proceed: Lo, you must construct an argument based on the definitive traits of each of the two parties, for the traits of the chief are not the same as the traits for the judge, and the traits of the judge are not the traits of the chief.
- K. The definitive traits of the judge are not the same as those of the chief, for lo, in the case of a judge, you are commanded concerning his decision [that is, to obey his decision], which is not the case for the chief.
- L. The definitive trait of the chief is that you are commanded not to rebel against him, which is not the case of the judge, in which instance you are not commanded against rebelling against him.
- M. The shared definitive trait of both types is that they fall into the category of “your people,” and you are admonished not to curse them.
- N. So I introduce the case of “your father” who also is “among your people,” and you are thus admonished not to curse him.
- O. [Arguing against this proposition], what indeed is the shared definitive trait [of the judge and the chief] is that both of them derive the [honor owing to them] from their high position.
- P. [No, that cannot be the consideration,] for the Torah has said, “You shall not curse the deaf” (Lev. 19:14), and so [in connection with the prohibition against cursing], Scripture speaks of the most humble who are “among your people.”
- Q. But the distinctive trait of the deaf person is that his deafness has caused [him to be given special status, namely, protection against being cursed].
- R. The cases of the chief and the judge will prove to the contrary.

- S. The special trait of the chief and the judge is that their high position has caused them [to enjoy immunity from cursing]. A deaf person will prove to the contrary.
- T. Then the circular argument continues on its merry way, for the definitive trait of the one is not the same as the definitive trait of the other, and the definitive trait of the other is not the same as the definitive trait of the one.
- U. The shared trait among them all is that all of them fall into the category of “among your people,” and you are admonished not to curse them.
- V. And I then introduce the cases of “your father” who is “among your people,” and in his case too you are admonished against cursing him.
- W. [Not at all,] for what the several categories have in common is that they are distinguished [from the common people]. [The one set is distinctive because of its high position, the other because of deafness.]
- X. If that were the case, Scripture should have said either, “The judges and the deaf...” or “the chief and the deaf.”
- Y. Why was it necessary to make references to “the judges”?
- Z. If it is not necessary to make a point concerning itself [since the judges could have been covered by the reference to the chief], apply it to another matter entirely, specifically, to the case of his father.
- AA. *That argument suffices for him who maintains that the word used for judges [which also is the word for God] is secular [and means a judge], but what is there to be said from the viewpoint of him who maintains that the word here means God and is used in a sacred sense [That is, “You should not curse God”]?*
- BB. *That is in accord with the following Tannaite teaching:*
- CC. “The word that serves for both God and the judges is used in a secular sense, for judges,” the words of R. Ishmael.
- DD. R. Aqiba says, “The word is used in a sacred sense, for God.”
- EE. And it further has been taught on Tannaite authority:
- FF. R. Eliezer b. Jacob says, “Where in Scripture do we find an admonition against cursing the Name of God?”
- GG. “Scripture says, ‘You shall not curse God’ (Exo. 22:27).”
- HH. *From the viewpoint of the one who has said that the word is used in a secular sense, we may derive the case of the sacred from the secular usage.*
- II. *In the viewpoint of him who has said that the word is used in a sacred sense, we derive the rule covering the secular setting from the rule covering the sacred one.*
- JJ. *Now from the viewpoint of him says that the word is used in a secular sense and one derives the rule covering the sacred from the secular, there are no problems [since we have a simple argument a fortiori].*
- KK. *But from the viewpoint of him says that the word is used in the sacred sense and that one may derive the rule covering the secular setting from the one covering the sacred, perhaps there is an admonition against cursing the sacred [Judge], but there is no admonition against cursing the secular [judge]?*
- LL. *If so, Scripture should have written, “You shall not revile God” [spelling the word in a less emphatic way].*

- MM. **[66B]** *Why say, “You shall not curse...” [spelling the word in a more emphatic way]?*
- NN. *It is to imply the rule covering both circumstances.*  
Unit I.1 seeks the authority behind the rule at hand, and units I.2-3 uncover the scriptural basis for that rule.

## 7:9

- A. **He who has sexual relations with a betrothed maiden [M. 7:4G] [Deu. 22:23-4] is liable only if she is a virgin maiden, betrothed, while she is yet in her father's house.**
- B. **[If] two different men had sexual relations with her, the first one is put to death by stoning, and the second by strangulation. [The second party, B. has not had intercourse with a virgin (M. 11: 1). The maiden is between twelve years and one day and twelve years six months and one day old.]**
- I.1** A. *Our rabbis have taught on Tannaite authority:*
- B. “If a girl that is a virgin is betrothed to a husband” (Deu. 22:23): “Girl” and not [either a minor, under twelve years, or] a mature woman.
- C. “A virgin” — and not one who has had sexual relations.
- D. “Betrothed” and not one in a fully consummated marriage.
- E. “In her father's house” — excluding a case in which the father has given the girl over to the agent of the husband.
- F. Said R. Judah said Rab, “[The Mishnah-paragraph before us] represents the view of R. Meir, but sages say that subject to the law of a betrothed girl is even a minor [and not only a girl from twelve years to twelve years six months and one day, such as is ordinarily subsumed under a reference to a ‘girl.’]”
- G. *Said R. Aha of Difti to Rabina, “How do we know that the Mishnah passage represents the view of R. Meir, and that the reference to ‘girl’ serves to exclude a minor? Perhaps it represents the view of rabbis, and the reference to ‘girl’ serves to exclude a mature woman but no other category of woman?”*
- H. *He said to him, “[If that were the case, then the formulation], ...is liable only if she is a virgin, a maiden, betrothed, [while she is yet in her father's house] [M. 7:9A], should be, ‘...is liable only if she is a virgin-maiden and betrothed.’ And nothing further is needed [to prove the case].”*
- I.2** A. *R. Jacob bar Ada asked Rab, “If one has had sexual relations with a minor who was betrothed, in R. Meir's view, what is the law?”*
- B. *“Does he exclude such an act entirely from any sort of punishment or is it from the penalty of stoning that he excludes the action [by the exegesis given at unit I]?”*
- C. *He said to him, “It stands to reason that he excludes the felon from the penalty of stoning.”*
- D. *“But is it not written, ‘[If a man be found lying with a woman married to a husband,] then both of them shall die’ (Deu. 22:22), meaning that a penalty is imposed only if both of them are treated in the same way?”*
- E. *Rab remained silent [having no answer to this argument. The implication of the argument is that if both are not penalized — and the minor girl is not penalized*

— then neither is penalized at all. Hence the intent of Meir should be to exclude the felon from punishment of any sort whatsoever.]

- F. Said Samuel, “Why should Rab had remained silent? He should have said to him, ‘But if a man find a betrothed damsel in the field...] then the man only who lay with her shall die’ (Deu. 22:25). [Sometimes the man alone is punished, even when the betrothed consented, that is, if she was a minor (Freedman, p. 453, n. 3)].”

**I.3** A. *The foregoing follows the lines of the following dispute among Tannaite authorities:*

- B. “‘Then they shall both of them die’ (Deu. 22:22) means that a penalty is imposed only when the two of them are equal,” the words of R. Josiah.
- C. R. Jonathan says, “‘Then the man only that lay with her shall die’ (Deu. 22:25).”
- D. *And as to the other party [Jonathan], how does he deal with the statement, “Then they shall both of them die” (Deu. 22:22)?*
- E. *Said Raba, “It serves to exclude a case of mere petting [in which the woman does not reach orgasm].” [Both must enjoy sexual gratification (Freedman, p. 453, n. 5)].*
- F. *And as to the other party? A case of mere petting bears no consequences whatever [and is not penalized by the court].*
- G. *And as to the other party [Josiah], how does he deal with the reference to “the man only”?*
- H. *It accords with that which has been taught on Tannaite authority:*
- I. **It ten men had intercourse with her and she remained yet a virgin, all of them are put to death by stoning.**
- J. **Rabbi says, “The first is put to death by stoning, and the others by strangulation” [T. San. 10:9C-D].**

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

- B. “And the daughter of any priest, if she profane herself by playing the whore” (Lev. 21: 9).
- C. Rabbi says, “[The verse refers to] the first [such action].
- D. “And so it is written, ‘Then the man only who lies with her shall die’ (Deu. 22:25).”
- E. *What is the sense of this statement?*
- F. *Said R. Huna, son of R. Joshua, “Rabbi accords with the view of R. Ishmael.*
- G. “[Ishmael] has said, ‘A betrothed girl [daughter of a priest] is distinguished in that her death penalty [should she commit adultery] is through burning, but that penalty does not apply to a married woman [a priest’s daughter, who committed adultery].’
- H. *“And this is the sense of his statement: ‘If the first act of sexual relations [of the priest’s daughter, who was betrothed] is one of adultery, then she is put to death through burning. But if it is any later sexual act [and not the first,] she is put to death through strangulation.’*

- I. *“And what is the sense of, ‘And so...’?”*
- J. *“‘Just as, in that other passage, Scripture speaks of her first act of sexual relations, so here too the same applies. [Freedman, p. 454, n. 2: Just as a betrothed maiden is excepted from the punishment of a married woman, that is, strangulation, being stoned instead, which exception applies to her seducer too, and that only for the first coition, so also in the case of the priest’s daughter, the exception is made only for her first coition, that is, if she is a betrothed girl and not a married woman.]”*
- K. *Said R. Bibi bar Abbaye to him, “But this is not what the master (and who is it? it is R. Joseph) said.*
- L. *“Rather, Rabbi accords with R. Meir, who has said, **If the priest’s daughter married one of those who is invalid for marriage into the priesthood, she would be put to death through strangulation [M. Ter. 7:2].** In this connection Rabbi says, ‘If her first act of sexual relations constitutes profanation through adultery, she is put to death through burning, and thereafter it is through strangulation.*
- N. *“And what is the sense of, ‘And so...’?”*
- O. **[67A]** *“It serves only to call to mind [that under discussion is something done for the first time. There is no further intent to draw an analogy.]”*

Unit I.1 proves that the authority at hand is Meir, and units I.2,3+4 then at greater depth explore Meir’s views. So the entire composition is unitary and sustained.

### 7:10A-N

- A. **He who beguiles others to idolatry [M. 7:4H] — this [refers to] an ordinary fellow who beguiles some other ordinary fellow.**
- B. **[If] he said to him, “There is a god in such a place, who eats thus, drinks thus, does good in one way, and harm in another” —**
- C. **against all those who are liable to the death penalty in the Torah they do not hide witnesses [for the purposes of entrapment] except for this one.**
- D. **[If] he spoke [in such a way] to two, and they serve as witnesses against him,**
- E. **they bring him to court and stone him.**
- F. **[If] he spoke [in such a way] to [only] one person, [the latter then] says to him, “I have some friends who will want the same thing.”**
- G. **If he was clever and not prepared to speak in [the friends’] presence,**
- H. **they hide witnesses on the other side of the partition,**
- I. **and he says to him, “Tell me what you were saying to me now that we are by ourselves.”**
- J. **And the other party says to him [what he had said], and then this party says, “Now how are we going to abandon our God who is in Heaven and go and worship sticks and stones?”**
- K. **If he repents, well and good.**



- L. But if he said, “This is what we are obligated to do, and this is what is good for us to do,”
- M. those who stand on the other side of the partition bring him to court and stone him.
- N. [He who beguiles others is] one who says, “I am going to worship,” “I shall make an offering,” “I shall offer incense,” “I shall go and offer incense,” “Let’s go and offer incense,” “I shall make a libation,” “I shall go and make a libation,” “Let’s go and make a libation,” “I shall bow down,” “I shall go and bow down,” “Let’s go and bow down.”

**I.1 A.** The one who beguiles others is an ordinary fellow [M. 7:10A] — *the operative consideration is that he is an ordinary fellow, [so he is put to death through stoning].*

B. *But if he were a prophet, he would be put to death through strangulation.*

**II.1 A.** Who beguiles some other ordinary fellow [M. 7:10A]:

- B. *The point is that he is an individual.*
- C. *But if it had been a community, he would have been put to death through strangulation.*
- D. *In accord with which authority is the Mishnah-paragraph before us?*
- E. *It is R. Simeon.*
- F. *For it has been taught on Tannaite authority:*
- G. A prophet who enticed people to commit idolatry is put to death through stoning.
- H. R. Simeon says, “Through strangulation.”
- I. Those who entice a town to apostasy are put to death through stoning.
- J. R. Simeon says, “Through strangulation.”
- K. *Let us turn to the concluding passage of the same Mishnah-paragraph: **He who beguiles others is one who says, Let’s go and worship...** [M. 7:10N], on which R. Judah said Rab said, “What is subject to discussion here is those who beguile a town to apostasy.”*
- L. *So the passage accords with rabbis [who hold that those who beguile a town to apostasy are stoned to death, not strangled].*
- M. *Accordingly, does the opening part of the Mishnah-passage accord with the view of R. Simeon, and the closing part with rabbis?*
- N. *Rabina said, “The entirety accords with the view of rabbis, and the point is to say, ‘not only this but also that.’” [Freedman, p. 456, n. 1: When the Mishnah states, **He who beguiles an individual**, it is not intended to exclude a multitude, but merely to commence with the universally agreed law. Then the next Mishnah adds that the same applies to the seduction of a multitude, though this is not admitted by all.]*

**II.2 A.** *R. Pappa said, “When the Mishnah says, **He who beguiles others refers to an ordinary fellow who beguiles some other ordinary fellow**, [M. 7:10A], it is for the purpose of entrapment.”*

B. *So it has been taught on Tannaite authority:*

- C. Against all those who are liable to the death penalty in the Torah they do not use procedures of entrapment, except for the one who beguiles others to idolatry [M. 7:10C].
- D. How do they do it?
- E. They hand over to him two disciples of sages, [who are put] in an inside room, and he sits in an outside room.
- F. And they light a candle, so that they can see him.
- G. And they listen to what he says.
- H. But he cannot see them.
- I. And this one says to him, “Tell me what you were saying to me now that we are by ourselves.”
- J. And the other party says to him what he had said, and then this party says, “Now how are we going to abandon our God who is in heaven and worship an idol?”
- K. If he repents, well and good. But if he said, “This is what we are obligated to do, and this is what is good for us to do,” then the witnesses, who hear outside, bring him to court and stone him [T. San. 10:11].

Unit I.1 seeks the authority behind the Mishnah, and unit II.1 then amplifies the Mishnah with Tosefta’s complement.

### 7:10/O-7:11

- O. He who leads [a whole town astray] [M. 10:4H] is one who says, “Let’s go and perform an act of service to an idol.”

M. 7:10/O

- A. The sorcerer [M. 7:4I] — he who does a deed is liable,
- B. but not the one who merely creates an illusion.
- C. R. Aqiba says in the name of R. Joshua, “Two may gather cucumbers. One gatherer may be exempt, and one gatherer may be liable.
- D. “[Likewise:] He who does a deed is liable, but he who merely creates an illusion is exempt.”

M. 7:11

- I.1 A. Said R. Judah said Rab, “Subject to the present statement of the Mishnah are those who entice a whole town to apostasy.”

#### **II.1 A. The sorcerer — he who does a deed is liable [M. 7:11A]:**

- B. *Our rabbis have taught on Tannaite authority:*
- C. “[You shall not permit] a sorceress [to live]” (Exo. 22:17).
- D. The same rule applies to a sorcerer and to a sorceress. Why then does Scripture speak of a sorceress?
- E. It is because it is mainly women who practice sorcery.

#### **II.2 A. How are they put to death?**

- B. R. Yosé the Galilean says, “Here it is stated, “‘You shall not permit a sorceress to live’ (Exo. 22:17) and elsewhere it is written, ‘You shall not allow anything that breathes to live’ (Deu. 20:17).

- C. “Just as in that context [the Canaanite nations], everything is put to death through decapitation, so here it is through decapitation.”
- D. R. Aqiba says, “Here it is stated, ‘You shall not permit a sorceress to live’ (Exo. 22:17), and elsewhere it is stated, ‘[There shall not a hand touch it, but he shall surely be stoned or shot through], whether it be beast or man it shall not live’ (Exo. 19:13).
- E. “Just as in that passage [having to do with the avoidance of Sinai before the giving of the Torah], the penalty is through stoning, so here too the penalty is through stoning.”
- F. Said R. Yosé to him, “I have drawn an analogy based on the use in two passages of the language, ‘You shall not permit to live...’ But you have drawn an analogy between ‘It shall not live’ and ‘You shall not permit to live...,’ [so that the language is not exactly the same in the verses that you cite].”
- G. Said R. Aqiba to him, “I have drawn an analogy for the penalty to be inflicted on an Israelite from the case of an Israelite, in which setting Scripture has provided several different modes of execution, while you have drawn an analogy for the death penalty to be inflicted on an Israelite from the case of idolators, in which context Scripture has not specified a number of different modes of execution, **[67B]** but only a single mode of inflicting the death penalty.”
- H. Ben Azzai says, “It is stated, ‘You shall not suffer a sorceress to live’ (Exo. 22:17), and immediately beyond, ‘Whosoever lies with a beast shall surely be put to death’ (Exo. 22:18).
- I. “The juxtaposition of the two topics is to indicate that, just as one who lies with a beast is put to death through stoning, so a sorceress also is put to death through stoning.”
- J. Said to him R. Judah, “And merely because one matter is juxtaposed to the next, shall we take this person out for execution through stoning?! [There must be better proof.]
- K. “Rather, those who divine by a ghost or by a familiar spirit fall into the classification of of sorcery. Why were they singled out? It was so as to drawn an analogy to them, so as to tell you, ‘Just as those who divine by a ghost or by a familiar spirit are put to death through stoning, so a sorceress who is to be executed is put to death through stoning.’”
- L. *But from the viewpoint of R. Judah’s arguments, we have in the case of the one who divines by the ghost and the one who consults a familiar spirit two verses of Scripture that say the same thing, and in a case of two verses of Scripture that say the same thing, one cannot derive lessons for some other matter entirely.*
- M. *Said R. Zechariah, “In respect to that matter, R. Judah indeed maintains that two verses of Scripture that say the same thing do serve to teach yet another lesson entirely.”*

### **II.3 A.** R. Yohanan said, “Why are they called sorcerers?”

- B. “Because they deny the power of the family above [a play on the word for sorcery].”
- C. “There is no one else besides him” (Deu. 4:25):

- D. R. Hanina said, "Even as to sorcery, [Freedman, p. 459, n. 5: Not even sorcerers have power to oppose his decree.]"
- E. *There was a woman who tried to make dirt from under the feet of R. Hanina.*
- F. *He said to her, "If it works out for you, go do it. [But] 'There is no one else besides him' (Deu. 4:25) is what is written."*
- G. Can this be so [that Hanina made such a statement]?
- H. But did not R. Yohanan say, "Why are they called sorcerers? Because they deny the power of the family above?"
- I. *R. Hanina was in a special category, because he had a great deal of merit.*
- J. Said R. Aibu bar Nigri said R. Hiyya bar Abba, "'With their sorcery' (Exo. 7:22) refers to magic through the agency of demons, 'with their enchantments' (Exo. 7:11) refers to sorcery without outside help."
- K. "So it is said, 'And the flame of the sword that turns of itself' (Gen. 3:24) [thus an action taking place of itself, similarly, the word at hand connotes sorcery performed without extraneous aid (Freedman, p. 459, n. 10)]."

**II.4 A.** *Said Abbayye, "If [the sorcerer] uses exact methods, it is through a demon.*

- B. *"If the sorcery does not work through exact methods, it is through enchantment."*
- C. Said Abbayye, "The laws of sorcery are like the laws of the Sabbath.
- D. "There are some actions that are punished by execution through stoning, some for which there is no penalty but which are forbidden, and some that are permitted to begin with.
- E. "He who does a deed is punishable by stoning, but he who merely creates an illusion does what is forbidden but is exempt from punishment [M. 7:11D].
- F. *"And as to what is permitted to begin with, it accords with the matter involving R. Hanina and R. Oshaia.*
- G. *"Every Friday afternoon they would study the laws of creation and make for themselves a third-grown calf and they would eat it."*

**II.5 A.** *Said R. Ashi, "I saw the father of Qarna blow his nose hard and ribbons of silk came out of his nostrils."*

**II.6 A.** "Then the magicians said to Pharaoh, This is the finger of God" (Exo. 8:19).

- B. [Since the reference is to the creation of lice, which the Egyptian sorcerers could not do,] said R. Eleazar, "On the basis of that statement we learn that a demon cannot make a creature smaller than a barley seed."
- C. *R. Pappa said, "By God, he cannot make a creature as large as a camel.*
- D. *"But these he can collect and those he cannot collect."*
- E. *Said Rab to R. Hiyya, "I myself saw a Tai-Arab take a sword and chop up a camel, then he rang a bell and the camel arose."*
- F. *He said to him, "After this was there blood or dung? [If not], it was merely an illusion."*

G. Zeira went to Alexandria in Egypt. He bought an ass. When he went to give it water, it dissolved, and in place arose a landing board.

H. They said to him, "If you were not Zeiri, we should not give you back your money. Is there anyone who buys something here without testing it with water?"

**II.7 A. [68A]** Yannai came to an inn. He said to them, "Give me some water to drink." They brought him a flour-and-water drink.

B. He saw that the woman's lips were moving. He poured out a little of the drink, and it turned into scorpions. He said to them, "I drank something of yours, now you take a drink of mine."

C. He gave her something to drink and she turned into an ass. He mounted her and went out to the market place.

D. Her girl-friend came and nullified the charm, so he was seen riding around on a woman in the market place.

**II.8 A.** "And the frog came up and covered the land of Egypt" (Exo. 8: 6):

B. Said R. Eleazar, "It was one frog, and it multiplied into a swarm and filled the whole land of Egypt."

C. That accords with a Tannaite dispute:

D. R. Aqiba says, "It was one frog and filled the whole land of Egypt."

E. Said to him R. Eleazar b. Azariah, "Aqiba, what have you to do with matters of lore? Stop this talking of yours and go to discuss the laws of nega-spots and tents."

F. "It was a single frog, and it croaked for the others, and they came."

**III.1 A. R. Aqiba says in the name of R. Joshua [M. 7:11D]:**

B. Did R. Aqiba learn his knowledge of magic from R. Joshua? And have we not learned in a Tannaite teaching [that he learned his magic from R. Eleazar]?

C. When R. Eleazar fell ill, R. Aqiba and his colleagues came in to visit him. He was sitting on his bed, and they sat in the antechamber. That day was a Friday, and Hyrcanus, his son, came in to remove his father's phylacteries. [Eliezer] grew angry with him and he went out in distress.

D. He said to them, "It appears to me that father's mind is deranged."

E. [Aqiba] said to them, "His [your] mind and your mother's mind are deranged. How will one ignore a matter that is prohibited on pain of stoning and take up a matter that is prohibited merely by reason of Sabbath rest [on the authority of rabbis]. [Freedman, p. 462, n. 1: The wife had not yet kindled the Sabbath lights nor put away the Sabbath meal to keep it hot. Both of these, if done on the Sabbath, are punishable by stoning, while the wearing of phylacteries indoors is forbidden only by rabbinical ordinance. Therefore he rebuked his son and wife.]"

- F. Since sages observed that [Eliezer's] mind was at ease, they went in and sat before him at a distance of four cubits. [This was because he had been excommunicated, so they were prohibited from coming closer than that distance.]
- G. He said to them, "Why have you come?"
- H. They said to him, "To study Torah we have come."
- I. He said to them, "And up to now why have you not come?"
- J. They said to him, "We did not have free time."
- K. He said to them, "I should be surprised if you people die natural deaths."
- L. R. Aqiba said to him, "What will my death be?"
- M. He said to him, "Your death will be the most difficult of all."
- N. He raised his two arms and laid them on his heart and said, "Woe for you, these two arms of mine, for they are like to scrolls of the Torah that have been rolled up [and have not been opened and read].
- O. "I learned much Torah, I taught much Torah.
- P. "I learned much Torah, but I did not take away from my masters even so much as a dog licks up from the water of the ocean.
- Q. "I taught much Torah, but my disciples did not take away from me so much as an eye-brush takes of eye-shadow.
- R. "And not only so, but I can repeat three hundred rules concerning a bright spot [Lev. 13:2], and no one ever asked me a thing about them.
- S. "And not only so, but I can repeat three hundred laws (and some say, three thousand laws), about the planting of cucumbers, and no one has ever asked me a thing about those laws, except for Aqiba, son of Joseph.
- T. "Once he and I were walking along the way, and he said to me, 'Rabbi, teach me something about planting cucumbers.'
- U. "I said something and the whole field was filled with cucumbers.
- V. "He said to me, 'Rabbi, you have taught me how to plant them. Now teach me how to pull them up.'
- W. "I said something and all of them were collected into a single place."
- X. They said to him, "As to **the ball, shoemaker's last, amulet, leather bag containing pearls, and small weight [M. Kel. 23:1]**, what is the law? [Are they susceptible as receptacles or not susceptible?]
- Y. He said to them, "They are susceptible to uncleanness." But they can regain insusceptibility to uncleanness just as they are."
- Z. "As to a shoe on the last, what is the law?"
- AA. He said to them, "It is [insusceptible to uncleanness and so] pure," and his soul went forth as he said the word, "pure."
- BB. R. Joshua stood on his feet and said, "The vow is released, the vow is released."
- CC. At the end of the Sabbath, R. Aqiba met his [bier] as it went from Caesarea to Lud. He beat his flesh until blood flowed to the ground. He began his eulogy for the line of mourners saying, "'My father, my father, the chariot of Israel and the horsemen thereof (2Ki. 2:12).
- DD. "I have many coins but there is no money-changer to straighten them all out."

- EE. *Therefore it was from R. Eleazer that [Aqiba] learned [the rules cited in the Mishnah-paragraph].*
- FF. *He learned them from R. Eleazer but did not learn the reasoning about them, and then he went and learned them from R. Joshua, who taught them how to reason about them.*
- GG. *And how, to begin with, did [Eliezer] do any such thing? And lo, we have learned in the Mishnah: **He who does a deed is liable [M. 7:11D]!***
- HH. *If it is to practice learn so as to teach about the subject, it is a different matter, for a master has said, “‘You shall not learn to do after the abominations of these nations’ (Deu. 18: 9).*
- II. “You may not learn in order to do, but you may learn in order to understand and to teach about it.”

Units I.1, II.1 deal with the formulation of the Mishnah’s rule. Unit III.1ff. take up the mode of execution, which, after all, forms the topic at hand. Unit III.1 reverts to the Mishnah-passage and supplies materials on the authority behind it.