



that he borrowed that sum but it was on the condition that he is to give the money back to him from now until ten years have passed, and they were rendered conspiring witnesses, here too, it is not possible to render the witnesses liable to pay the entire sum. Rather, the court estimates how much money a person would be willing to give so that he would keep a loan of one thousand dinars in his possession, and one calculates the difference between that sum in a situation where he would be required to give the money back from now until thirty days have passed, and that same sum in a situation where he would be required to give the money back from now until ten years have passed. That difference is the sum that the testimony of the conspiring witnesses sought to have the borrower lose; therefore, it is the sum that they must pay.

1:2 If witnesses said: We testify with regard to a man called so-and-so that he is liable to pay another person two hundred dinars, and they were found to be conspiring witnesses, they are flogged, and they pay the money they sought to render him liable to pay. Why do they receive two punishments? It is due to the fact that the source that brings them to liability to receive lashes is not the source that brings them to liability for payment; this is the statement of Rabbi Meir. And the Rabbis say: Anyone who pays as punishment for a transgression is not flogged for that same transgression.

1:3 Likewise, if witnesses said: We testify with regard to a man called so-and-so that he is liable to receive forty lashes, and they were discovered to be conspiring witnesses, they are flogged with eighty lashes; one set of lashes due to violation of the prohibition: "You shall not bear false witness against your neighbor" (Exodus 20:13), and one set of lashes due to the verse: "And you shall do to him as he conspired" (Deuteronomy 19:19), which is the punishment for conspiring witnesses; this is the statement of Rabbi Meir. And the Rabbis say: They are flogged with only forty lashes, due to the verse "And you shall do to him as he conspired." When punishing conspiring witnesses based on the verse: "As he conspired to do to his brother" (Deuteronomy 19:19), one divides the punishment of money among them, but one does not divide the punishment of lashes among them; each receives thirty-nine lashes. The mishna elaborates: How so? If the witnesses testified about someone that he owes another person two hundred dinars and they were then found to be conspiring witnesses, the witnesses divide the sum among themselves and pay a total of two hundred dinars. But if they testified about someone that he was liable to receive forty lashes and they were then found to be conspiring witnesses, each and every one of the witnesses receives forty lashes.

1:4 Witnesses are not rendered conspiring witnesses until the witnesses who come to render them conspiring impeach the witnesses themselves and not merely their testimony. How so? A set of witnesses said: We testify with regard to a man called so-and-so that he killed a person, and they attested to the precise time and place that the murder took place. Then, a second set of witnesses came to court and said to them: How can you testify about this event? This person who was killed, or this person who killed, was with us, i.e., with the second set of witnesses, on that day in such and such place, which is not the location identified by the first set of witnesses. In that case, although the second set of witnesses contradicted the testimony of the first set, these first witnesses

are not rendered conspiring witnesses. But if the second set of witnesses came to court and said to them: How can you testify about that event? You were with us on that day in such and such place. In this case, these first witnesses are rendered conspiring witnesses, and are executed on the basis of their, i.e., the second set's, testimony.

1:5 If other witnesses, i.e., a third set, came and corroborated the testimony of the first set of witnesses, and the second set of witnesses testified that this third set of witnesses were also with them elsewhere that day and rendered them conspiring witnesses, and similarly, if yet other witnesses, i.e., a fourth set, came and corroborated the testimony of the first set of witnesses and the second set rendered them conspiring witnesses, even if one hundred sets of witnesses were all rendered conspiring witnesses by the same second set of witnesses, all of them are executed on the basis of their testimony, as the authority of two witnesses is equivalent to the authority of numerous witnesses. Rabbi Yehuda says: This situation where a set of witnesses renders all the others conspiring witnesses is a conspiracy [istatit], as there is room for suspicion that they simply decided to impeach all witnesses who offer that testimony, and it is only the first set alone that is executed.

1:6 The conspiring witnesses are executed only if they are rendered conspiring witnesses after the verdict of the accused is concluded. This is in contrast to the opinion of the Sadducees, as the Sadducees say: Conspiring witnesses are executed only if they are rendered conspiring witnesses after the accused is killed on the basis of their testimony, as it is stated: "A life for a life" (Exodus 21:23; see Deuteronomy 19:21). The Rabbis said to the Sadducees: But wasn't it already stated: "And you shall do to him as he conspired to do to his brother" (Deuteronomy 19:19), and this latter verse indicates that his accused brother is alive? And if so, why is it stated: "A life for a life"? One might have thought that if they are rendered conspiring witnesses from the moment the judges accepted their testimony in court, they will be executed, even though no verdict was concluded. Therefore, the verse states: "A life for a life," teaching that they are executed only if they are rendered conspiring witnesses after the verdict of the accused will be concluded, from the moment that the court is on the verge of taking his life.

1:7 It is written: "At the mouth of two witnesses or three witnesses shall he who is to die be executed" (Deuteronomy 17:6). The question is: If the testimony is valid with two witnesses, why did the verse specify that it is valid with three? Rather, it is to juxtapose and liken three to two: Just as three witnesses can render the two witnesses conspiring witnesses, so too, the two witnesses can render the three witnesses conspiring witnesses. And from where is it derived that two witnesses can render even one hundred witnesses conspiring witnesses? It is derived from a verse, as the verse states: "Three witnesses." Since the verse is obviously discussing witnesses, the term witnesses is superfluous, as it could have stated: Two or three. The term "witnesses" teaches that two witnesses can render a set of witnesses conspiring witnesses irrespective of their number. Rabbi Shimon says that three witnesses are mentioned in the verse in order to teach: Just as two witnesses who testified that a person is liable to be executed are not killed for this

testimony unless both of them are found to be conspiring witnesses, so too, three witnesses who testified together are not killed unless all three of them are found to be conspiring witnesses. And from where is it derived that the same halakha applies even to one hundred witnesses? It is derived from a verse, as the verse states: “Three witnesses.” The superfluous term “witnesses” teaches that the status of all witnesses who come to court as a single set of witnesses is that of one testimony with regard to this halakha. Rabbi Akiva says: The third witness mentioned in this verse does not come for the judges to be lenient concerning him; rather, its mention comes for the judges to be stringent concerning him and to render his halakhic status like that of these two witnesses who testified with him. One could claim that since the testimony of the third witness is superfluous, as the testimony of the other two witnesses sufficed, the third witness and any other witnesses beyond the first two should be exempt. Therefore, the verse teaches that since he testified with them and was rendered a conspiring witness with them, he too is executed. One can learn a moral from this halakha: And if the verse punished one who associates with transgressors with a punishment like the one received by the transgressors, even though his role in the transgression is ancillary, all the more so will God pay a reward to one who associates with those who perform a mitzva like the reward of those who perform the mitzva themselves, even though his role in performing the mitzva is ancillary.

1:8 The mishna cites another derivation based on the juxtaposition of two to three: And just as with regard to two witnesses, if one of them is found to be a relative or is otherwise disqualified, their entire testimony is voided, as it is no longer the testimony of two witnesses, so too, with regard to three witnesses who came to testify as one set, if one of them is found to be a relative or is otherwise disqualified, their entire testimony is voided, even though two valid witnesses remain. From where is it derived that the same halakha applies even in the case of one hundred witnesses? It is derived from a verse, as the verse states: “Witnesses.” Rabbi Yosei says: In what case is this statement, that if one of the three witnesses is disqualified the entire testimony is voided, said? It is said with regard to cases of capital law, which are adjudicated stringently. But with regard to cases of monetary law, which are adjudicated more leniently, even if one of the witnesses is disqualified, the testimony will be validated with the testimony of the rest of the witnesses, and if it is sufficient the case can be adjudicated on that basis. Rabbi Yehuda HaNasi disagrees and says: If one of the three witnesses is disqualified the entire testimony is voided in both cases of monetary law and cases of capital law. And when does one disqualified witness void the entire testimony? Only when the witnesses forewarned them before they performed the transgression, thereby demonstrating their desire to fill the role of witnesses in that case. But when they did not forewarn them, what shall two brothers do in a case where they, together with others, saw someone who killed a person? Will the murderer escape punishment because two relatives happened to be there at the time of the murder and their presence voids the entire testimony? No, the testimony is voided by the presence of relatives or disqualified witnesses only when their intent was to testify. If that was not their intent, they do

not void the testimony.

1:9 In a case where there were two witnesses observing an individual violating a capital transgression from this window in a house, and two observing him from that window in a house, and one person was forewarning the transgressor in the middle between the two sets of witnesses, the halakha depends on the circumstances. In a situation where some of the witnesses observing from the two windows see each other, the testimony of all these witnesses constitutes one testimony, but if they do not see each other, the testimony of these witnesses constitutes two independent testimonies. Therefore, as two independent sets of witnesses, if one of the sets was found to be a set of conspiring witnesses, while the testimony of the other set remained valid, both he, the one accused of violating the capital transgression, and they, the conspiring witnesses, are executed, and the second set, whose testimony remained valid, is exempt. Rabbi Yosei says: Transgressors are never executed unless his two witnesses are the ones forewarning him, as it is stated: “At the mouth of two witnesses...he who is to be put to death shall die” (Deuteronomy 17:6), from which it is derived that it is from the mouths of the two witnesses that the accused must be forewarned, and forewarning issued by someone else is insufficient. Alternatively, from the phrase “at the mouth of two witnesses” one derives that the judges must hear the testimony directly from the witnesses, and the Sanhedrin will not hear testimony from the mouth of an interpreter.

1:10 This mishna continues to discuss the matter of testimony in the case of one who is liable to be executed. Concerning one whose verdict was delivered and he was sentenced to death and he fled, and he then came before the same court that sentenced him, they do not overturn his verdict and retry him. Rather, the court administers the previous verdict. Consequently, in any place where two witnesses will stand and say: We testify with regard to a man called so-and-so that his verdict was delivered and he was sentenced to death in the court of so-and-so, and so-and-so and so-and-so were his witnesses, that person shall be executed on the basis of that testimony. The mishna continues: The mitzva to establish a Sanhedrin with the authority to administer capital punishments is in effect both in Eretz Yisrael and outside Eretz Yisrael. A Sanhedrin that executes a transgressor once in seven years is characterized as a destructive tribunal. Since the Sanhedrin would subject the testimony to exacting scrutiny, it was extremely rare for a defendant to be executed. Rabbi Elazar ben Azarya says: This categorization applies to a Sanhedrin that executes a transgressor once in seventy years. Rabbi Tarfon and Rabbi Akiva say: If we had been members of the Sanhedrin, we would have conducted trials in a manner whereby no person would have ever been executed. Rabban Shimon ben Gamliel says: In adopting that approach, they too would increase the number of murderers among the Jewish people. The death penalty would lose its deterrent value, as all potential murderers would know that no one is ever executed.

2:1 These are the people who are exiled: Anyone who kills a person unintentionally. Whether one is liable to be exiled depends on the particular circumstances of the case: If one was rolling a roller to smooth the covering of mortar that he applied to seal his roof and the roller fell upon a person

and killed him, or if one was lowering a barrel from the roof and it fell on a person and killed him, or if he was descending a ladder and he fell on a person and killed him, in all of these cases, he is exiled. But if one was pulling a roller toward him and it fell from his hands upon a person and killed him, or if one was lifting a barrel and the rope was severed and it fell upon a person and killed him, or if one was climbing a ladder and he fell upon a person and killed him, that unintentional murderer is not exiled. This is the principle: Any murderer who kills unintentionally through his downward motion is exiled, and one who kills not through his downward motion is not exiled. If the blade of an ax or hatchet was displaced from its handle, and it flew through the air and killed a person, Rabbi Yehuda HaNasi says: He is not exiled, and the Rabbis say: He is exiled. If part of a tree that is being split flew through the air and killed a person, Rabbi Yehuda HaNasi says: The murderer is exiled, and the Rabbis say: He is not exiled.

2:2 One who threw a stone into the public domain and killed a person is exiled. Rabbi Eliezer ben Ya'akov says: If after the stone left his hand the other person placed his head out into the public domain and received a blow from the stone, he is exempt, as when he cast the stone into the public domain there was no one there. In the case of one who threw the stone into his courtyard and killed a person, if the victim had permission to enter into there, the murderer is exiled, but if not, he is not exiled, as it is stated with regard to the cities of refuge: "And as one who goes with his neighbor into the forest" (Deuteronomy 19:5), from which it is derived: Just as with regard to a forest, the victim and the assailant both have equal permission to enter there, so too, with regard to all places that the victim and the assailant have permission to enter there, the killer is liable. This serves to exclude the courtyard of the homeowner, where the victim and the assailant do not both have permission to enter there. Since the victim had no right to enter his courtyard, the unintentional murderer is exempt from exile. Abba Shaul says: Another halakha can be derived from that verse: Just as the cutting of wood that is mentioned in the verse is optional, so too, all those liable to be exiled are examples of cases where the unintentional murderer was engaged in an activity that is optional. This serves to exclude a father who strikes his son, and a teacher who oppresses his student, and an agent of the court deputized to flog transgressors. If, in the course of performing the mitzva with which they are charged, they unintentionally murdered the son, the student, or the person being flogged, respectively, they are exempt.

2:3 The father is exiled to a city of refuge due to his unintentional murder of his son. And the son is exiled due to his unintentional murder of his father. Everyone is exiled due to their unintentional murder of a Jew, and a Jew is exiled due to his unintentional murder of any of them, except for the unintentional murder of a gentile who resides in Eretz Yisrael and observes the seven Noahide mitzvot [ger toshav]. And a ger toshav is exiled only due to his unintentional murder of a ger toshav. A blind person who unintentionally murdered another is not exiled; this is the statement of Rabbi Yehuda. Rabbi Meir says: He is exiled. The enemy of the victim is not exiled, as presumably it was not a completely unintentional act. Rabbi Yosei says: Not only is an

enemy not exiled, but he is executed by the court, because his halakhic status is like that of one who is forewarned by witnesses not to perform the action, as presumably he performed the action intentionally. Rabbi Shimon says: There is an enemy who is exiled and there is an enemy who is not exiled. This is the principle: In any case where an observer could say he killed knowingly, where circumstances lead to the assumption that it was an intentional act, the enemy is not exiled, even if he claims that he acted unintentionally. And if it is clear that he killed unknowingly, as circumstances indicate that he acted unintentionally, he is exiled, even though the victim is his enemy.

2:4 To where are the unintentional murderers exiled? They are exiled to cities of refuge, to three cities that were in the east bank of the Jordan and to three cities that were in the land of Canaan, i.e., Eretz Yisrael, as it is stated: “Three cities shall you give beyond the Jordan and three cities shall you give in the land of Canaan; they shall be cities of refuge” (Numbers 35:14). The mishna comments: Until the three cities of refuge that were in Eretz Yisrael were selected, an unintentional murderer would not be admitted to the three that were in the east bank of the Jordan, even though the latter three were already selected by Moses (see Deuteronomy 4:41), as it is stated: “Six cities of refuge shall they be” (Numbers 35:13), from which it is derived that they do not become cities of refuge until all six of them admit unintentional murderers as one.

2:5 The mishna continues: And roads were aligned for them from this city, i.e., all cities, to that city, i.e., they would pave and straighten the access roads to the cities of refuge, as it is stated: “Prepare for you the road, and divide the borders of your land, which the Lord your God causes you to inherit, into three parts, that every murderer may flee there” (Deuteronomy 19:3). And the court would provide the unintentional murderers fleeing to a city of refuge with two Torah scholars, due to the concern that perhaps the blood redeemer, i.e., a relative of the murder victim seeking to avenge his death, will seek to kill him in transit, and in that case they, the scholars, will talk to the blood redeemer and dissuade him from killing the unintentional murderer. Rabbi Meir says: The unintentional murderer also speaks [medabber] on his own behalf to dissuade the blood redeemer, as it is stated: “And this is the matter [devar] of the murderer, who shall flee there and live” (Deuteronomy 19:4), indicating that the murderer himself speaks.

2:6 Rabbi Yosei bar Yehuda says: Initially, either one who killed another unintentionally or one who killed another intentionally would hurry and flee to the cities of refuge, and the court in his city would send for him and would bring him from there to stand trial. For one who was found liable to receive the death penalty in court for intentional murder, the court would execute him, and for one who was not found liable to receive the death penalty, e.g., if they deemed that the death occurred due to circumstances beyond his control, they would free him. For one who was found liable to be exiled, the court would restore him to his place in the city of refuge, as it is stated: “And the congregation shall judge between the murderer and the blood redeemer...and the congregation shall restore him to his city of refuge, that he fled there” (Numbers 35:24–25), indicating that he had been in a city of refuge before

his trial. The Torah states that an unintentional murderer is required to remain in the city of refuge to which he fled until the death of the High Priest. The mishna elaborates: With regard to High Priests, who were appointed in several different manners, one anointed with the anointing oil, which was the method through which High Priests were consecrated until the oil was sequestered toward the end of the First Temple period; and one consecrated by donning multiple garments, the eight vestments unique to the High Priest, which was the practice during the Second Temple period; and one who received a temporary appointment due to the unfitness of the serving High Priest, who departed from his anointment with the restoration of the serving High Priest to active service, their deaths facilitate the return of the murderer from the city of refuge to his home. Rabbi Yehuda says: Even the death of a priest anointed for war to address the soldiers (see Deuteronomy 20:1–7) facilitates the return of the murderer. The mishna continues: Therefore, the mothers of High Priests would provide those exiled to cities of refuge with sustenance and garments so that they would not pray that their sons would die. The more comfortable their lives in the city of refuge, the less urgency they would feel to leave, and the less likely it would be that they would pray for the death of the High Priests. If, after the unintentional murderer's verdict was decided and he was sentenced to exile, the High Priest died, he is not exiled, as the death of the High Priest exempts him from exile. If it was before his verdict was decided that the High Priest died and they appointed another in his place, and thereafter his verdict was decided, he returns from exile with the death of the second High Priest.

2:7 If the verdict of a murderer was decided at a time when there was no High Priest, and likewise in the cases of one who unintentionally killed a High Priest and in the case of a High Priest who killed unintentionally, the unintentional murderer never leaves the city of refuge. And one who is exiled may not leave the city at all, either for testimony relating to a mitzva, or for testimony relating to monetary matters, or for testimony relating to capital matters. And even if the Jewish people require his services, and even if he is the general of the army of Israel like Joab ben Zeruiah, he never leaves the city of refuge, as it is stated: "And the congregation shall restore him to his city of refuge, that he fled there" (Numbers 35:25), from which it is derived: There shall be his dwelling, there shall be his death, there shall be his burial. The mishna continues: Just as an unintentional murderer is admitted to the city of refuge, so is he admitted to its outskirts, located within the Shabbat boundary. Once he entered the outskirts of the city, the blood redeemer may not kill him. In a case where a murderer emerged beyond the Shabbat boundary of the city of refuge and the blood redeemer found him there, Rabbi Yosei HaGelili says: It is a mitzva for the blood redeemer to kill him, and it is optional for every other person to do so. Rabbi Akiva says: It is optional for the blood redeemer, and every other person is liable for killing him. The previous mishna teaches that the halakhic status of the outskirts of the city is like that of the city itself in terms of the unintentional murderer being provided refuge there. The mishna adds: With regard to a tree that stands within the Shabbat boundary of a city of refuge,

whose boughs extend outside the boundary, or a tree that stands outside the boundary and its boughs extend inside the boundary, the status of the tree, whether it is considered inside or outside the boundary, in all cases follows the boughs. If an unintentional murderer, exiled to a city of refuge, unintentionally killed a person in the same city, he is exiled from that neighborhood where he resided to another neighborhood within that city. And a Levite who is a permanent resident of a city of refuge and unintentionally killed a person is exiled from that city to another city.

2:8 Similarly, in the case of a murderer who was exiled to a city of refuge and the people of the city sought to honor him due to his prominence, he shall say to them: I am a murderer. If the residents of the city say to him: We are aware of your status and nevertheless, we wish to honor you, he may accept the honor from them, as it is stated: “And this is the matter [devar] of the murderer” (Deuteronomy 19:4), from which it is derived that the murderer is required to say [ledabber] to them that he is a murderer. He is not required to tell them any more than that. The unintentional murderers would pay a fee to the Levites as rent for their living quarters in the cities of refuge, which were Levite cities; this is the statement of Rabbi Yehuda. Rabbi Meir says: They would not pay a fee to them, but would reside rent free, as they are required to live there by Torah law. They also disagreed with regard to the status of the unintentional murderer when he returns home after the death of the High Priest. He returns to the same public office that he occupied prior to his exile; this is the statement of Rabbi Meir. Rabbi Yehuda says: He does not return to the office that he occupied.

3:1 After enumerating in tractate Sanhedrin those liable to be executed and in the previous chapter those liable to be exiled, the mishna proceeds to enumerate those liable to receive lashes. These are the people who are flogged by Torah law for violating a prohibition: One who engages in intercourse with his sister, or with his father’s sister, or with his mother’s sister, or with his wife’s sister, or with his brother’s wife, or with the wife of his father’s brother, or with a menstruating woman. Likewise, one is flogged in the case of a widow who married a High Priest, a divorcée or a halutza who married an ordinary priest, a mamzeret, i.e., a daughter born from an incestuous or adulterous relationship, or a Gibeonite woman who married a Jew of unflawed lineage, and a Jewish woman of unflawed lineage who married a Gibeonite or a mamzer, i.e., a son born from an incestuous or adulterous relationship. The mishna elaborates: If a woman was both a widow and a divorcée, as after she was widowed she remarried and was divorced, a High Priest is liable to receive two sets of lashes for marrying her due to the violation of two different prohibitions, that of his marrying a widow and that of his marrying a divorced woman. If a woman was both a divorcée and a halutza, from two different men, an ordinary priest who marries her is liable to receive only one set of lashes, due to the violation of one prohibition alone.

3:2 The mishna continues enumerating those liable to receive lashes: A ritually impure person who ate sacrificial food and one who entered the Temple while ritually impure. And one who eats the forbidden fat of a domesticated animal;

or blood; or notar, leftover flesh from an offering after the time allotted for its consumption; or piggul, an offering invalidated due to intent to sprinkle its blood, burn its fats on the altar, or consume it, beyond its designated time; or one who partakes of an offering that became impure, is flogged. And one who slaughters a sacrificial animal or sacrifices it on an altar outside the Temple courtyard, and one who eats leavened bread on Passover, and one who eats on Yom Kippur and one who performs labor on Yom Kippur, and one who blends the anointing oil for non-sacred use, and one who blends the incense that was burned on the altar in the Sanctuary for non-sacred use, and one who applies the anointing oil, and one who eats unslaughtered animal or bird carcasses, or tereifot, which are animals or birds with a condition that will lead to their death within twelve months, or repugnant creatures, or creeping animals, is liable to receive lashes. If one ate untithed produce, i.e., produce from which terumot and tithes were not separated; or first-tithe produce whose teruma of the tithe was not taken; or second-tithe produce or sacrificial food that was not redeemed; he is liable to receive lashes. With regard to the measure for liability for eating forbidden food, the mishna asks: How much does one need to eat from untithed produce and be liable to receive lashes? Rabbi Shimon says: If one ate any amount of untithed produce he is liable to receive lashes. And the Rabbis say: He is liable only if he eats an olive-bulk, which is the minimum measure characterized as eating. Rabbi Shimon said to them: Do you not concede to me with regard to one who eats an ant of any size that he is liable to receive lashes? The Rabbis said to Rabbi Shimon: He receives lashes for eating an ant of any size due to the fact that it is an intact entity in the form of its creation, and that is what the Torah prohibited. Rabbi Shimon said to them: One kernel of wheat is also in the form of its creation, and therefore one should be liable to receive lashes for eating any intact entity.

3:3 In the case of a priest who eats first fruits before the one who brought the fruits to the Temple recited over those fruits the Torah verses that he is obligated to recite (see Deuteronomy 26:3–10); and one who ate offerings of the most sacred order outside the curtains surrounding the Tabernacle courtyard, or outside the Temple courtyard; and one who ate offerings of lesser sanctity or second-tithe produce outside the wall of Jerusalem; and also one who breaks the bone of a ritually pure Paschal offering; in all these cases he is flogged with forty lashes. But one who leaves the flesh of the ritually pure Paschal offering until the morning of the fifteenth of Nisan, and one who breaks a bone of a ritually impure Paschal offering, is not flogged with forty lashes.

3:4 With regard to one who takes the mother bird with her fledglings, thereby violating the Torah prohibition: “You shall not take the mother with her fledglings; you shall send the mother, and the fledglings you may take for yourself” (Deuteronomy 22:6–7), Rabbi Yehuda says: He is flogged for taking the mother bird, and does not send the mother, and the Rabbis say: He sends the mother and is not flogged, as this is the principle: With regard to any prohibition that entails a command to arise and perform a mitzva, he is not liable to receive lashes for its violation.

3:5 One who creates a bald spot upon his head, and one who rounds the edge of

his head by shaving the hair adjacent to the ear, and one who mars the edge of his beard, and one who cuts one incision in a display of mourning over the dead, are all liable to receive lashes. If he cut one incision over five dead people, or five incisions over one dead person, he is liable to receive lashes for each and every one. For rounding the edges of his head, one is liable to receive two sets of lashes, one from here, the hair adjacent to one ear, and one from there, the hair adjacent to the other ear. For marring the edges of his beard there are two edges from here, on one side of his face, and two from there, on the other side, and one from below, on his chin. Rabbi Eliezer says: If he removed the hair on all the edges of his beard in one action, he is liable to receive only one set of lashes for all of them. And one is liable for marring the edges of his beard only if he removes the hair with a razor. Rabbi Eliezer says: Even if he removed the hair with tweezers [malket] or with a plane [rehitni], he is liable to receive lashes.

3:6 One who imprints a tattoo, by inserting a dye into recesses carved in the skin, is also liable to receive lashes. If one imprinted on the skin with a dye but did not carve the skin, or if one carved the skin but did not imprint the tattoo by adding a dye, he is not liable; he is not liable until he imprints and carves the skin, with ink, or with kohl [kehol], or with any substance that marks. Rabbi Shimon ben Yehuda says in the name of Rabbi Shimon: He is liable only if he writes the name there, as it is stated: “And a tattoo inscription you shall not place upon you, I am the Lord” (Leviticus 19:28).

3:7 A nazirite who was drinking wine all day is liable to receive only one set of lashes. If onlookers said to him: Do not drink, do not drink, forewarning him several times, and he drinks after each forewarning, he is liable to receive lashes for each and every drink.

3:8 If the nazirite was rendering himself impure through exposure to corpses all day, he is liable to receive only one set of lashes. If they said to him: Do not render yourself impure, do not render yourself impure, and he renders himself impure after each forewarning, he is liable for each and every incident. If the nazirite was shaving his hair all day, he is liable to receive only one set of lashes. If they said to him: Do not shave, do not shave, and after each forewarning he shaves, he is liable for each and every time he shaves. If a person was wearing a garment consisting of diverse kinds of wool and linen all day, he is liable to receive only one set of lashes. If they said to him: Do not wear it, do not wear it, and he removes it and dons it after each forewarning, he is liable for each and every time that he dons the garment.

3:9 Apropos the case where one receives several sets of lashes for performing a single action, the mishna continues: There is one who plows a single furrow and is liable to receive lashes for violating eight prohibitions. How so? For plowing with an ox and a donkey, in violation of the prohibition: “You shall not plow with an ox and a donkey together” (Deuteronomy 22:10); and they are consecrated, and therefore he is guilty of misuse of consecrated property; and he is plowing diverse kinds in a vineyard; and it is during the Sabbatical Year, when it is prohibited to work the land; and it is on a Festival, when plowing is a prohibited labor; and he is both a priest and a nazirite and is

performing the plowing in a place of impurity imparted by a corpse, which is prohibited for both a priest (see Leviticus 21:1) and a nazirite (see Numbers 6:6). Hananya ben Hakhinai says: If he was wearing a garment consisting of diverse kinds of wool and linen while plowing he is also flogged for violating that prohibition. The Sages said to him: That is not a prohibition in the same category as the others, as it is not connected to the act of plowing. Hananya ben Hakhinai said to them: According to that criterion, the fact that he is a nazirite is also not in the same category, as a nazirite and a priest are not flogged for plowing; rather, they are flogged for contracting impurity imparted by a corpse.

3:10 With how many lashes does one flog a person sentenced to receive lashes? One flogs him with forty lashes less one, as it is stated: “And he shall strike him before him, in accordance with his wickedness, by number. Forty he shall strike him, he shall not add” (Deuteronomy 25:2–3). The mishna joins the end of the first verse and the beginning of the second, forming the phrase: “By number, forty,” which is interpreted as: A sum adjacent to forty. Rabbi Yehuda says: He is flogged with a full forty lashes. And where is he flogged the extra lash? As the mishna proceeds to explain, the thirty-nine lashes are divided into three and administered in three places on the body of the person being flogged; according to Rabbi Yehuda there is one lash that remains. That lash is administered between his shoulders.

3:11 One assesses the number of lashes that the one being punished is capable of withstanding only with a number of lashes fit to be divided into three equal groups. If the assessment was that he can survive twenty lashes, he is flogged with eighteen. Likewise, if doctors assessed concerning him that he is able to receive forty lashes and survive, and he is then flogged some of those forty lashes, and then they assessed him again and concluded that he cannot receive forty lashes and survive, he is exempt from the additional lashes. If the doctors initially assessed concerning him that he is able to receive only eighteen lashes, and once he was flogged eighteen times they assessed that he is able to receive forty, he is exempt from receiving additional lashes. If one performed a transgression that involves two prohibitions, and they assessed concerning him a single assessment of the number of lashes that he could withstand in punishment for both transgressions, he is flogged in accordance with their assessment and is exempt from any additional lashes. And if not, if he was assessed with regard to the lashes that he could withstand for one transgression, he is flogged and is allowed to heal, and then is flogged again for violating the second prohibition.

3:12 How do they flog him? He ties the two hands of the person being flogged on this side and that side of a post, and the attendant of the congregation takes hold of his garments to remove them. If they were ripped in the process, they were ripped, and if they were unraveled, they were unraveled, and he continues until he bares his chest. And the stone upon which the attendant stands when flogging is situated behind the person being flogged. The attendant of the congregation stands on it with a strap in his hand. It is a strap of calf hide, and is doubled, one into two, and two into four, and two straps of donkey hide go up and down the doubled strap of calf hide.

3:13 The length of its handle is one handbreadth, and the width of the straps is one handbreadth, and the strap must be long enough so that its end reaches the top of his abdomen, i.e., his navel, when he is flogged from behind. And the attendant flogs him with one-third of the lashes from the front of him, on his chest, and two one-third portions from behind him, on his back. And he does not flog him when the one receiving lashes is standing, nor when he is sitting; rather, he flogs him when he is hunched, as it is stated: “And the judge shall cause him to lie down, and strike him” (Deuteronomy 25:2), which indicates that the one receiving lashes must be in a position that approximates lying down. And the attendant flogging the one receiving lashes flogs [makeh] him with one hand with all his strength,

3:14 and the court crier recites the verses: “If you do not observe to perform all the words of this law that are written in this book, that you may fear this glorious and awesome name, the Lord your God. And the Lord will make your plagues [makkotekha] outstanding, and the plagues of your descendants, and even great plagues, and of long continuance, and severe sicknesses, and of long continuance” (Deuteronomy 28:58–59). And then he returns to the beginning of the verse. He also recites: “And you shall observe the matters of this covenant, and do them, that you may make all that you do to prosper” (Deuteronomy 29:8), and concludes with the verse: “And He is merciful and shall atone for transgression, and destroys not; and many a time does He turn His anger away, and does not stir up all His wrath” (Psalms 78:38), and then returns to the beginning of the verse that starts: “If you do not observe to perform.” If the one being flogged dies at the hand of the attendant, the latter is exempt, because he acted at the directive of the court. If the attendant added for him an additional lash with a strap and he died, the attendant is exiled to a city of refuge on his account, as an unwitting murderer. If the one being flogged involuntarily sullies himself, due to fear or pain, whether with excrement or with urine, he is exempt from further lashes. Rabbi Yehuda says that the threshold of shame for men and women is different: The man is exempted if he sullies himself with excrement, and the woman is exempted even with urine.

3:15 All those liable to receive karet who were flogged are exempted from their punishment of karet, as it is stated: “And your brother shall be debased before your eyes” (Deuteronomy 25:3), indicating: Once he is flogged he is as your brother, as his sin has been atoned and he is no longer excised from the Jewish people; this is the statement of Rabbi Hananya ben Gamliel. And Rabbi Hananya ben Gamliel says: And if for one who performs one transgression his soul is taken for it, as one’s soul can be uprooted from the world for one transgression, for one who performs a single mitzva, it is all the more so the case that his soul will be given to him, as the reward for performing mitzvot is greater than the punishment for performing transgressions. Rabbi Shimon says: It is derived from its own place in the Torah, as it is stated at the conclusion of the passage discussing intercourse with forbidden relatives, which is punishable with karet: “And the souls that perform them shall be excised” (Leviticus 18:29), and it states toward the beginning of that chapter: “That a person shall perform and live by them” (Leviticus 18:5).

It is inferred that with regard to one who sits and did not perform a transgression, God gives him a reward like that received by one who performs a mitzva. Rabbi Shimon bar Rabbi Yehuda HaNasi says that as the verse states: “Only be steadfast to not eat the blood, as the blood is the soul” (Deuteronomy 12:23), it can be derived a fortiori: And if with regard to the blood, which a person’s soul loathes, one who abstains from its consumption receives a reward for that action, as it is written in a subsequent verse: “You shall not eat it, so that it shall be good for you and for your children after you” (Deuteronomy 12:25); then concerning robbery and intercourse with forbidden relatives, which a person’s soul desires and covets, one who abstains from their performance and overcomes his inclination, all the more so that he and his descendants and the descendants of his descendants until the end of all generations will merit a reward.

3:16 Rabbi Hananya ben Akashya says: The Holy One, Blessed be He, sought to confer merit upon the Jewish people; therefore, He increased for them Torah and mitzvot, as each mitzva increases merit, as it is stated: “It pleased the Lord for the sake of His righteousness to make the Torah great and glorious” (Isaiah 42:21). God sought to make the Torah great and glorious by means of the proliferation of mitzvot.