

Mishnah: Seder Nezikin

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Parallel Hebrew – English Edition



Timothy A. Lee Publishing

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Introduction

This is a facing parallel edition for mishnah: Seder Nezikin. The purpose of this book is to encourage students and scholars to read and the Mishnah. The book displays the Hebrew Mishnah alongside a facing English translation for comparison.

Introduction

The Mishnah is the earliest comprehensive compilation of rabbinic law. These were formulated around the year 200 but derived from earlier teaching. Its title means study by repetition in the sense of learning and teaching (m.Ab. 3.7) and oral instruction (t.Ber 2.12 L. 8).¹ In rabbinic Hebrew, mishnah (מִשְׁנָה) is the noun form of the verb שָׁנָה, ‘to repeat’, or ‘to learn’ (for example, Abot 2.4; 3.3). It comprised interpretations of scripture (midrash), legal rulings (halakhot), and haggadot (non-halakhic material).² Later on, a new idea drew from the biblical use of מִשְׁנָה in Deut 17:18 (‘a copy’ of the Torah) and saw the Mishnah as a ‘second’ or parallel Torah. The opening line of tractate Avot, provides an explicit apologetic framework for the authority of oral Torah as found in the Mishnah. Avot 1.1 presents a chain of transmission in which ‘Moses received the Torah at Sinai and handed it on to Joshua, Joshua to the elders, the elders to the prophets, and the prophets to the men of the Great Assembly.’ This formulation serves to legitimise the existence of an authoritative oral corpus by rooting it in Sinai itself. By asserting that oral teaching was transmitted continuously alongside the written Torah, the rabbis justify the very category of Mishnah.³

¹ See H. L. Strack and Günter Stemberger, *Introduction to the Talmud and Midrash*, trans. Markus Bockmuehl (Minneapolis: Fortress Press, 1996). p 109.

² See Strack p 109, though note there is very little haggadah.

³ Neusner, *Rabbinic Literature: An Essential Guide* (Nashville: Abingdon Press, 2005) p 8.

Structure and Contents

Like the Talmuds, the Mishnah is divided into six orders (*sedarim*), each containing multiple tractates (*masechtot*), which are further subdivided into chapters and paragraphs (*mishnayot*). The six orders are:

1. Zera'im (Seeds) – agricultural laws, blessings, and prayer
2. Mo'ed (Festival Days) – festivals and Sabbath regulations
3. Nashim (Women) – marriage, divorce, and family law
4. Neziqin (Damages) – civil and criminal law, property, and ethics
5. Qodashim (Holy Things) – sacrificial rites, Temple procedures, and dietary laws
6. Tohorot (Purities) – purity and impurity regulations

This structure is not merely topical but conceptual. It reflects a rabbinic worldview in which daily life, ritual practice, social relations, and sacred space are all governed by divine law. Even after the destruction of the Temple, the Mishnah devotes an entire order to sacrificial worship, preserving the legal memory of a cult no longer practiced. This preservation is not antiquarian; it expresses the conviction that the Torah's commandments remain eternally valid, even when their fulfillment is temporarily suspended.

1. Zera'im (Seeds) – agricultural law, blessings, prayer

Berakhot	Blessings, Shema, prayer, liturgical rules.
Pe'ah	Leaving the corner of the field for the poor; agricultural charity.
Demai	Produce of doubtful tithing status.
Kilayim	Forbidden mixtures: seeds, animals, garments.
Shevi'it	Sabbatical year laws.
Terumot	Priestly offerings.
Ma'aserot	First tithes.
Ma'aser Sheni	Second tithe and its redemption.
Hallah	Doughoffering.
Orlah	Forbidden fruit of first three years.
Bikkurim	Firstfruits offerings.

2. Mo'ed (Festival) – Sabbath and festival law

Shabbat	Sabbath prohibitions and permitted actions.
Eruvin	Legal fictions enabling movement/carrying on Shabbat.
Pesahim	Passover laws and the paschal sacrifice.
Shekalim	Halfshekel Temple tax.
Yoma	Yom Kippur rituals, especially the High Priest's service.
Sukkah	Festival of Sukkot: booths, lulav, rituals.
Beitzah	Festivalday work rules.
Rosh Hashanah	New Year, calendar, shofar.
Ta'anit	Communal fasts for drought and crisis.
Megillah	Purim, public Torah reading.
Mo'ed Katan	Intermediate festival days (Hol haMoed).
Hagigah	Pilgrimage offerings.

3. Nashim (Women) – marriage, divorce, vows

Yevamot	Levirate marriage and related kinship laws.
Ketubbot	Marriage contracts and financial obligations.
Nedarim	Vows and their annulment.
Nazir	Nazirite vows.
Sotah	Suspected adultery ritual; related laws.
Gittin	Divorce documents and procedures.
Qiddushin	Betrothal and acquisition in marriage.

4. Neziqin (Damages) – civil/criminal law, courts, ethics

Bava Kamma	Damages, torts, liability.
Bava Metzia	Property, loans, lost objects, labour law.
Bava Batra	Real estate, inheritance, partnerships.
Sanhedrin	Courts, judicial procedure, capital law.
Makkot	Flogging, false witnesses, cities of refuge.
Shevuot	Oaths and penalties.
Eduyot	Testimonies of early sages; legal precedents.
Avodah Zarah	Relations with idolaters; prohibited benefit.
Avot	Ethical maxims of the sages.
Horayot	Erroneous rulings by courts; sinofferings.

5. Qodashim (Holy Things) – sacrificial law, Temple procedures

Zevahim	Animal sacrifices.
Menahot	Grain offerings.
Hullin	Nonsacred slaughter; dietary laws.
Bekhorot	Firstborn animals and humans.
Arakhin	Vows of valuation.
Temurah	Substitution of sacrificial animals.
Keritot	Offences punishable by karet; required offerings.
Me'ilah	Misuse of sacred property.
Tamid	Daily Temple service.
Middot	Measurements and layout of the Temple.
Qinnim	Birdofferings and their combinations.

6. Tohorot (Purities) – ritual purity and impurity

Kelim	Degrees of impurity; vessels.
Oholot	Impurity from corpses; tentlaw.
Negaim	Skin diseases (šara'at).
Parah	Red heifer ritual.
Tohorot	Minor impurities.
Miqva'ot	Ritual baths.
Niddah	Menstrual impurity.
Makhshirin	Liquids enabling impurity.
Zavim	Genital discharges.
Tevul Yom	One who immersed but awaits sunset.
Yadayim	Handimpurity; scribal decrees.
Uktzin	Stalks and attachments transmitting impurity.

Historical Setting

The Mishnah arises from a period of profound upheaval. The destruction of the Second Temple in 70 CE, followed by the Bar Kokhba revolt (132–135 CE), removed the central institutions that had been the focus of Jewish religious life. The priesthood, sacrificial worship, and the Jerusalemcentred legal system were no longer viable. In their void, came the rabbinic movement – a loose network of sages (*tannaim*) and their disciples – which sought to preserve, interpret, and adapt inherited traditions under different circumstances. These traditions were understood to include not only the written Torah (Bible) but also a body of orally transmitted laws, customs, and exegetical principles.

For generations, these teachings circulated orally in the academies of Yavneh, Usha, and Sepphoris. They were attributed to named sages – Hillel, Shammai, Rabban Gamaliel, Rabbi Akiva, Rabbi Meir, and many others – whose debates and rulings formed the backbone of rabbinic legal discourse. Yet oral transmission alone proved increasingly fragile. The dispersion of scholars, the decline of central authority, and the sheer volume of material created the risk of fragmentation. The Mishnah emerges as a response to this crisis: an attempt to stabilise the tradition without abandoning its fundamentally oral character.

The Language of the Mishnah: Mishnaic Hebrew

The language of the Mishnah – Mishnaic Hebrew – is the natural historical development of Biblical Hebrew into the Roman period.⁴ It is not an artificial pseudo-Hebrew but the next diachronic stage of Hebrew, already anticipated in the linguistic profile of late biblical books such as Chronicles, Qoheleth, Esther, and Daniel. Features that appear sporadically in Late Biblical Hebrew – the decline of the *wayyiqtol* (wawconsecutive), increased use of analytic constructions, participial periphrasis, and noticeable Aramaic influence – become the norm in Mishnaic Hebrew. The language reflects the spoken environment of Roman-period Palestine: morphology is simplified, syntax is more flexible, and Aramaic contact leaves clear traces. The result is a vernacular Hebrew dialect in active use, which the Mishnah preserves in a relatively stable literary form without transforming it into a technical legal register.

Literary Style and Modes of Reasoning

The Mishnah's literary style is terse, it presents laws in a compressed, almost aphoristic form, often without explicit scriptural grounding or narrative context. This concision reflects its origins in oral pedagogy: the Mishnah was designed to be memorised, recited, and debated.

The Mishnah's reasoning is primarily casuistic. Rather than offering abstract principles, it presents concrete cases: 'If one deposits produce with his neighbour...', 'If a woman vows...', 'If an ox gores...'. These cases function as paradigms from which broader rules may be inferred. The text rarely explains its logic; instead, it juxtaposes rulings, leaving the reader (or student) to discern the underlying principles. This feature is precisely what invited the later development of the Gemara, where amoraic sages unpack, question, and systematize the mishnaic material.

The Mishnah as a Social and Cultural Document

Beyond its legal content, the Mishnah offers a window into the social world of early rabbinic Judaism. It reflects concerns about agriculture, commerce, family life, ritual purity, and communal governance. It

⁴ M.H. Segal was correct in this identification one hundred years ago. See, Segal *A Grammar of Mishnaic Hebrew* 1927.

presupposes a society in which rabbis, householders, priests, and artisans interact within a shared halakhic framework. At the same time, the Mishnah constructs an idealised vision of Jewish life – one in which rabbinic norms are central, even if they were not universally practiced.

The Mishnah also encodes the values of the rabbinic elite: the importance of study, the authority of tradition, and the centrality of legal reasoning. Its discussions of ethics (especially in *Avot*), its concern for fair dealing, and its emphasis on intentionality reveal a moral vision that extends beyond strict legalism.

Transmission and Reception

The Mishnah became the foundational text for rabbinic study. In the academies of Palestine and Babylonia, amoraic sages produced extensive commentaries – the Jerusalem Talmud and the Babylonian Talmud – which transformed the Mishnah into the core of a vast interpretive tradition. Medieval commentators such as Rashi and Maimonides further shaped its reception, while later halakhic codes (e.g., the *Shulḥan Arukh*) distilled its rulings into normative law.

The Mishnah and the New Testament

The Mishnah's influence extends beyond Judaism. It is a crucial source for historians of late antiquity, scholars of legal theory, and students of ancient Hebrew. Its conceptualisation of law as a living, discursive tradition has parallels in Roman jurisprudence and early Christian canon law, though its methods and assumptions remain distinctively rabbinic.

The Mishnah is invaluable for interpretation of the New Testament, because it preserves the earliest extensive body of Jewish legal concepts, social norms, and institutional assumptions from roughly the same cultural world in which early Christianity emerged. Although the Mishnah postdates the New Testament by more than a century in its redacted form, much of its material reflects earlier tannaitic traditions that illuminate the legal categories, purity concerns, marriage practices, economic arrangements, and dispute-patterns presupposed in the Gospels and Paul. It provides the only systematic evidence for how Pharisaic-rabbinic halakhah conceptualised issues such as Sabbath observance, vows, oaths, tithing, purity, and judicial procedure – all topics that appear in the New Testament T but without explanation. The Mishnah therefore supplies the vocabulary, legal logic, and

social structures that make New Testament texts intelligible within a first-century Jewish context.

Sources

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Contact

If a reader finds an issue in this book, or wishes to suggest an improvement, please email: reader-suggestions@timothyalee.com.

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Timothy A. Lee

1 אַרְבָּעָה אַבוֹת נְזִיקִין, הַשּׁוֹר וְהַבּוֹר וְהַמְּבֻעָה וְהַהֶבְעֵר. לֹא הָרִי
 הַשּׁוֹר כַּהֲרִי הַמְּבֻעָה, וְלֹא הָרִי הַמְּבֻעָה כַּהֲרִי הַשּׁוֹר. וְלֹא זֶה
 וְזֶה, שְׂיֵשׁ בָּהֶן רוּחַ חַיִּים, כַּהֲרִי הָאֵשׁ, שְׂאִין בּוֹ רוּחַ חַיִּים. וְלֹא
 זֶה וְזֶה, שְׂדֵרְכָן לִילֵף וְלִהְזִיק, כַּהֲרִי הַבּוֹר, שְׂאִין דְּרָכּוֹ לִילֵף
 וְלִהְזִיק. הַצַּד הַשּׂוֹה שְׂבָהֶן, שְׂדֵרְכָן לִהְזִיק וְשְׂמִירְתָן עֲלֵיהֶן.
 וְכַשֵּׁהזִיק, חָב הַמְּזִיק לְשֵׁלֵם תַּשְׁלוּמֵי נֶזֶק בְּמֵיטֵב הָאָרֶץ:
 2 כָּל שְׂחֻבְתִּי בְשְׂמִירְתּוֹ, הַכְּשָׁרְתִי אֶת נֶזְקוֹ. הַכְּשָׁרְתִי בְּמַקְצֵת
 נֶזְקוֹ, חֻבְתִּי בְּתַשְׁלוּמֵינִי כַּהֲכָשֵׁר כָּל נֶזְקוֹ. נְכָסִים שְׂאִין בָּהֶם
 מְעִילָה, נְכָסִים שֶׁל בְּנֵי בְרִית, נְכָסִים הַמִּיחָדִים, וּבְכָל מְקוֹם
 חוּץ מִרְשׁוֹת הַמִּיחָדָת לְמִזִּיק וּרְשׁוֹת הַנֶּזֶק וְהַמְּזִיק. וְכַשֵּׁהזִיק,
 חָב הַמְּזִיק לְשֵׁלֵם תַּשְׁלוּמֵי נֶזֶק בְּמֵיטֵב הָאָרֶץ: 3 שׁוּם כֶּסֶף,
 וְשׁוֹה כֶּסֶף, בְּפָנֵי בֵּית דִּין, וְעַל פִּי עֵדִים בְּנֵי חוּרִין בְּנֵי בְרִית.
 וְהַנְּשִׂים בְּכָלל הַנֶּזֶק. וְהַנֶּזֶק וְהַמְּזִיק בְּתַשְׁלוּמֵינִי: 4 חֲמִשָּׁה
 תַּמִּין וְחֲמִשָּׁה מוֹעֲדִין, הַבְּהֵמָה אֵינָה מוֹעֲדָת לֹא לַגַּח וְלֹא
 לַגֶּף וְלֹא לַשֶּׁף וְלֹא לְרֹבֵץ וְלֹא לְבֵעַט. הַשֶּׁן מוֹעֲדָת לְאָכֵל אֶת
 הָרְאוּי לָהּ, הָרֶגֶל מוֹעֲדָת לְשֹׁבֵר בְּדֶרֶךְ הַלּוֹכָה, וְשׁוֹר הַמוֹעֵד,
 וְשׁוֹר הַמְּזִיק בְּרְשׁוֹת הַנֶּזֶק, וְהָאָדָם. הַזָּאֵב וְהָאֲרִי וְהַדָּב וְהַנֶּמֶר
 וְהַבְּרָדָלִם וְהַנְּחָשׁ, הָרִי אֵלּוּ מוֹעֲדִין. רַבִּי אֶלְיעָזֵר אוֹמֵר, בְּזִמְנֵן
 שֶׁהֵן בְּנֵי תְרַבוּת, אֵינָן מוֹעֲדִין. וְהַנְּחָשׁ מוֹעֵד לְעוֹלָם. מַה בֵּין
 תֵּם לְמוֹעֵד. אֵלּא שֶׁהֵתֵם מְשֵׁלֵם חֲצֵי נֶזֶק מְגוּפוֹ, וּמוֹעֵד מְשֵׁלֵם
 נֶזֶק שֵׁלֵם מִן הָעֲלִיָּה:

Mishnah Bava Kamma

1 There are four primary causes of injury: the ox and the pit and the crop-destroying beast and fire. [The distinctive feature of] the ox is not like [that of] the crop-destroying beast, nor is [the distinctive feature of] either of these, which are alive, like [that of] fire, which is not alive; nor is [the distinctive feature of] any of these, whose way it is to go forth and do injury, like [that of] the pit, whose way it is not to go forth and do injury. What they have in common is that it is their way to do injury and that you are responsible for caring over them; and if one of them did injury whoever [is responsible] for the injury must make restitution [to the damaged party] with the best of his land. ² Anything that I am responsible to guard, I have rendered it possible to do injury [for which I will become obligated]. If I have partially rendered it possible to do injury, I must make restitution for that injury as if I totally rendered it possible to do injury. When one damages [property that fits all of the following categories]: property that does not have “sacrilege” [i.e. sacrificial animals or property that belongs to the Temple in Jerusalem], property that belongs to other members of the covenant [Jews], property that is owned, and the injury is done in any place other than the private domain of the injurer and the common domain of the injured and injurer, in these cases the injurer must make restitution for the injury with the best of his land. ³ Assessment [of injury] in money or things worth money must be made before a court of law and by witnesses that are free and Children of the Covenant (Jews). Women may be parties in [suits concerning] injury. The injured and the injurer [in certain cases may share] in the compensation. ⁴ Five [agents of damage] rank as harmless and five as an attested danger. Cattle are not an attested danger to butt, push, bite, lie down, or kick. The tooth [of an animal] is an attested danger to eat that which is for it; The leg [of an animal] is an attested danger to break [things] as it walks along; So also is a warned ox [an ox that has gored before]; And an ox that damages in the domain of the damaged party, and human beings. The wolf, the lion, the bear, the leopard, the panther and the snake all rank as attested danger. Rabbi Eliezer says: When they are tame they are not attested danger, but the snake is always an attested danger. What is the difference between that which is harmless and that which is an attested danger? The harmless pays half-damages from its own body and the attested danger pays full damages from the best property (of its owner and guardian).

2

פיצד הרגל מועדת. לשבר בדרך הלוחה. הבהמה מועדת להלך כדרךה ולשבר. היתה מבטטת, או שהיו צרות מנתזין מתחת רגליה ושברה את הכלים, משלם חצי נזק. דרסה על כלי ושברתו, ונפל על כלי ושברו, על הראשון משלם נזק שלם, ועל האחרון משלם חצי נזק. התרנגולים מועדין להלך כדרךן ולשבר. היתה דליל קשור ברגליו, או שהיה מהדס ומשבר את הכלים, משלם חצי נזק: ² פיצד השן מועדת. לאכל את הראוי לה. הבהמה מועדת לאכל פרות וירקות. אכלה כסות או כלים, משלם חצי נזק. במה דברים אמורים. ברשות הנזק, אבל ברשות הרבים, פטור. אם נהנית, משלם מה שנהנית. פיצד משלם מה שנהנית. אכלה מתוף הרחבה, משלם מה שנהנית. מצדי הרחבה, משלם מה שהזיקה. מפתח החנות, משלם מה שנהנית. מתוף החנות, משלם מה שהזיקה: ³ הפלג והגדי שקפצו מראש הגג ושברו את הכלים, משלם נזק שלם, מפני שהן מועדין הפלג שנטל חררה והלך לגדיש, אכל חררה והדליק הגדיש, על חררה משלם נזק שלם, ועל הגדיש משלם חצי נזק: ⁴ איזה הוא תם, ואיזה הוא מועד. מועד, כל שהעידו בו שלשה ימים. ותם, משניחזר בו שלשה ימים, דברי רבי יהודה. רבי מאיר אומר, מועד, שהעידו בו שלש פעמים. ותם, כל שיהיו התינוקות ממשמשין בו ואינו נוגח: ⁵ שור המזיק ברשות הנזק פיצד. נגח, נגף, נשף, רבץ, בעט, ברשות הרבים, משלם חצי נזק. ברשות הנזק, רבי טרפון אומר נזק שלם, וחכמים אומרים חצי נזק. אמר להם רבי טרפון, ומה במקום שהקל על השן ועל הרגל ברשות הרבים, שהוא פטור, החמיר עליהם ברשות הנזק לשלם נזק שלם, מקום שהחמיר על הקרן ברשות הרבים, לשלם חצי נזק, אינו דין שנהחמיר עליה ברשות הנזק לשלם נזק שלם. אמרו לו, דיו לבא מן הדין להיות כנדון, מה ברשות הרבים חצי נזק, אף ברשות הנזק חצי נזק. אמר להם, אני לא אדון קרן מקרן, אני אדון

2 How is the leg [of a beast] an attested danger to break [what it tramples upon] as it walks along? A beast is an attested danger [only] in so far as it goes along in its usual way and breaks [an object]. If it kicked, or if small stones were tossed out from beneath its feet and it thus broke other vessels, one pays half damages. If it trampled upon a vessel and broke it, and this [broken vessel] fell upon another vessel and broke it, for the first one pays full damages and for the other half damages. Fowls (chickens and roosters) are an attested danger in so far as they go along in their usual way and break [objects]. But if the fowl had its feet entangled, or if it was jumping and it thereby broke any vessel one pays half damages. ² How is the tooth [of a beast] an attested danger to eat that which it is fit to consume? A beast is an attested danger to eat fruit and vegetables. [If however] it ate clothing or utensils [the owner] pays only half damages. When does this apply? [This applies] in the domain of the damaged party But if it was within the public domain, the owner is not liable. If [the beast] benefited, [the owner] pays what it benefited. How does [the owner] pay what [the animal] benefited? [If it ate] from the middle of the marketplace, [the owner] pays what [the animal] benefited. [If it ate] from the sides of the marketplace, [the owner] pays for the damage [the animal] did. [If it ate] from in front of the store [the owner] pays for what [the animal] benefited. [If it ate] from inside the store [the owner] pays for the damage [the animal] did. ³ If a dog or a goat jumped from a roof and broke vessels, [the owner] must pay full damages, since they are attested dangers. A dog that took a cake [while there was a cinder attached] and went to a stack of grain and ate the cake and burned the stack of grain, For the cake [the owner] pays full damages And for the stack of grain [the owner] pays half damages. ⁴ Which kind of animal is accounted harmless and which is an attested danger (muad)? An attested danger is one that people have given testimony about [that it damaged] for three days. A harmless one is one that has refrained from damage for three days. This is according to Rabbi Judah. Rabbi Meir says, An attested danger is one that people have given testimony about three times. A harmless one is one that children can touch and it will not gore. ⁵ “An ox which causes damage in the private domain of him that is injured” how is this so? If it gored, pushed, bit, lay down, or kicked in the public domain its owner pays only half damages. But if in the private domain of him that is injured, Rabbi Tarfon says, “He pays full damages.” The Sages say, “Half damages.” Rabbi Tarfon said to them: “Now, in a case in which the law dealt leniently with regards to damages caused by the foot and tooth in the public domain, in which case he is exempt, and stringently in the private domain of him that is injured to pay full damages, then since they have dealt stringently with damage caused by the horn in the public domain, ought we not deal more stringently with damage caused by the horn in the private domain of him that was injured, so that full damages be imposed.” They (the sages) said to him: “It is enough if the inferred law is as strict as that from which it is inferred: if [for damages caused by the horn] in the public domain half

קָרַן מִרְגָּל. וימה במקום שהקל על השן ועל הרגל, ברשות הרבים, החמיר בקרן, מקום שהחמיר על השן ועל הרגל, ברשות הנזק, אינו דין שנתחמיר בקרן. אמרו לו, דיו לבא מן הדין להיות כנדון, מה ברשות הרבים חצי נזק, אף ברשות הנזק חצי נזק: ⁶ אדם מועד לעולם, בין שוגג, בין מזיד, בין ער, בין ישן. סמא את עין חברו ושבר את הפלים, משלם נזק שלם:

3 המניח את הפד ברשות הרבים וכא אחר ונתקל בה ושברה, פטור. ואם הזק בה, בעל החבית חייב בנזקו. נשברה כדו ברשות הרבים, והחלק אחד במים, או שלקה בחרסיה, חייב. רבי יהודה אומר, במתפונן, חייב. באינו מתפונן, פטור: ² השופף מים ברשות הרבים, והזק בהן אחר, חייב בנזקו. המצניע את הקוץ, ואת הזכוכית, והגודר את גדרו בקוצים, וגדר שנפל לרשות הרבים, והזקו בהן אחרים, חייב בנזקן: ³ המוציא את תבנו ואת קשו לרשות הרבים לזבלים, והזק בהן אחר, חייב בנזקו, וכל הקודם בהן זכה. רבן שמעון בן גמליאל אומר, כל המקלקלין ברשות הרבים והזיקו, חייבין לשלם, וכל הקודם בהן זכה. ההופף את הגלל ברשות הרבים, והזק בהן אחר, חייב בנזקו: ⁴ שני קדרין שהיו מהלכין זה אחר זה, ונתקל הראשון ונפל, ונתקל השני בראשון, הראשון חייב בנזקי שני: ⁵ זה בא בחביתו, וזה בא בקורתו, נשברה כדו של זה בקורתו של זה, פטור, שלזה רשות להלף ולזה רשות להלף. היתה בעל קורה ראשון, ובעל חבית אחרון, נשברה חבית בקורה, פטור בעל הקורה. ואם עמד בעל הקורה, חייב. ואם אמר לבעל החבית עמד, פטור. היתה בעל

damages [are imposed], so also [for like damages] in the private domain of him that was injured, half damages [are imposed]. He said to them: “I shall not derive the law in one case of damage caused by the horn from the law in another case of damage caused by the horn. Rather I will derive the law of damage caused by the horn from the law of damage caused by the foot. Now in a case in which the law dealt leniently with regards to damages caused by the foot or tooth in the public domain, they have dealt strictly with damage caused by the horn, ought we not deal more stringently with damage cause by the horn in the private domain. They (the sages) said to him: “It is enough if the inferred law is as strict as that from which it is inferred: if [for damages caused by the horn] in the public domain half damages [are imposed], so also [for like damages] in the private domain of him that was injured, half damages [are imposed].”⁶ Human beings are always an attested danger, whether the damage is caused inadvertently or deliberately, whether the person who caused the damage is awake or asleep. If a man blinded his fellow’s eye or broke his utensils he must pay full damages.

3 If a man left a jug in the public domain and another came and stumbled over it and broke it, he is exempt. And if he was injured by it, the owner of the jug is liable for his injury. If a man’s jug broke in the public domain, and another slipped on the water, or was hurt by the potsherds, he is liable. Rabbi Judah says: “If he [broke the jug] with intention, he is liable, But if he broke it without intention he is not liable.”² 1. If a man poured out water in the public domain, and another was injured thereby, he is liable for his injury. 2. If a man hid thorns or glass [in the public domain] or made his fence out of thorns, or if his fence fell into the public domain and others were thereby injured, he is obligated for their injury.³ If a man put out his chopped straw and stubble into the public domain to make them into fertilizer, and another was injured thereby, he is liable for his injury, and whoever comes first may take possession of them. Rabban Shimon ben Gamaliel says: “Whoever leaves things that are disruptive in the public domain, and these cause damage, must make restitution, and whoever comes first may take possession of them. If a man turned over a piece of cattle dung in the public domain and another was injured thereby, he is liable for injury.⁴ Two pot-sellers were walking one behind the other and the first stumbled and fell, and the second fell on the first, the first one is liable for the injury caused to the second.⁵ This one comes carrying his jar and another one comes carrying his beam: this one’s jar is broken by that one’s beam, [The owner of the beam] is exempt, since this one has the right to walk along and this one has the right to walk along. If the owner of the beam came first and the owner of the jar came after, and the jar was broken by the beam, the owner of the beam is exempt. If the owner of the beam stopped [walking suddenly], he is liable. If [the owner of the

חֲבִית רֵאשׁוֹן וּבַעַל קוֹרָה אַחֲרוֹן, נִשְׁפָּרָה חֲבִית בְּקוֹרָה, חֲטִיב.
וְאִם עֶמֶד בַּעַל חֲבִית, פְּטוּר. וְאִם אָמַר לְבַעַל קוֹרָה עֶמֶד, חֲטִיב.
וְכֵן זֶה בָּא בְּגֵרוֹ וְזֶה בְּפִשְׁתָּנוֹ: ⁶ שָׁנִים שָׁהָיו מֵהַלְכִין בְּרֵשׁוֹת
הַרְבִּים אֶחָד רֶץ וְאֶחָד מֵהַלֵּף, אוֹ שָׁהָיו שְׁנֵיהֶם רְצִים, וְהִזִּיקוּ
זֶה אֶת זֶה, שְׁנֵיהֶם פְּטוּרִין: ⁷ הַמְּבַקֵּעַ בְּרֵשׁוֹת הִיחִיד וְהִזִּיק
בְּרֵשׁוֹת הַרְבִּים, בְּרֵשׁוֹת הַרְבִּים וְהִזִּיק בְּרֵשׁוֹת הִיחִיד, בְּרֵשׁוֹת
הִיחִיד וְהִזִּיק בְּרֵשׁוֹת הִיחִיד אַחַר, חֲטִיב: ⁸ שְׁנֵי שְׁוָרִים תַּמִּים
שָׁחֲבוּ זֶה אֶת זֶה, מְשַׁלְּמִים בַּמּוֹתֵר חֲצֵי נֶזֶק. שְׁנֵיהֶם מוּעָדִים,
מְשַׁלְּמִים בַּמּוֹתֵר נֶזֶק שְׁלָם. אֶחָד תָּם וְאֶחָד מוּעָד, מוּעָד בַּתָּם
מְשַׁלֵּם בַּמּוֹתֵר נֶזֶק שְׁלָם, תָּם בַּמוּעָד מְשַׁלֵּם בַּמּוֹתֵר חֲצֵי נֶזֶק.
וְכֵן שְׁנֵי אֲנָשִׁים שָׁחֲבוּ זֶה בְּזֶה, מְשַׁלְּמִים בַּמּוֹתֵר נֶזֶק שְׁלָם.
אָדָם בַּמוּעָד וּמוּעָד בְּאָדָם, מְשַׁלֵּם בַּמּוֹתֵר נֶזֶק שְׁלָם. אָדָם בַּתָּם
וְתָם בְּאָדָם, אָדָם בַּתָּם מְשַׁלֵּם בַּמּוֹתֵר נֶזֶק שְׁלָם, תָּם בְּאָדָם
מְשַׁלֵּם בַּמּוֹתֵר חֲצֵי נֶזֶק. רַבִּי עֲקִיבָא אוֹמֵר, אִף תָּם שָׁחֲבַל
בְּאָדָם, מְשַׁלֵּם בַּמּוֹתֵר נֶזֶק שְׁלָם: ⁹ שׁוֹר שָׁוָה מְנָה שֶׁנִּגְחַח שׁוֹר
שָׁוָה מְאֵתִים, וְאִין הִנְבְּלָה יָפָה כְּלוּם, נוֹטֵל אֶת הַשׁוֹר. שׁוֹר
שָׁוָה מְאֵתִים שֶׁנִּגְחַח שׁוֹר שָׁוָה מְאֵתִים, וְאִין הִנְבְּלָה יָפָה כְּלוּם,
אָמַר רַבִּי מְאִיר, עַל זֶה נֶאֱמַר (שְׁמוֹת כ"א) וּמָכְרוּ אֶת הַשׁוֹר
הַחֵי וְחִצּוּ אֶת כֶּסֶפוֹ. אָמַר לוֹ רַבִּי יְהוּדָה, וְכֵן הִלְכָה, קִימַתָּ
וּמָכְרוּ אֶת הַשׁוֹר הַחֵי וְחִצּוּ אֶת כֶּסֶפוֹ, וְלֹא קִימַתָּ (ש"ם) וְגַם
אֶת הַמֵּת יַחֲצוּן, וְאִיזָה, זֶה שׁוֹר שָׁוָה מְאֵתִים שֶׁנִּגְחַח שׁוֹר שָׁוָה
מְאֵתִים, וְהִנְבְּלָה יָפָה חֲמִשִּׁים זוּז, שָׁוָה נוֹטֵל חֲצֵי הַחֵי וְחִצֵּי
הַמֵּת, וְזֶה נוֹטֵל חֲצֵי הַחֵי וְחִצֵּי הַמֵּת: ¹⁰ יֵשׁ חֲטִיב עַל מַעֲשֵׂה
שׁוֹרוֹ וּפְטוּר עַל מַעֲשֵׂה עֶצְמוֹ, פְּטוּר עַל מַעֲשֵׂה שׁוֹרוֹ וְחֲטִיב עַל
מַעֲשֵׂה עֶצְמוֹ. שׁוֹרוֹ שְׁבִיִּשׁ, פְּטוּר, וְהוּא שְׁבִיִּישׁ, חֲטִיב. שׁוֹרוֹ
שְׁסֻמָּא אֶת עֵין עֶבְדוֹ, וְהִפִּיל אֶת שֵׁנוֹ, פְּטוּר, וְהוּא שְׁסֻמָּא אֶת
עֵין עֶבְדוֹ, וְהִפִּיל אֶת שֵׁנוֹ, חֲטִיב. שׁוֹרוֹ שָׁחֲבַל בְּאָבִיו וְאָמוֹ,
חֲטִיב, וְהוּא שָׁחֲבַל בְּאָבִיו וְאָמוֹ, פְּטוּר. שׁוֹרוֹ שָׁהֲדִילִק אֶת
הַגְּדִישׁ בְּשֶׁבֶת, חֲטִיב, וְהוּא שָׁהֲדִילִק אֶת הַגְּדִישׁ בְּשֶׁבֶת, פְּטוּר,
מִפְּנֵי שֶׁהוּא מִתְחִיב בְּנִפְשׁוֹ: ¹¹ שׁוֹר שֶׁהָיָה רוֹדֵף אַחַר שׁוֹר
אַחַר, וְהִזִּיק, זֶה אוֹמֵר שׁוֹרְךָ הִזִּיק, וְזֶה אוֹמֵר לֹא כִי, אֶלֶּא בְּסֻלַּע
לָקָה, הַמוּצִיא מִחֲבֵרוֹ עָלָיו הִרְאָיָה. הָיוּ שְׁנַיִם רוֹדְפִים אַחַר

beam had said] “Stop” to the owner of the jar, he is exempt. If the owner of the jar came first and owner of the beam came after, and the jar was broken by the beam, [the owner of the beam] is liable. If the owner of the jar stopped [walking suddenly], he is exempt. If [the owner of the jar had said] “Stop” to the owner of the beam, he is liable. ⁶ [If] two were walking along in the public domain, the one running and the other walking, or both running and they injured one another, neither is liable. ⁷ [If] a man was splitting wood in the private domain and injured anyone in the public domain, or if he was in the public domain and injured anyone in the private domain, or if he was in a private domain and injured anyone in another private domain, he is liable. ⁸ If two oxen which were accounted harmless hurt one another, the owner pays half-damages for that one which suffered the greater hurt. If both were attested dangers full damages are payable for that one which suffered the greater hurt. If one was accounted harmless and the other was an attested danger, that which was an attested danger as against that which was accounted harmless must pay full damages for the greater hurt that the other has suffered, while that which was accounted harmless, as against that which was an attested danger, pays only half damages for the greater hurt that the other has suffered. So, too, if two men hurt one another, full damages are payable for that one which suffered the greater hurt. If a man and an ox which was accounted harmless hurt one another, the man as against the ox accounted harmless must pay full damages for the greater hurt that the other has suffered, while the ox accounted harmless, as against the man, pays only half damages for the greater hurt that the other suffered. Rabbi Akiva says: “Even if an ox accounted harmless hurt a man, full damages must be paid for that one which suffered the greater hurt. ⁹ If an ox worth 100 gored an ox worth 200, and the carcass is not worth anything, [the owner of the gored ox] takes the [live] ox. If an ox worth 200 gored an ox worth 200 and the carcass is not worth anything, Rabbi Meir said, “If thus it was written, ‘they shall sell the live ox and divide its price, they shall also divide the dead animal’. Rabbi Judah said to him: “Such indeed is the halachah, but you have fulfilled the verse ‘they shall sell the live ox and divide its price’, and you have not fulfilled the verse ‘they shall also divide the dead animal’. What case is this? If an ox worth 200 gored an ox worth 200 and the corpse is worth 50, this one takes half of the live ox and half of the dead ox, and this one takes half of the live ox and half of the dead ox. ¹⁰ There is one who is obligated for the act of his ox and exempt from his own act, and one who is exempt from the act of his ox and obligated on his own act. [If] his ox caused embarrassment [to another person], he is exempt; [If, however] he caused embarrassment [to another person] he is obligated. [If] his ox put out the eye of his slave or knocked out his [slave’s] tooth, he is exempt [from freeing the slave]; [If, however] he put out the eye of his slave or knocked out his tooth, he is obligated to free the slave. [If] his ox injured his father or mother he is obligated; [If, however] he injured his father or mother he is exempt. [If] his ox lit a heap of produce on fire

אָחד, זֶה אוֹמֵר שׁוֹרֵף הַזֵּיק, וְזֶה אוֹמֵר שׁוֹרֵף הַזֵּיק, שְׁנֵיהֶם פְּטוּרִין. אִם הָיוּ שְׁנֵיהֶן שָׁל אִישׁ אֶחָד, שְׁנֵיהֶן חַיִּבִּין. הִיָּה אֶחָד גָּדוֹל וְאֶחָד קָטָן, הַנֶּזֶק אוֹמֵר גָּדוֹל הַזֵּיק, וְהַמֵּזִיק אוֹמֵר לֹא כִי, אֲלֵא קָטָן הַזֵּיק. אֶחָד תָּם וְאֶחָד מוּעֵד, הַנֶּזֶק אוֹמֵר, מוּעֵד הַזֵּיק, וְהַמֵּזִיק אוֹמֵר לֹא כִי, אֲלֵא תָם הַזֵּיק, הַמוּצִיא מִחֲבֵרוֹ עָלָיו הִרְאָיָה. הָיוּ הַנְּזוֹקִין שְׁנַיִם, אֶחָד גָּדוֹל וְאֶחָד קָטָן, וְהַמֵּזִיקִים שְׁנַיִם, אֶחָד גָּדוֹל וְאֶחָד קָטָן, הַנֶּזֶק אוֹמֵר, גָּדוֹל הַזֵּיק אֶת הַגָּדוֹל וְקָטָן אֶת הַקָּטָן, וְהַמֵּזִיק אוֹמֵר לֹא כִי, אֲלֵא קָטָן אֶת הַגָּדוֹל וְהַגָּדוֹל אֶת הַקָּטָן. אֶחָד תָּם וְאֶחָד מוּעֵד, הַנֶּזֶק אוֹמֵר, מוּעֵד הַזֵּיק אֶת הַגָּדוֹל וְתָם אֶת הַקָּטָן, וְהַמֵּזִיק אוֹמֵר לֹא כִי, אֲלֵא תָם אֶת הַגָּדוֹל וְמוּעֵד אֶת הַקָּטָן, הַמוּצִיא מִחֲבֵרוֹ עָלָיו הִרְאָיָה:

שׁוֹר שְׁנַגַח אַרְבָּעָה וְחֲמִשָּׁה שְׁוֹרִים זֶה אַחֵר זֶה, יְשַׁלֵּם לְאַחֲרוֹן שְׁבָהֶם. וְאִם יֵשׁ בּוֹ מוֹתֵר, יִחְזֹר לְשִׁלְפָנָיו. וְאִם יֵשׁ בּוֹ מוֹתֵר, יִחְזֹר לְשִׁלְפָנָיו. וְהָאֲחֲרוֹן אַחֲרוֹן גִּשְׁכָּר, דְּבָרֵי רַבִּי מְאִיר. רַבִּי שְׁמַעוֹן אוֹמֵר, שׁוֹר שְׁוֹה מְאֵתִים שְׁנַגַח שׁוֹר שְׁוֹה מְאֵתִים, וְאִין הַנְּבִלָה יָפָה כְּלוּם, זֶה נוֹטֵל מִנֶּה וְזֶה נוֹטֵל מִנֶּה. חֲזַר וְנִגַח שׁוֹר אַחֵר שְׁוֹה מְאֵתִים, הָאֲחֲרוֹן נוֹטֵל מִנֶּה, וְשִׁלְפָנָיו, זֶה נוֹטֵל חֲמִשִּׁים זוּז וְזֶה נוֹטֵל חֲמִשִּׁים זוּז. חֲזַר וְנִגַח שׁוֹר אַחֵר שְׁוֹה מְאֵתִים, הָאֲחֲרוֹן נוֹטֵל מִנֶּה, וְשִׁלְפָנָיו, חֲמִשִּׁים זוּז, וְשְׁנַיִם הָרָאוּשׁוֹנִים, דִּינָר זָהָב: ² שׁוֹר שֶׁהוּא מוּעֵד לְמִינוֹ וְאִינוֹ מוּעֵד לְשְׁאִינוֹ מִינוֹ, מוּעֵד לְאָדָם וְאִינוֹ מוּעֵד לְבַהֲמָה, מוּעֵד לְקִטְנִים וְאִינוֹ מוּעֵד לְגְדוֹלִים, אֶת שֶׁהוּא מוּעֵד לוֹ מְשַׁלֵּם

on Shabbat, he is obligated; [If, however] he lit a heap of produce on Shabbat he is exempt, because he is liable for his life. ¹¹ If an ox was pursuing another ox and [the latter ox] was injured: this one claims “Your ox caused the injury, and this one claims “No, it was injured by a rock.” on the one who wishes to exact compensation lies the burden of proof. If two oxen were pursuing a third ox: this one claims “Your ox caused the injury”, and this one claims “Your ox caused the injury”, they are both exempt. However, if they were both owned by one man, they are both obligated. If one was big and was small: the [owner] of injured [ox] says that “The large one caused the injury”, and the [owner] of the injuring [ox] says, “The small one caused the injury”, [or] if one was a harmless ox and one was an attested danger (muad) the [owner] of the injured ox says, “The [ox which is an] attested danger caused the injury, and the owner of the injuring ox says, “The [ox which is] harmless caused the injury”, on the one who wishes to exact compensation lies the burden of proof. If two oxen were injured, one big and one small, and two oxen caused the injury, one big and one small: [the owner] of the injured oxen says, “The big ox injured the big ox and small ox injured the small ox,” and the [owner] of the injuring oxen says, “The small ox injured the big ox and the big ox injured the small ox”; [or] if one was harmless and one was an attested danger: the [owner] of the injured oxen says, “The [ox which is an] attested danger injured the big ox, and the harmless [ox] injured the small ox”, the owner of injuring oxen says, “No rather the harmless [ox] injured the large ox and the [ox which is an] attested danger injured the small ox”, on the one who wishes to exact compensation lies the burden of proof.

4 [If] an ox has gored four or five other oxen, this one after this one: the owner shall pay to [the owner of] the last ox injured. If money remains, it will go to the [the owner of] the previously [injured ox]. If money still remains, it will go to the [the owner of the ox injured] previous to the previously [injured ox]. [The owner of] the last [injured ox] benefits, according to Rabbi Meir. Rabbi Shimon says, “[If] an ox worth 200 gores an ox worth 200 and the carcass is not worth anything, this one gets 100 and this one gets 100. [If] it injures another ox worth 200, the [owner of the] ox last injured receives 100 and the owner of the previously injured ox receives 50. [If] it injures another ox worth 200, the [owner of the] ox last injured receives 100, the [owner of the] previously injured ox receives 50, and the first two receive 25. ² An ox which is an attested danger for [injuring] its own kind, and is not an attested danger for [injuring] that which is not its own kind; or an attested danger for [injuring] human beings and not an attested danger for [injuring] beasts; or an attested danger for [injuring] children and not an attested danger for [injuring] adults that for which it is an attested danger [its owner] pays full damages, and that for which it is not an attested danger [its owner] pays half damages. They said in front of Rabbi Judah:

הַחֲמוֹר לְהִבְיָא עָלֶיהָ חֲטִים וְהִבְיָא עָלֶיהָ שְׁעָרִים, חֲיִב. תְּבוּאָה
וְהִבְיָא עָלֶיהָ תְּבֹן, חֲיִב, מִפְּנֵי שֶׁהִנְפַח קָשָׁה לְמִשְׁאוּי. לְהִבְיָא
לְתַדְּ חֲטִים וְהִבְיָא לְתַדְּ שְׁעָרִים, פְּטוּר. וְאִם הוֹסִיף עַל מִשְׁאוּי,
חֲיִב. וְכַמָּה יוֹסִיף עַל מִשְׁאוּי וְיֵהָא חֲיִב. סוּמְכוּס אוֹמֵר מִשׁוּם
רַבֵּי מְאִיר, סָאָה לְגַמְל, שְׁלֶשֶׁה קַבִּין לְחֲמוֹר: ⁶ כָּל הָאֲמִינִין,
שׁוֹמְרֵי שְׂכָר הֵן. וְכֻלָּן שְׁאֲמְרוּ, טַל אֶת שְׁלֶף וְהִבְיָא מְעוֹת, שׁוֹמֵר
חֲנָם. שְׁמֵר לִי וְאֶשְׁמֵר לָךְ, שׁוֹמֵר שְׂכָר. שְׁמֵר לִי, וְאֶמֶר לוֹ
הִנֵּחַ לְפָנַי, שׁוֹמֵר חֲנָם: ⁷ הִלְוָהוּ עַל הַמְשָׁכוֹן, שׁוֹמֵר שְׂכָר.
רַבֵּי יְהוּדָה אוֹמֵר, הִלְוָהוּ מְעוֹת, שׁוֹמֵר חֲנָם. הִלְוָהוּ פְרוֹת,
שׁוֹמֵר שְׂכָר. אָבָא שְׁאוּל אוֹמֵר, מִתֵּר אָדָם לְהַשְׁכִּיר מִשְׁפוּנוֹ
שֶׁל עֲנִי לְהִיּוֹת פּוֹסֵק עָלָיו וְהוֹלֵךְ, מִפְּנֵי שֶׁהוּא כְּמִשְׁיב אֲבָדָה:
⁸ הַמְעַבִּיר חֲבִית מִמְּקוֹם לְמְקוֹם וְשִׁבְרָהּ, בֵּין שׁוֹמֵר חֲנָם בֵּין
שׁוֹמֵר שְׂכָר, יִשְׁבַּע. רַבֵּי אֱלִיעֶזֶר אוֹמֵר, זֶה וְזֶה יִשְׁבַּע, וְתַמָּה
אֲנִי אִם יְכוּלִין זֶה וְזֶה לְשַׁבַּע:

7
הַשׁוֹכֵר אֶת הַפוֹעֲלִים וְאֶמֶר לָהֶם לְהַשְׁכִּים וּלְהַעֲרִיב, מְקוֹם
שְׁנֵהֲגוּ שְׁלֵא לְהַשְׁכִּים וְשְׁלֵא לְהַעֲרִיב, אֵינּוּ רִשְׁאֵי לְכוּפֵן.
מְקוֹם שְׁנֵהֲגוּ לְזוֹן, יְזוֹן. לְסַפֵּק בְּמַתִּיקָה, יִסְפֵּק. הַפֵּל כְּמִנְהַג
הַמְּדִינָה. מַעֲשֵׂה בְרַבֵּי יוֹחָנָן בֶּן מַתִּיָּא שְׁאֲמַר לְבָנוּ, צֵא שְׂכָר
לָנוּ פּוֹעֲלִים. הֲלֵךְ וּפְסַק לָהֶם מְזוֹנוֹת. וּכְשָׁבָא אֶצֶל אָבִיו, אָמַר
לוֹ, בְּנִי, אֶפְלוּ אִם אֲתָה עוֹשֶׂה לָהֶם כְּפִסְעֵדַת שְׁלֵמָה בְּשַׁעֲתוֹ, לֹא
יֵצֵאת יְדֵי חוֹבְתָךְ עִמָּהֶן, שֶׁהֵן בְּנֵי אַבְרָהָם יִצְחָק וַיַּעֲקֹב. אֵלֶּא
עַד שְׁלֵא יִתְחִילוּ בְּמִלְאָכָה צֵא וְאֶמֶר לָהֶם, עַל מְנַת שְׁאִין לְכֶם
עָלִי אֵלֶּא פֶת וְקִטְנִית בְּלָבַד. רַבֵּן שְׁמַעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר,
לֹא הָיָה צָרִיף לֹאמֵר, הַפֵּל כְּמִנְהַג הַמְּדִינָה: ² וְאֵלוּ אוֹכְלִין
מִן הַתּוֹרָה. הָעוֹשֶׂה בְּמַחְבֵּר לְקַרְקַע, בְּשַׁעֲת גָּמַר מְלֹאכָה,
וּבְתוֹשׁ מִן הַקַּרְקַע, עַד שְׁלֵא נִגְמְרָה מְלֹאכְתּוֹ, בְּדָבָר שְׁגָדוּלוֹ

a donkey to carry wheat and he used it to carry [a like weight] of barley, he is liable [if the donkey was injured]. [If he hired it to carry] grain and he used it to carry [a like weight of] chopped straw he is liable, since the greater bulk is more difficult to carry. [If he hired it to carry] a letech of wheat and it carried a letech of barley he is not liable. But if he increased the weight, he is liable. What increase in weight renders him liable? Symmachos says in the name of Rabbi Meir: “One seah for a camel and three kavs for a donkey.”⁶ All craftsmen are accounted paid guardians. But all that have said, “Take what is yours and give me the money”, are accounted unpaid guardians. If one man said to another, “Guard that for me and I will guard this for you”, he is accounted a paid guardian. If one said, “Guard this for me”, and the other said “Put it down in front of me”, he is accounted an unpaid guardian.⁷ If one gave a loan and took a pledge he is accounted a paid guardian. Rabbi Judah says: “If he lent him money he is accounted an unpaid guardian; if he lent him produce he is accounted a paid guardian.” Abba Shaul, “One may hire out a poor man’s pledge and thereby reduce the debt, for in such a way he is like one who returns lost property.”⁸ If one moved a jar from place to place and broke it, whether he is a paid guardian or an unpaid guardian, he may take an oath [that he did not break it through neglect and be exempt from liability]. Rabbi Eliezer says: “[I too have heard that] in either case he may take an oath, but I wonder whether in either case the oath is valid.”

7 If one hired laborers and told them to work early or to work late, he has no right to compel them to do so where the custom is not to work early or not to work late. In a place where the custom is to give them their food he should give it to them, and where the custom is to provide them with sweet food, he must give it to them. Everything should follow local custom. It once happened that Rabbi Yochanan ben Mattia said to his son: “Go and hire laborers for us”. He went and struck a deal to provide them with food. When he came to his father, his father said to him, “My son, even if you make them a banquet like Solomon’s in his time you will not have fulfilled your obligation to them. For they are sons of Abraham, Isaac and Jacob. But, rather, before they begin to work go and say to them, “On condition that I am not bound to give you more than bread and beans only.” Rabban Shimon ben Gamaliel says: “It was not necessary to speak thus, for everything should follow local use.”² These may eat [of the fruits among which they work] by the law of the Torah: one who works on that which is still connected to the ground [may eat of it] when the work is finished [at the time of harvest]; and one who works on that which is already detached from the ground [may eat of it] before the work is completely finished. This applies only to that which grows from the ground. These are they that may not eat; one that works on what is still growing while the work is still unfinished; and one that works on what is already detached from the ground after the work is

מן הארץ. ואלו שאין אוכלין. העושה במחבר לקרקע
 בשעה שאין גמר מלאכה, ובתלוש מן הקרקע מאחר שנגמרה
 מלאכתו, ובדבר שאין גדולו מן הארץ: ³ היתה עושה בידי
 אבל לא ברגליו, ברגליו אבל לא בידי, אפלו בכתפו, הרי
 זה אוכל. רבי יוסי ברבי יהודה אומר, עד שיעשה בידי
 וברגליו: ⁴ היתה עושה בתאנים, לא יאכל בענבים, בענבים,
 לא יאכל בתאנים. אבל מונע את עצמו עד שמגיע למקום
 היפות ואוכל. וכלן לא אמרו אלא בשעת מלאכה, אבל משום
 השב אבדה לבעלים אמרו, פועלים אוכלין בהליכתן מאמן
 לאמן, ובחזירתן מן הגת, ובחמור כשהיא פורקת: ⁵ אוכל
 פועל קשות אפלו בדינר, וכותבת אפלו בדינר. רבי אלעזר
 חסמא אומר, לא יאכל פועל יתר על שכרו. וחכמים מתירין,
 אבל למדין את האדם שלא יהא רעבתן ויהא סותם את
 הפתח בפניו: ⁶ קוצץ אדם על ידי עצמו, על ידי בנו ובתו
 הגדולים, על ידי עבדו ושפחתו הגדולים, על ידי אשתו, מפני
 שיש בהן דעת. אבל אינו קוצץ על ידי בנו ובתו הקטנים,
 ולא על ידי עבדו ושפחתו הקטנים, ולא על ידי בהמתו, מפני
 שאין בהן דעת: ⁷ השוכר את הפועלים לעשות בנטע רבעי
 שלו, הרי אלו לא יאכלו. אם לא הודיען, פודה ומאכילן.
 נתפרסו עגוליו, נתפתחו חביותיו, הרי אלו לא יאכלו. אם לא
 הודיען, מעשר ומאכילן: ⁸ שומרי פרות אוכלין מהלכות
 מדינה, אבל לא מן התורה. ארבעה שומרין הן. שומר חנם,
 והשואל, נושא שכר, והשוכר. שומר חנם נשבע על הכל,
 והשואל משלם את הכל, ונושא שכר והשוכר נשבעים על
 השבורה ועל השבויה ועל המתה, ומשלמין את האבדה ואת
 הגנבה: ⁹ זאב אחד, אינו אנס, שני זאבים, אנס. רבי יהודה
 אומר, בשעת משלחת זאבים, אף זאב אחד אנס. שני כלבים,
 אינו אנס. ידוע הבבלי אומר משום רבי מאיר, מרוח אחת,
 אינו אנס, משתי רוחות, אנס. הלסטים, הרי זה אנס. הארי
 והדב והנמר והפרדלס והנחש, הרי זה אנס. אימתי, בזמן
 שבאו מאליהן, אבל אם הוליכן למקום גדודי חיה ולסטים,

finished, and [one may not eat] of what does not grow from the soil. ³ If one was working with his hands but not with his feet, with his feet but not with his hands, or even with his shoulders only, he still may eat. Rabbi Yose bar Rabbi Judah says, “Only if he works with both his hands and his feet.” ⁴ If one was working with figs he may not eat grapes, and if among grapes he may not eat figs. But he may refrain [from eating] until he reaches the best produce and then eat. In no case have they said [that he may eat] save during the time of his work. But because of the principle of restoring lost property to its owner they have said, “Field laborers may eat as they go from one furrow to another or as they return from the winepress. And a donkey [may eat] while it is unloading.” ⁵ A laborer may eat cucumbers even to a denar’s worth, and dates even to a denar’s worth. Rabbi Elazar ben Hisma says: “A laborer may not eat more than the value of his wages. But the Sages permit it, but they teach a man not to be gluttonous as to close the door against himself. ⁶ One may exact terms for himself and for his son or daughter that are of age, and for his slave or female slave that are of age, and for his wife, since these have understanding. But he may not exact terms for his son and daughter that are not of age, or for his slave or female slave that are not of age, or for his cattle, since these have no understanding. ⁷ If one hired laborers to work among his fourth-year plantings, they not eat from them. If he had not told them [that they were fourth-year plantings] he must first redeem the fruit and then allow them to eat. If his fig-cakes broke up or his jars burst open, they may not eat from them. If he had not told them [that they were liable to be tithed] he must first separate the tithes and then allow them to eat. ⁸ Those that guard [gathered] produce may eat from it because that is the custom of the land and not because that is the law of the Torah. There are four kinds of guardians: an unpaid guardian, a borrower, a paid guardian and a hirer. An unpaid guardian may take an oath [that he had not been neglectful] in every case [of loss or damage and be free of liability]. A borrower must make restitution in every case. A paid guardian or a hirer may take an oath if the beast was injured, or taken captive or dead, but he must make restitution if it was lost or stolen. ⁹ If one wolf [attacked the flock that he was watching] it does not count as an unavoidable accident [for which no blame is placed on the guardian]. Two wolves do count as an unavoidable accident. Rabbi Judah says: “In a time where wolves are commonly attacking the settlements, even one wolf is considered to be an unavoidable accident.” Two dogs do not count as an unavoidable accident. Yadua the Babylonian said in the name of Rabbi Meir says: “If [two dogs came] from one direction they do not count as an unavoidable accident, but if [they came] from two directions they count as an unavoidable accident. A bandit counts as an unavoidable accident. A lion or a bear or a leopard or a panther or a serpent counts as an unavoidable accident. When [is this so]? When they come of themselves. But if he took the flock to a place of wild animals or bandits they do not count as an unavoidable accident. ¹⁰ If a beast died a natural death this counts

רבי יהודה אומר, הדמים מודיעין. כיצד, אָמַר לוֹ מְכוֹר לִי
 צִמְדָּךְ בְּמֵאתִים זוּז, הַדְּבָר יְדוּעַ שְׁאִין הַצִּמְד בְּמֵאתִים זוּז.
 וְחֻכְמִים אוֹמְרִים, אֵין הַדָּמִים רְאָיָה: ² הַמּוֹכֵר אֶת הַחֲמוֹר,
 לֹא מָכַר כֻּלּוֹ. נַחֲוּם הַמְּדִי אוֹמֵר, מָכַר כֻּלּוֹ. רַבִּי יְהוּדָה אוֹמֵר,
 פְּעָמִים מְכוֹרִין וּפְעָמִים אֵינָן מְכוֹרִין. כִּיצַד, הָיָה חֲמוֹר לְפָנָיו
 וְכֻלּוֹ עָלָיו, וְאָמַר לוֹ מְכוֹר לִי חֲמוֹרָךְ זֶה, הָרִי כֻלּוֹ מְכוֹרִין.
 חֲמוֹרָךְ הוּא, אֵין כֻּלּוֹ מְכוֹרִין: ³ הַמּוֹכֵר אֶת הַחֲמוֹר, מָכַר
 אֶת הַסִּיחַ. מָכַר אֶת הַפָּרָה, לֹא מָכַר אֶת בְּנָהּ. מָכַר אֶשְׁפָּה, מָכַר
 זְבֻלָּהּ. מָכַר בּוֹר, מָכַר מִימּוֹ. מָכַר כְּוֶרֶת, מָכַר דְּבוּרִים. מָכַר
 שׁוֹבֵךְ, מָכַר יוֹנִים. הַלּוֹקֵחַ פְּרוֹת שׁוֹבֵךְ מִחֲבָרוֹ, מִפְּרִיחַ בְּרֻכָּה
 רֵאשׁוּנָה. פְּרוֹת כְּוֶרֶת, נוֹטֵל שְׁלֶשֶׁה נְחִילִין וּמְסָרֵם. חֲלוֹת
 דְּבֶשׂ, מְנִיחַ שְׁתֵּי חֲלוֹת. זֵיתִים לֶקֶץ, מְנִיחַ שְׁתֵּי גְרוּפִיּוֹת:
⁴ הַקּוֹנֶה שְׁנֵי אֵילָנוֹת בְּתוֹךְ שְׁדֵה חֲבָרוֹ, הָרִי זֶה לֹא קָנָה קְרָקַע.
 רַבִּי מֵאִיר אוֹמֵר, קָנָה קְרָקַע. הַגְּדִילוֹ, לֹא יִשְׁפָּה. וְהַעוֹלָה מִן
 הַגִּזְע, שָׁלוֹ. וּמִן הַשָּׂרְשִׁים, שֶׁל בַּעַל הַקְּרָקַע. וְאִם מֵתוֹ, אֵין לוֹ
 קְרָקַע. קָנָה שְׁלֶשֶׁה, קָנָה קְרָקַע. הַגְּדִילוֹ, יִשְׁפָּה. וְהַעוֹלָה מִן
 הַגִּזְע וּמִן הַשָּׂרְשִׁין, שָׁלוֹ. וְאִם מֵתוֹ, יֵשׁ לוֹ קְרָקַע: ⁵ הַמּוֹכֵר
 רֵאשׁ בַּהֲמָה גִּסָּה, לֹא מָכַר אֶת הַרְגָּלִים. מָכַר אֶת הַרְגָּלִים,
 לֹא מָכַר אֶת הָרֵאשׁ. מָכַר אֶת הַקְּנָה, לֹא מָכַר אֶת הַכְּבֹד.
 מָכַר אֶת הַכְּבֹד, לֹא מָכַר אֶת הַקְּנָה. אֲבָל בְּדֻקָּה, מָכַר אֶת
 הָרֵאשׁ, מָכַר אֶת הַרְגָּלִים. מָכַר אֶת הַרְגָּלִים, לֹא מָכַר אֶת
 הָרֵאשׁ. מָכַר אֶת הַקְּנָה, מָכַר אֶת הַכְּבֹד. מָכַר אֶת הַכְּבֹד, לֹא
 מָכַר אֶת הַקְּנָה: ⁶ אַרְבַּע מֵדוֹת בְּמוֹכְרִין. מָכַר לוֹ חֲטִים
 יְפוֹת וְנִמְצְאוּ רְעוֹת, הַלּוֹקֵחַ יְכוּל לְחַזֵּר בּוֹ. רְעוֹת וְנִמְצְאוּ
 יְפוֹת, מוֹכֵר יְכוּל לְחַזֵּר בּוֹ. רְעוֹת וְנִמְצְאוּ רְעוֹת, יְפוֹת וְנִמְצְאוּ
 יְפוֹת, אֵין אֶחָד מֵהֶם יְכוּל לְחַזֵּר בּוֹ. שְׁחֻמְתִּית וְנִמְצְאת לְבָנָהּ,
 לְבָנָהּ וְנִמְצְאת שְׁחֻמְתִּית, עֲצִים שֶׁל זֵית וְנִמְצְאוּ שֶׁל שְׁקָמָה,
 שֶׁל שְׁקָמָה וְנִמְצְאוּ שֶׁל זֵית, זֵין וְנִמְצְאוּ חִמְץ, חִמְץ וְנִמְצְאוּ זֵין,
 שְׁנֵיהֶם יְכוּלִין לְחַזֵּר בְּהֵן: ⁷ הַמּוֹכֵר פְּרוֹת לְחֲבָרוֹ, מִשְׁךְ וְלֹא
 מִדָּד, קָנָה. מִדָּד וְלֹא מִשְׁךְ, לֹא קָנָה. אִם הָיָה פְּקֻחַ, שׁוֹכֵר אֶת
 מְקוֹמָן. הַלּוֹקֵחַ פֶּשֶׁתָן מִחֲבָרוֹ, הָרִי זֶה לֹא קָנָה עַד שְׁיִטְלֶטְלֶנּוּ

of a beehive he may take three swarms and then [the seller] may make the rest sterile. [If he bought] honeycombs he must leave two honeycombs. [If he bought] olive trees to cut down the branches, he must leave two shoots. ⁴ If a man bought two trees in his fellow's field, he has not bought the ground [in which they grow]. Rabbi Meir says: "He has bought the ground". When they grow (branches), he (the seller) may not trim them. What comes up from the stem belongs to him (the buyer) but what comes up from the roots belongs to the seller. And if they die, the ground is not his [to replant new trees]. If he bought three trees, he has bought the ground [between them]. When they grow he may trim them, And what comes up whether from the stem or from the roots belongs to him (the buyer). And if they die the ground is his. ⁵ He who has sold the head of a large animal, has not sold the feet. If he sold the feet, he has not sold the head. If he sold the lungs he has not sold the liver. If he sold the liver he has not sold the lungs. But in the case of a small animal: If he sold the head he has sold the feet. If he sold the feet he has not sold the head. If he sold the lungs he has sold the liver. If he sold the liver he has not sold the lungs. ⁶ There are four rules with regards to those who sell: If one has sold good wheat and it turns out to be bad, the buyer can retract. If he sold bad wheat and it is found to be good, the seller can retract. [But if one sold] bad wheat and it is found to be bad, or good wheat and it is found to be good, neither may retract. [If one has sold] dark wheat and it turned out to be white; Or white and it turned out to be dark; Or [if he sold] olive wood and it turned out to be sycamore wood; Or sycamore wood and it turned out to be olive wood; Or [if he sold] wine and it turned out to be vinegar; Or vinegar and it turned out to be wine; Either of them may retract. ⁷ If a man sold produce to his fellow and the buyer drew it towards him but did not measure it, [the buyer] has acquired [the produce]. If [the seller] had measured it but [the buyer] did not draw it towards him, he has not acquired [the produce]. If [the buyer] is clever he will rent the place [in which the produce is located]. If a man bought flax from his fellow he has not acquired it until he has moved it from one place to another. If it was still attached to the ground, and he plucked any small quantity of it, he has acquired possession. ⁸ If a man sold wine or oil to his fellow, and its value rose or fell, if [the price rose or fell] before the measure was filled up, it belongs to the seller, [and he may refuse to sell except at the higher price]. But if [the price rose or fell] after the measure was filled up, it belongs to the buyer [and he may refuse to buy except at the lower price]. If there was a middleman between them, and the jar broke, it is broken to [the loss of] the middleman. [After emptying the measure] the seller must let three more drops drip [for the buyer]. If he then turned the measure over and drained it off, what flows out belongs to the seller. The shopkeeper is not obligated to let three more drops drip. Rabbi Judah says: "[Only] on the eve of Shabbath as it becomes dark is he exempt." ⁹ If a man sent his child to a shopkeeper with a pondion (a coin) in his hand and he measured him out an issar's (a coin worth half a pondion) worth of

אחת. שבועה שלא אכל ושתה ואכל ושתה, חייב שפתים: ² שבועה שלא אכל, ואכל פת חטין ופת שערין ופת כסמין, אינו חייב אלא אחת. שבועה שלא אכל פת חטין ופת שערין ופת כסמין, ואכל, חייב על כל אחת ואחת: ³ שבועה שלא אשתה ושתה משקין הרבה, אינו חייב אלא אחת. שבועה שלא אשתה יין ושמן ודבש ושתה, חייב על כל אחת ואחת: ⁴ שבועה שלא אכל, ואכל אכלים שאינן ראויין לאכילה ושתה משקין שאינן ראויין לשתיה, פטור. שבועה שלא אכל, ואכל נבלות וטרפות שקצים ורמשים, חייב. רבי שמעון פוטר. אמר, קונם אשתי גהנית לי אם אכלתי היום, והוא אכל נבלות וטרפות שקצים ורמשים, הרי אשתו אסורה: ⁵ אחד דברים של עצמו, ואחד דברים של אחרים, ואחד דברים שיש בהן ממש, ואחד דברים שאין בהם ממש. כיצד. אמר, שבועה שאתן לאיש פלוני ושתה אתו, שנתתי ושתה, שאישן ושתה, שישנתי ושתה, שאינן ראויין לאכילה ושתה, שאינן ראויין לשתיה, פטור. רבי שמעאל אומר, אינו חייב אלא על העתיד לבא, שנאמר (ויקרא ה) להרע או להיטיב. אמר לו רבי עקיבא, אם כן אין לי אלא דברים שיש בהן הרעה והטבה, דברים שאין בהן הרעה והטבה מנין. אמר לו, מרבויה הכתוב. אמר לו, אם רבה הפתוי לכך, רבה הפתוי לכך: ⁶ נשבע לבטל את המצוה ולא בטל, פטור. לקיים ולא קיים, פטור. שהיה בדין, שהיה חייב, כדברי רבי יהודה בן בתירא. אמר רבי יהודה בן בתירא, מה אם הרשות שאינו משבע עליה מהר סיני, הרי הוא חייב עליה, מצוה שהיא משבע עליה מהר סיני, אינו דין שהיה חייב עליה. אמרו לו, לא, אם אמרת בשבועת הרשות, שפן עשה בה לאו כהן, תאמר בשבועת מצוה שלא עשה בה לאו כהן, שאם נשבע לבטל ולא בטל, פטור: ⁷ שבועה שלא אכל כפר זו, שבועה שלא אכלנה, שבועה שלא אכלנה, ואכלה, אינו חייב אלא אחת. זו היא שבועת בטוי, שחייבין על זדונה מכות ועל שגגתה קרבן עולה

once. "I swear I shall not drink wine, oil, and honey," and he drank [all three], he is liable for each one. ⁴ "I swear I shall not eat," and he ate foods which are not fit to be eaten, and drank liquids which are not fit to be drunk, he is exempt. "I swear I shall not eat," and he ate carrion, trefot, and reptiles and creepy things, he is liable. Rabbi Shimon exempts him. He said, "I vow that my wife shall not benefit from me, if I have eaten today," and he had eaten carrion, trefot, forbidden animals, or reptiles, his wife is prohibited to him. ⁵ It is the same [whether he swears of] things concerning himself, or of things concerning others, or of things which have substance, or of things which have no substance. How so? [If] he said, "I swear that I shall give to so-and-so", or "I shall not give"; "I have given", or "I have not given"; "I shall sleep", or "I shall not sleep"; "I have slept", or "I have not slept"; "I shall throw a pebble into the sea", or "I shall not throw"; "I have thrown", or "I have not thrown"; [he is liable.] Rabbi Ishmael says: "He is liable only for [an oath with regards to] the future, for it says, "To do bad or to do good" (Le 5:4). Rabbi Akiva said to him: "If so, we would know only such cases where doing evil and doing good are applicable; but how do we know such cases where doing evil and doing good are not applicable? He said to him: "From the amplification of the verse." He said to him: "If the verse amplifies for that, it amplifies for this also." ⁶ If he swore to annul a commandment, and did not annul it, he is exempt. [If he swore] to fulfill [a commandment], and did not fulfill it, he is exempt. For it would have been logical [in the second instance] that he should have been liable, as is the opinion of Rabbi Judah ben Bathyra. [For] Rabbi Judah ben Bathyra said, "Now, if for [swearing with regards to] an optional matter, for which he is not adjured from Mount Sinai, he is liable [should he not fulfill his oath], for [swearing with regards to] a commandment, for which he is adjured from Mount Sinai, he should most certainly be liable [should he not fulfill his oath]! They said to him: "No! If you say that for an oath with regards to an optional matter [he is liable], it is because [Scripture] has in that case made negative equal to positive [for liability]; But how can you say that for an oath [to fulfill] a commandment [he is liable], since [Scripture] has not in that case made negative equal to positive, for if he swore to annul [a commandment], and did not annul it, he is exempt! ⁷ "I swear I shall not eat this loaf"; "I swear I shall not eat it"; "I swear I shall not eat it"; and he ate it, he is liable only once. This is the oath of utterance, for which one is liable, for its willful transgression, flogging; and for its unwitting transgression, a sliding scale sacrifice. For a vain oath one is liable for willful transgression, flogging, and for unwitting transgression one is exempt. ⁸ What is a vain oath? If he swore that which is contrary to the facts known to people, saying of a pillar of stone that it is of gold; or of a man that he is a woman; or of a woman that she is a man. If he swore concerning a thing which is impossible, [for instance if he said,] "If I have not seen a camel flying in the air", or "If I have not seen a serpent as thick as the beam of the olive press". If he said to witnesses, "Come and bear testimony for me", [and they replied,] "We