

סָתָם, אֲדָר שֵׁנִי – תַּנְיִין. one writes **simply**: Adar, whereas in **Second Adar** one writes: **Second Adar**.

”מִתְקַנְנִין אֶת הַדְּרָכִים וְאֶת הַחֻבּוֹבוֹת
וְאֶת מִקְוֹת הַמַּיִם וְעוֹשִׂין כָּל צְרֻכֵי
הָרַבִּים.” אֵלּוּ הֵן צְרֻכֵי הָרַבִּים: דְּנִין
דֵּינֵי מְמוֹנוֹת, וְדֵינֵי נַפְשׁוֹת, דֵּינֵי מִכּוֹת,
וּפְדִינֵי עֲרֻכִין וְחֲרָמִים וְהַקְדֵּישׁוֹת,

§ The mishna taught that on the fifteenth of Adar they repaired the roads that were damaged in the winter, and the streets, and the cisterns. And they did all that was necessary for public welfare.^N The Gemara explains: **These are the matters necessary for public welfare: They judge monetary cases, capital cases, and cases that involve the punishment of lashes. And the court also redeems valuations,^N consecrations of articles for Temple or priestly use, and consecrations for Temple maintenance or as offerings.**

NOTES

וְעוֹשִׂין – And they did all that was necessary for public welfare – כָּל צְרֻכֵי הָרַבִּים: Some commentaries explain that since Adar is the last month of the year, following the order of the months that starts with Nisan, the court performs all necessary repairs and duties at this time in order that these unpleasant tasks should not remain for the upcoming year. With regard to the redemption of valuations and various consecrations, it is performed at this stage to coincide with the collection of the half-shekels (*Me'irin*). Others similarly explain that since this is the end of the year according to Torah law, all matters that have been neglected throughout the year must be completed at this time (*Tiferet Yisrael*). Yet others add that since the court has to address the repair of damage caused by rain to graves, roads, and wells,

it also dealt with other issues of public interest at this juncture (*Tosefot Yom Tov*).

וּפְדִינֵי עֲרֻכִין – And they redeem valuations – Regular vows are vows of a prohibition, in which one renders an article prohibited to oneself. In contrast, valuations are dedicatory vows, in which one dedicates some item or amount to a particular purpose, usually having to do with the Temple. In a valuation one says: I promise to pay my value, or: I promise to pay the value of so-and-so, and he is subsequently obligated to pay to the Sanctuary the specific value of the person as set by the Torah, according to age and gender. The expression: Redemption of valuations, refers to the collection of the money pledged in the vow from the one who uttered the vow.

NOTES

And they give the *sota* to drink – **וּמְשַׁקֵּין אֶת הַסּוֹטָה**: During the time of the Temple, it was forbidden for a woman who secluded herself with a specific man despite being warned by her husband in the presence of witnesses not to do so to have relations with her husband until her claims of innocence were proven. This was effected by her drinking special waters into which a scroll had been dissolved (see Numbers 5:12–31). As stated above, the reason why the court dealt with a *sota* at this particular time was to complete all unsavory tasks before the year was out, so that they should not remain for the upcoming year (*Me'iri*).

וּמְשַׁקֵּין אֶת הַסּוֹטָה, וְשׂוֹרְפִין אֶת הַפָּרָה, וְעוֹרְפִין עֵגְלָה עֲרוּפָה, וְרוֹצְעִין עֶבֶד עִבְרִי, וּמְטַהְרִין אֶת הַמְּצוֹרֵעַ, וּמְפָרְקִין אֶת הַמְּנַעֵל מֵעַל גְּבֵי הַמַּיִם וְאֵין מַחֲוִירִין אוֹתָן.

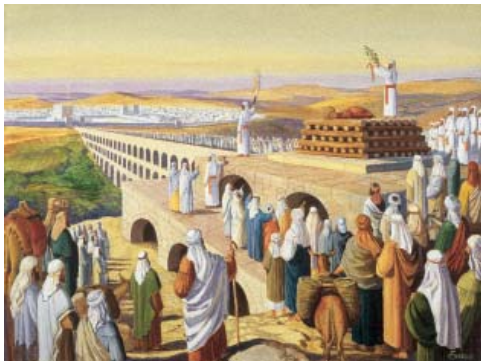
And they give the *sota* to drink,^N and they burn the red heifer,^N to use its ashes for the ritual purification of those rendered impure by contact with the dead, and they break the neck of the heifer whose neck is broken,^N and they pierce the ear of a Hebrew slave,^N and they render the leper ritually pure.^N And they remove the locks^N that were placed over the water cisterns during the winter, as this water was for public use in the summer, and they do not replace them until the winter.

NOTES

And they burn the heifer – **וְשׂוֹרְפִין אֶת הַפָּרָה**: One of the requirements for the ritual purification of one who contracted impurity through contact with the dead is the sprinkling of the waters of purification on the third and seventh days following his immersion. Water was drawn from a spring, and the ashes of the red heifer, which had been burnt whole on the Mount of Olives, were mixed into it. This heifer had to be entirely red and unblemished, and could never have been used for labor. Nine heifers are known to have been burned for this purpose throughout the generations.

The Torah describes this ritual in Numbers 19:2–12. It was performed when the Temple was standing. Since the burning of the red heifer is necessary for the public welfare, the court performed the ritual during this period (*Tosefot Yom Tov*).

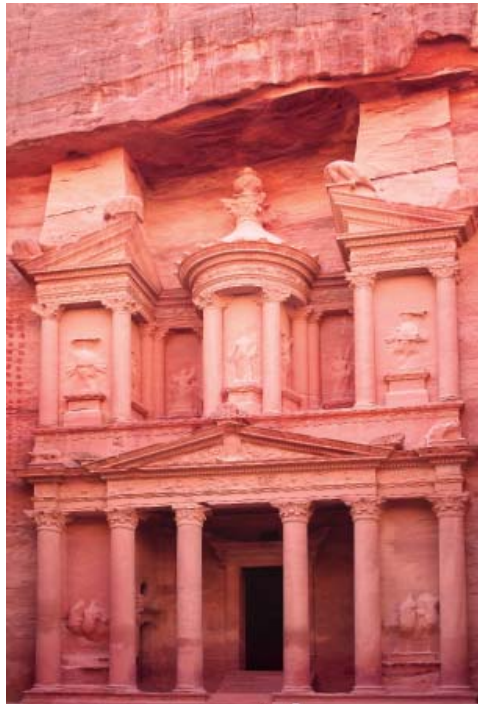
It is possible that the color red mentioned in the Torah referring to the heifer is in fact a shade of brown, since there are no known species that are red in the sense that is usually meant today. A slightly different example of this can be found in the name of the land of Edom, which literally means red, now in modern-day Jordan. Its mountains are a unique shade of brown and red.



Burning of the red heifer



Red Angus, a species with a reddish-brown hide



Al Khazneh, popularly known as the Treasury, in Petra, Jordan

And they break the neck of the heifer whose neck is broken – **וְעוֹרְפִין עֵגְלָה עֲרוּפָה**: The mitzva of the heifer whose neck is broken is stated in the Torah (Deuteronomy 21:1–9). When a body is found outside a town and it is unknown who caused his death, the elders of the town nearest to the corpse must bring a heifer “which has not been worked and which has not drawn a yoke” (Deuteronomy 21:3). The heifer is taken to an untilled riverbed, where the elders must break its neck. They then wash their hands and recite a statement absolving themselves of guilt for the death. It is prohibited to derive benefit from the heifer even after its neck has been broken.

This ritual is also performed at this time of year in order to finish all unpleasant tasks and make a fresh start to the new year (*Me'iri*).

And they pierce the ear of a Hebrew slave – **וְרוֹצְעִין עֶבֶד עִבְרִי**: A Hebrew slave who does not wish to terminate his servitude after six years of service may remain with his master until the Jubilee Year or until his master's death. When the slave asserts that he wishes to remain enslaved, the master brings him to court, where the slave stands next to a doorpost, and an awl or

similar metal instrument is driven through his ear (see Exodus 21:5–6; *Kiddushin* 14b–15a). If the piercing of the slave's ear is not performed by the court at the proper time, this ritual too must be carried out before the year's end.

And they render the leper ritually pure – **וּמְטַהְרִין אֶת הַמְּצוֹרֵעַ**: The order of the ritual purification of a leper appears in Leviticus 14.

On the first day of his purification, the leper brings two birds. These birds are not sacrificed. Rather, one of them is slaughtered by a priest over an earthenware vessel that contains spring-water. Next, the priest takes a piece of cedar wood, a hyssop branch, and a length of scarlet wool, together with the living bird, and dips them in the earthenware vessel. This mixture is sprinkled seven times on the one seeking purification.

The leper subsequently shaves all his hair, and on the seventh day he shaves again and immerses himself that day, and as such it is still prohibited for him to eat *teruma*. After sunset he is permitted to partake of *teruma* if he is a priest, and he is now considered one lacking atonement, until he brings the following offerings the next day: One male lamb as a guilt-offering, one female lamb as a sin-offering, and another male lamb as a burnt-offering, as well as a meal-offering and a *log* of oil. If he is poor he can bring two birds in place of the two male lambs. The guilt-offering is sacrificed first.

The reason why the court deals with the ritual purification of the leper at this juncture is probably also due to the desire to finish all unpleasant matters before the New Year, as stated previously (*Me'iri*). Some commentaries cite this Gemara as proof that the ceremony of the ritual purification of a leper does not have to be performed on the very day that he is pronounced cured of the disease, for otherwise it could not be postponed until the fifteenth of Adar. Admittedly, *Torat Kohanim* derives from the verse: “On the day of his purification he shall be brought to the priest” (Leviticus 14:2), that he should not delay his ritual purification. However, this does not mean that he is forcibly brought to the priest on that day, but merely that he does not have to delay the ceremony for another seven days once his leprosy has healed (*Binyan Tziyon HaHadasha*). See the Ramban's commentary on this verse.

And they remove the locks – **וּמְפָרְקִין אֶת הַמְּנַעֵל**: Since there is no rainfall in Eretz Yisrael in the summer, in mishnaic times they stored rainwater that fell during the winter months in cisterns allocated for use during the dry summer. Once the cisterns were full, they locked them until the summer. On the fifteenth of Adar, at the end of the winter, they broke open the locks so that the public could draw water from the cisterns throughout the summer (*Me'iri*).

That the year was late – שְׁהָיְתָה הַשָּׁנָה אֶפִּילָה – Although agents of the court were sent out every year on the fifteenth of Adar to search for diverse kinds of food crops, and they declared ownerless the fields of those who maintained these crops, nevertheless, they went out again on the intermediate days of Passover to see whether any late plants of diverse kinds had sprouted. If the owner of the field refused to uproot them, the agents declared the field ownerless at that time (Rambam *Sefer Zera'im, Hilkhot Kilayim* 2:17).

The marking of graves – צִיּוּן קְבֻרֹת – If one finds a grave or any part of a corpse that confers the ritual impurity by means of a tent, i.e., by entering the air space over it or by being under the same roof, he is obligated to mark it so that people will be aware of the source of the impurity. The marker is not placed right over the impurity but at a slight distance, to ensure that items do not accidentally enter into the space that renders them impure. However, the marker should not be located too far away either, so as not to increase the impurity of Eretz Yisrael. No mark should be placed in a location that is well known to be impure, but only in doubtful spots, e.g., a field in which a grave was lost, or boughs of trees and projecting branches over a grave (Rambam *Sefer Tahara, Hilkhot Tumat Met* 8:9).

BACKGROUND

The marking of graves – צִיּוּן קְבֻרֹת – Graves were marked in order to warn priests and those who wanted to remain in a state of ritual purity not to pass over them. A grave marker is not identical to a *nefesh*, which is a special structure erected over a grave, similar to a tombstone, in honor of the deceased. The markings were placed by agents of the court every year from the fifteenth of Adar, as the old markings were usually erased by the rains and had to be renewed. Stones were positioned on either side of the grave, while white lime, signifying bones, was poured around the grave to demarcate the ritually impure area (*Mo'ed Katan* 6a; *Megilla* 13b; Jerusalem Talmud, *Mo'ed Katan* 1:2; *Sota* 9:1).

Berat Havarin – בֵּית חוֹרֵין – Rabbi Hunya's place of residence is referred to as Havarin in the Jerusalem Talmud, and sometimes as Havarin. The preceding term, Berat, can appear as Devrat, Deveit, Bikat, or Bet, all meaning house. Some identify Berat Havarin with Beit Horon near Jerusalem, on the slopes of the mountains of Ephraim, due to the similarity between the names. Others claim it is Hirbat Huwara, near Tzipori in the Lower Galilee.

Most likely, the reference is to a settlement in the area of Huran, in the eastern Golan, near Jabal Huaran, called Jabal Druze nowadays in Arabic. This area was once settled by Jews, and it is mentioned among the borders of Israel in the book of Ezekiel (47:16). It also appears in the Mishna, in the list of places where they lit bonfires to announce the new month (*Rosh HaShana* 22b).



Observation point in modern-day Beit Horon

תִּמְנָן תִּנְיָנוּ: מִשְׁקִין בֵּית הַשְּׂלַחִין וּמִצְיָיִנוּן עַל הַקְּבֻרוֹת. לֹא כָּבַר צִיּוּנוֹ מֵאֲדָר? – וְהִתְפַּתֵּר שְׂטוֹף שֶׁל גִּשְׁמִים וְשִׁטְפוֹ.

We learned in a *baraita* there that although it is prohibited to perform unnecessary work on the intermediate days of a Festival, during these days one may water an irrigated field, and one may mark the graves by painting lime on them. The Gemara asks: But didn't the court already mark the graves in Adar, as stated in the mishna here? Why was it necessary to mark them again during the Festival? The Gemara answers: It can be explained as referring to a situation where a downpour rained down after the graves were initially marked in Adar, and washed away the previous markings.

וְיִוְצְאִין אֶף עַל הַכְּלָאִים. לֹא כָּבַר וְיִצְאוּ מֵאֲדָר? – תִּתְפַּתֵּר שְׁהָיְתָה הַשָּׁנָה אֶפִּילָה וְאִין הַצְּמָחִין נִכְרִים.

The mishna further taught that on the fifteenth of Adar, agents of the court would also go out to inspect the fields for diverse kinds of food crops. The Gemara asks: But didn't they already go out in the beginning of Adar to examine the fields for diverse kinds, as the mishna previously stated? The Gemara answers: It can be explained that the year was late [*afila*],^{HL} i.e., the crops had not yet sprouted by the beginning of Adar, and the plants are not perceptible until later.

מִמֵּינֵי לְצִיּוּן? רַבִּי בְרֵכְיָה רַבִּי יַעֲקֹב בְּרַבְרַת יַעֲקֹב בְּשֵׁם רַבִּי חוּנְיָא דְבֵּרַת חוּרֵי. רַבִּי יוֹסֵה אֲמַרִּי לֵה רַבִּי יַעֲקֹב בְּרַבְרַת יַעֲקֹב בְּשֵׁם רַבִּי חוּנְיָא דְבֵּרַת חוּרֵי. רַבִּי חִזְקִיָּה רַבִּי עֻזִּיאֵל בְּרִיהַ דְּרַב חוּנְיָא דְבֵּית חוּרֵי בְּשֵׁם רַבִּי חוּנְיָא דְבֵּית חוּרֵי: "וְטָמֵא טָמֵא יִקְרָא" –

§ The Gemara asks: From where is the obligation of marking graves^{HB} derived? Rabbi Berekhya said in the name of Rabbi Ya'akov bar bat Ya'akov in the name of Rabbi Hunya of Berat Havarin,^B Rabbi Yosei said it was Rabbi Ya'akov bar Aha, in the name of Rabbi Hunya of Berat Havarin, while Rabbi Hizkiya and Rabbi Uziel, son of Rabbi Hunya of Berat Havarin, said it in the name of Rabbi Hunya of Berat Havarin. These Sages said that the proof is from a verse: "And the leper in whom the plague is, his clothes shall be rent, and the hair of his head shall go loose, and he shall cover his upper lip, and shall cry: Unclean, unclean" (Leviticus 13:45).

כִּדִּי שִׁתְּהָא הַטּוֹמְאָה קוֹרְאָה לְךָ בְּפִיָּה וְאוֹמְרַת לְךָ "פְּרוֹשׁ".

The Gemara explains: This teaches that one must take measures in order that the ritually impure object, in this case the leper, calls to you verbally, as it were, and tells you: Separate yourself from it. Just as the leper warns everyone that he is ritually impure, one must likewise mark graves to warn passersby of their impure status.

רַבִּי אֵילָא בְּשֵׁם רַבִּי שְׁמוּאֵל בְּרַבְרַת נַחֲמָן: "וְעַבְרֵי הָעוֹבְרִים בְּאֶרֶץ וְרָאָה עֵצִים אָדָם וּבְנָה אֶצְלוֹ צִיּוּן".

Rabbi Ila in the name of Rabbi Shmuel bar Nahman cited a different verse in this regard: "And when they that pass through shall pass through the land, and anyone sees a man's bone, then shall he set up a sign by it, till the buriers have buried it in the valley of Hamon-gog" (Ezekiel 39:15). This verse explicitly states that there is a need to mark graves.

"עֵצִים" – מֵיכָן שֶׁמִּצְיָיִנוּן עַל הָעֵצִים. "אָדָם" – מֵיכָן שֶׁמִּצְיָיִנוּן עַל הַשְּׂדֵרָה וְהַגְּלוּלָתָּה.

The Gemara adds that further *halakhot* can be derived from this verse. "Bone": from here it is derived that one marks bones. "A man": From here it is derived that one marks a spine and skull that were found.

"וּבְנָה" – מֵיכָן שֶׁמִּצְיָיִנוּן עַל גִּבֵּי אֶבֶן קְבוּרָה. אִם אוֹמַר אֶתְּ עַל גִּבֵּי אֶבֶן תִּלְוֶשָׁה – אֶף הִיא הוֹלֶכֶת וּמְטַמָּא בְּמָקוֹם אַחֵר.

"Then shall he set up": From here it is derived that one marks the sign of ritual impurity on a fixed stone, for if you say that one may mark on a detached stone, that very stone is likely to move from that spot, and it will incorrectly mark another place as ritually impure. It is therefore necessary to use a stone that will not be moved.

"אֶצְלוֹ" – לְמָקוֹם טְהוֹרָה. "צִיּוּן" – מֵיכָן לְצִיּוּן.

The verse further states: "By it": This is referring to a place of ritual purity. In other words, the marking should not be placed on the spot of ritual impurity itself, but in a nearby, ritually pure location. "A sign": From here we learn of the obligation to mark.

LANGUAGE

Late [*afila*] – אֶפִּילָה: From the Akkadian *apālu*, to be late. The term appears in the Torah and in mishnaic Hebrew with regard to produce and fruit that has yet to ripen. See Exodus 9:32:

"But the wheat and the spelt were not smitten, for they ripen late [*afilot*]" and *Tosefta, Shevi'it* 7: "One may eat grapes until the poorest ones are consumed; if some fruit are later [*afilot*]

than these, one may eat them." The Sages also use this term in reference to a year in which plants sprout late due to climatic changes.

If one found one marked stone, etc. – **מֵצָא אֶבֶן אֶחָת מְצוּיָיִת, אֵף עַל פִּי שְׂאִין מְקִיּוּמִין בֵּן – הַמְּאַהֵל עֲלֶיהָ טָמֵא. אֲנִי אוֹמֵר: מֵת מְצוּיָיִן וְהִיא נִתּוֹן תַּחְתֶּיהָ.**
 וכי: If one discovered a single, marked stone, the area beneath it is ritually impure. If he found two marked stones, with lime in between, the space between them is impure. If the lime was found only on the stones themselves, if there was earthenware between them it is assumed to be part of a building, not a marker of impurity. If there was no earthenware and the lime was flattened out on each side of the stone's edges, it is a mark of impurity, and the area between the stones is ritually impure. The Ra'avad writes that if the space in between was plowed it is pure, since, as stated in the *baraita*, people would certainly not plow the area of a grave (Rambam *Sefer Tahara, Hilkhot Tumat Met* 8:10).

At first they would uproot – בְּרֵאשׁוֹנָה הָיוּ עוֹקְרִין – After the court announced the requirement to remove all diverse seeds on the first of Adar, it sent out agents on the fifteenth to inspect whether the owners of fields and roofs had indeed cleared their property of all diverse kinds. If they found owners who had failed to uproot those plants, at first the agents uprooted them and cast the prohibited plants in front of the owners. However, this practice pleased the owners, as it served to clean their fields. The Sages therefore instituted that any field in which were found diverse kinds with a ratio of one kind to twenty-four of the other, or more, should be declared ownerless (Rambam *Sefer Zera'im, Hilkhot Kilayim* 2:15–16).

NOTES

If there were two marked stones, the one who covers them remains ritually pure – **הָיוּ שְׂתֵי הַמְּאַהֵל עֲלֵיהֶן טָהוֹר** – There was no concern that these two stones might be marking two different graves, as it was not customary to mark a grave on only one side (*Sidrei Taharot, Oholat*).

It is preferable that people are harmed by it temporarily and are not harmed by it permanently – **מוֹטֵב שְׂתֵי תַקְלָלוֹ בּוֹ לְשַׁעָה וְאֵל יִתְקַלְלוּ בּוֹ לְעוֹלָם**: The early commentaries ask: If the spot was left unmarked during the period when enough flesh remains to confer ritual impurity, the potential error has far worse implications. Priests who unknowingly became impure from this flesh might eat *teruma*, for which one is liable to receive death at the hand of Heaven, or they might eat consecrated meat unwittingly and be liable to receive *karet*.

In contrast, the risk involved in people incorrectly thinking they are ritually impure involves only the possible unintentional violation of the relatively light prohibition against burning ritually pure *teruma* or other consecrated foods. They explain that although the potential error is more severe, the risk of error is much less. This is because during the short period it takes for the flesh to decompose, people will remember that a grave is located there, and passersby will know that they may have become impure (*Talmidei Rabbeinu Yehiel miParis, Mo'ed Katan* 5b).

They instituted that the entire field should be declared ownerless – **הִתְקִינוּ שֶׁיִּהְיוּ מִפְּקָרִין אֶת כָּל הַשָּׂדֶה** – Some authorities cite this mishna as proof that one who declares his field ownerless is no longer in violation of the prohibition against planting diverse kinds, for if this were not the case the declaration that the field was ownerless would not solve the problem. The reason for this is that by declaring it ownerless, the field is no longer classified as “your field” in terms of the verse: “You shall not sow your field with diverse kinds” (Leviticus 19:19). Therefore, the former owner has ceased to transgress the prohibition (*Yehuda Ya'ale* on the Mahari Asad).

וּמֵצָא אֶבֶן אֶחָת מְצוּיָיִת, אֵף עַל פִּי שְׂאִין מְקִיּוּמִין בֵּן – הַמְּאַהֵל עֲלֶיהָ טָמֵא. אֲנִי אוֹמֵר: מֵת מְצוּיָיִן וְהִיא נִתּוֹן תַּחְתֶּיהָ.

הָיוּ שְׂתֵי הַמְּאַהֵל עֲלֵיהֶן טָהוֹר, וְבִינֵיהֶן טָמֵא.

אִם הָיָה חוֹרֵשׁ בֵּינֵיהֶם – הָרִי הֵן בִּיחִידוֹת, בִּינֵיהֶן טָהוֹר וְסָבִיבוֹתֵיהֶן טָמֵא.

תָּנִי: אִין מְצוּיָיִן עַל הַבֶּשֶׂר, שְׂמָא נִתְעַבֵּל הַבֶּשֶׂר.

רַבִּי יוֹסֵטָא בְּרֵ שׁוֹנִים בְּעָא קוּמִי רַבִּי מָנָא: וְלֵא נִמְצָא מִטָּמֵא טְהוֹרוֹת לְמַפְרַע? אָמַר לֵיהּ: מוֹטֵב שְׂתֵי תַקְלָלוֹ בּוֹ לְשַׁעָה, וְאֵל יִתְקַלְלוּ בּוֹ לְעוֹלָם.

הַלְכָה בַּמִּתְנִי אָמַר רַבִּי יְהוּדָה: בְּרֵאשׁוֹנָה הָיוּ עוֹקְרִין וּמְשַׁלְּכִין לְפָנֵיהֶן, מִשְׂרָבוּ עוֹבְרֵי עֲבִירָה – הָיוּ מְשַׁלְּכִין לְדַרְכֵי, הִתְקִינוּ שֶׁיִּהְיוּ מִפְּקָרִין אֶת כָּל הַשָּׂדֶה.

גַּמְ' אָמַר רַבִּי יְהוּדָה כו'. תָּנִי, אָמַר רַבִּי יְהוּדָה: בְּרֵאשׁוֹנָה הָיוּ עוֹקְרִין וּמְשַׁלְּכִין לְפָנֵיהֶן, וְהָיוּ שְׂמַחִים שְׂתֵי שְׂמַחוֹת – אֶחָת שֶׁהָיוּ מְנַבְּשִׁין שְׂדוֹתֵיהֶן, וְאַחַת שֶׁהָיוּ נִהְנִין מִן הַכֶּלָּאִים.

מִשְׂרָבוּ עוֹבְרֵי עֲבִירָה – הָיוּ מְשַׁלְּכִין עַל הַדַּרְכִּים, אֵף עַל פִּי בֵּן הָיוּ שְׂמַחִים – שֶׁהָיוּ מְנַבְּשִׁין שְׂדוֹתֵיהֶן. הִתְקִינוּ שֶׁיִּהְיוּ מִפְּקָרִין כָּל הַשָּׂדֶה כּוֹלָה.

It was further taught with regard to the same issue: **And if one found one marked stone,^H even though one should not establish it in this manner, i.e., one should not mark a place of ritual impurity with a single stone *ab initio*, but with two stones in order to delineate the extent of the impurity, nevertheless, one who covers it, i.e., places some part of his body in the space above it, is rendered ritually impure.** In such a case I say, i.e., one ought to assume: There was a dead body marked here, and it was located underneath this stone.

However, if there were two marked stones, the one who covers them with part of his body remains ritually pure,^N as the source of impurity is typically located between, not underneath, the two markers. **And consequently, if he covered the space between the stones, he is ritually impure.**

And if there were plow marks between these two stones, they are considered like isolated stones with regard to this *halakha*. Therefore, if he covered the area between the stones with part of his body he is ritually pure, and if he covered the space surrounding the area where they are set he is impure, as it can be assumed there was a source of impurity under each stone.

It was taught in a different *baraita* that **one does not mark on the location of the flesh of a corpse without any bones.** Why not? **Perhaps the flesh has decomposed,** leaving less than the minimum size that confers ritual impurity by covering, which is an olive-bulk. If the mark is left there, the spot will permanently be treated as ritually impure.

Rabbi Yusta bar Shunem wondered in the presence of Rabbi Mana: **And doesn't he thereby render pure items ritually impure retroactively?** If the flesh is not marked at all, pure items might pass over the spot before the flesh has decayed, rendering them ritually impure. **He said to him: It is preferable that people are harmed by it temporarily, while the flesh is still there, and are not harmed by it permanently,^N** by wrongly thinking that their pure foods contracted ritual impurity from this source.

HALAKHA 2 • MISHNA At the end of the last mishna it was stated that the court sends out agents on the fifteenth of Adar to inspect whether the owners of fields had indeed uprooted any diverse kinds of crops as instructed. **Rabbi Yehuda said: At first those agents would uproot^H the diverse kinds of crops and cast them in front of the owners of the fields. When the number of transgressors who would not uproot diverse kinds in their fields increased, and the Sages saw that this tactic was ineffective, they would cast the uprooted crops onto the roads. Ultimately, they instituted that the entire field should be declared ownerless.^N**

GEMARA With regard to what **Rabbi Yehuda said** in the mishna, i.e., that there were three stages of the Sages' decree, the Gemara elaborates as it was taught in a *baraita*. **Rabbi Yehuda said: At first the agents of the court would uproot the diverse kinds of crops and cast them in front of the owners, and those owners would doubly rejoice. One reason for their happiness was that others were weeding their fields for them, and the other reason was that they would derive benefit from these diverse kinds, which they would feed to their animals.**

The *baraita* continues: **When the number of transgressors who maintained diverse kinds in their fields increased, they would cast the uprooted crops onto the roads, so that passersby should trample on them and render them unfit for any use. Even so, the owners still rejoiced that those agents were weeding their fields.** Therefore, the Sages instituted that the entire field should be declared ownerless, which would deter people from maintaining diverse kinds in their fields.

Property declared ownerless by the court is ownerless – הַפְקֵר בֵּית דִּין הַפְקֵר – A judge has the power both to declare property ownerless and to dispose of or transfer it to someone else, as he sees fit, for the purpose of correcting a widespread error or addressing an important matter. This ruling is in accordance with the opinion of Rabbi Yitzhak (Rambam *Sefer Shofetim, Hilkhot Sanhedrin* 26:6).

One may not intercalate the year, neither in the Sabbatical Year nor in the year after the Sabbatical Year, etc. – אֵין מַעְבְּרִין אֶת הַשָּׁנָה לֹא בְשָׁבִיעִית וְלֹא בְמוֹצָאֵי שְׁבִיעִית – וכּוּ: One may not intercalate the Sabbatical Year, as stated in the *baraita*. The Sages usually intercalated the sixth year (Rambam *Sefer Zemanim, Hilkhot Kiddush HaHodesh* 4:15).

ומניין שהפקר בית דין הפקר – דכתיב: "וכל אשר לא יבא לשלשת הימים בעצת השרים והוקנים יחרם כל רכושו והוא יבדל מקהל הגולה".

The Gemara asks: **From where** is it derived that property declared ownerless by the court is in fact ownerless?^H As the mishna states that the court rendered the fields ownerless, clearly they had the power to do so. What is the source for their having this power? The Gemara answers: **As it is written**, with regard to the proclamation of Ezra and his court to all the people to gather in Jerusalem, where he instructed those who had married foreign women to divorce them: **"And that whosoever came not within three days, according to the counsel of the princes and the elders, all his substance should be forfeited, and himself separated from the congregation of the captivity"** (Ezra 10:8). This shows that the court has the power to render ownerless the property of anyone who violates its commands.

מניין שהיא פטורה מן המעשרות? רבי יונתן בריה דרב יצחק בר אחא שמע לה מן הדא: אין מעברין את השנה לא בשביעית ולא במוצאי שביעית. ואם עיברוה – הרי זו מעוברת.

The Gemara further asks: **From where** is it derived that this ownerless field is exempt from tithes,^N like a field rendered ownerless by its owner? Rabbi Yonatan, son of Rabbi Yitzhak bar Aha, learned the *halakha* of this case from this *baraita*: **One may not intercalate the year, by adding the month of Second Adar, neither in the Sabbatical Year nor in the year after the Sabbatical Year.^H And if they transgressed and intercalated it, the year is intercalated.**

וחודש אחד שהוא מוסף לא פטור מן המעשרות הוא?

Rabbi Yonatan explains how exemption from tithes of a field that was declared ownerless by the court can be derived from this *baraita*: **And yet with regard to that one month that he adds, i.e., the month to intercalate the year, which is added to the Sabbatical Year, aren't the crops harvested in that additional month exempt from tithes?** These crops are Sabbatical produce and as such exempt from tithes, but that status is only a result of the decree of the court to extend the year. This proves that the court has the power to render a field exempt from tithes.

עד כדון שביעית, מוצאי שביעית מאי? אמו רבי בון: שלא לרבות באיסור חדש.

The Gemara continues to analyze the *baraita*. **Until here** it is clear why the Sabbatical Year should not be intercalated, as it extends the prohibitions of the Sabbatical year. However, **what is the reason that the year after the Sabbatical Year should not be intercalated?** Rabbi Bun said: The reason is so as not to increase the period of the prohibition of new grain. In the year after the seventh year people are still relying on the produce of the sixth year until the new crop sprouts in the spring of the eighth year. Since the food supply is liable to run out, the sooner the new grain can be eaten, the better. It is only permitted after the bringing of the *omer* offering on the sixteenth of Nisan, and therefore it is preferable not to extend the year, which would delay the beginning of Nisan.

רבי זעירא בשם רבי אלעזר: הדא דאתא אמו – עד שלא התיר רבי להביא ירק מחוצה לארץ לארץ, אבל משהתיר רבי להביא ירק מחוצה לארץ לארץ – היא שביעית היא של שאר שני שבוע.

Rabbi Ze'eira says in the name of Rabbi Elazar: **That which you say**, that one may not intercalate the Sabbatical Year or the following year, applied until the time that Rabbi Yehuda HaNasi permitted one to import vegetables from outside Eretz Yisrael to Eretz Yisrael. Beforehand there was a danger of insufficient food, and the court needed to refrain from lengthening either year. **However**, from the time when Rabbi Yehuda HaNasi permitted one to import vegetables from outside Eretz Yisrael to Eretz Yisrael, and there was enough food for all, the Sabbatical Year is like other years of the Sabbatical cycle, i.e., it is permitted to intercalate any year.

NOTES

From where is it derived that this ownerless field is exempt from tithes – מניין שהיא פטורה מן המעשרות: If the owner of a field declares its produce ownerless, he is not obligated to separate *terumot* and tithes from it, as it states: "And the Levite shall come, because he has no portion nor inheritance with you" (Deuteronomy 14:29). The Sages derived from this verse that the Levite is entitled to only some of the produce of which he owns no portion, but not from the crop of an ownerless field, to which he has equal rights (Rabbi Yoḥanan, citing Rabbi Yannai, Jerusalem Talmud, *Ma'aserot* 1:1; Rambam *Sefer Zera'im, Hilkhot Terumot*

1:5; and others). Some commentaries derive this *halakha* from the phrase: "The increase of your seed" (Deuteronomy 14:22), which excludes ownerless seed (Rambam *Sefer Zera'im, Hilkhot Ma'aserot* 1:1; and others), or from the verse: "The first-fruits of your grain . . . you shall give him" (Deuteronomy 18:4), where "your grain" refers to grain that has an owner (Rambam *Sefer Zera'im, Hilkhot Terumot* 2:1).

The Gemara here discusses whether a field that was declared ownerless by the court has the same status as one that was rendered ownerless by the owner himself.

Guard it so that the month of Nisan arrives in the spring of the new year – שומריהו שביבאו בחידושו – A year is intercalated by the addition of another month of Adar. Second Adar is added immediately after First Adar. The reason for the intercalation is to ensure that Passover occurs in the spring, as it states: “Guard the month of the spring” (Deuteronomy 16:1), which teaches that the court must ensure that the month of Nisan is in the spring. Were it not for the extra month, the season of Passover would vary, as the Festival would occur sometimes in the summer and at other times in the winter (Rambam *Sefer Zemanim, Hilkhot Kiddush HaHodesh* 4:1).

A pile of grain under which gleanings have not been gathered – גדיש שלא לוקט תחתיו – When the owner of a field placed a pile of produce on the same spot as gleanings that had fallen to the ground but had not been collected by the poor, all the produce touching the ground belongs to the poor. Since it is unknown which of them are gleanings, the *halakha* follows the principle that all doubtful gifts of the poor belong to the poor (Rambam *Sefer Zera'im, Hilkhot Mattenot Aniyyim* 4:6).

תני: אין מעברין וכו'. אמר רבי מנא: הדיא דאית אמר – בראשונה, שהיו השנים בתקנן. אבל עכשיו שאין השנים בתקנן – היא שביעית היא שאר שני שבוע.

תני: של בית רבן גמליאל עיברה במוצאי שביעית מיד.

אמר רבי אבון: אין מן הדא – לית את שמע מינה בלום.

”שמור את חדש האביב” – שומריהו שביבאו בחידושו.

והיידא אמרה דא: גדיש שלא לוקט תחתיו, כל הנוגעות בארץ – הרי הן של עניים. ואמר רבי אמי

It was taught in the *baraita* that one may not intercalate the year following the Sabbatical Year. Rabbi Mana said: This matter which you say: It applied at first, when the seasons of the years proceeded in their proper manner, i.e., the new grain was ripe in time and could be eaten immediately after the sixteenth of Nisan. However, now, when the seasons of the years do not proceed in their proper manner, and the grain is not ready until later anyway, there is no problem delaying Nisan, so the Sabbatical Year is like other years of the Sabbatical cycle.

The Gemara adds: It was taught in a *baraita* that the court of the house of Rabban Gamliel⁹ intercalated the year immediately after the Sabbatical Year, in the first month of that year.

Rabbi Yonatan previously proved from the court’s ability to extend the Sabbatical year that the court has the power to declare property ownerless, to the extent that its produce is exempt from tithes. With regard to this, Rabbi Avun said: If your proof is from this, you cannot learn anything from it.

Rabbi Avun explains: The Torah says: “Observe [guard] the month of the spring, and keep the Passover unto the Lord your God; for in the month of the spring the Lord your God brought you forth out of Egypt by night” (Deuteronomy 16:1). This means that one should guard it so that the month of Nisan arrives in the spring of the new year,¹⁰ i.e., in Nisan of the lunar year, which is roughly eleven days shorter than the solar year. If the festival of Passover is scheduled to arrive too early, due to the difference between the solar and lunar years, that year must be intercalated. Since the intercalation of the year is a Torah requirement, the extra month added to a Sabbatical Year is exempt from tithes by Torah law. Therefore, the extension of the year by intercalation is not merely a power of the court, and therefore cannot function as a source for the court’s power to declare property ownerless and exempt it from tithes.

But this other mishna (*Pe’at* 5:1) does state this *halakha*, that a field declared ownerless by the court is exempt from tithes. With regard to a pile of grain under which gleanings have not been gathered¹¹ by the poor, who are entitled to the lone stalks that fall during a harvest, all the kernels that are touching the ground belong to the poor. And about this mishna Rabbi Ami said

PERSONALITIES

Rabban Gamliel – רבן גמליאל – Rabban Gamliel was the president of the Sanhedrin, one of the most important *tanna'im* in the period following the destruction of the Temple. His father, Rabban Shimon ben Gamliel, was also president of the Sanhedrin and one of the leaders of the nation during the final rebellion. After the destruction of the Temple, Rabban Gamliel was transferred by Rabban Yohanan ben Zakkai to Yavne, and after the death of Rabban Yohanan he became president.

During the period of Rabban Gamliel’s presidency, the city of Yavne became a spiritual center in which different enactments and *halakhot* were established for future generations. Consequently, Rabban Gamliel is also known as Rabban Gamliel of Yavne. The great sages of his time gathered around him: Rabbi Eliezer, his brother-in-law; Rabbi Yehoshua; Rabbi Akiva; Rabbi Elazar ben Azarya; and others. This was a remarkable group of sages that had no equal for many subsequent generations.

Rabban Gamliel wanted to create a spiritual center in Israel that would unite the entire people as the Temple had done in its time. For this reason he tried to raise the stature of the presidency and to establish the Sanhedrin as a locus of power. His stern and uncompromising leadership eventually led his

friends to dismiss him from office for a period of time and appoint Rabbi Elazar ben Azarya in his place. However, since they all understood that his intentions were only for the good of the nation, he was quickly restored to his previous position.

There are not many *halakhot* in which Rabban Gamliel’s name is mentioned, but in his time and under his tutelage some of the most important decisions affecting the spiritual history of the Jewish people took shape, such as the final decision to act in accordance with Beit Hillel, the rejection of Rabbi Eliezer’s opinion in particular matters, and the establishment of a fixed version of prayers. In those *halakhot* that were transmitted in his name one can see his general approach to *halakha*, which was to draw consistent conclusions based on the principles he espoused without compromising those principles. It is known that two sons of Rabban Gamliel were Sages of Israel: Rabban Shimon ben Gamliel, who served as the president of the Sanhedrin after his father, and Rabbi Hanina ben Gamliel.

In modern-day Yavne there is a site identified by some thirteenth- and fourteenth-century Jewish scholars as the tomb of Rabban Gamliel. The structure itself is Mamluk, as is apparent from a dedicatory inscription of the sultan Baibars dated 1247.

Muslims identify it as the tomb of one of Muhammad’s friends. Given the gap of more than eleven hundred years between the death of Rabban Gamliel and the first Jewish source that identifies the tomb, as well as the fact that Benjamin of Tudela does not mention the tomb, scholars question the veracity of the identification.



Rabban Gamliel’s tomb

בְּשֵׁם רַבִּי שִׁמְעוֹן בֶּן לָקִישׁ דְּבִית
שַׁמַּי הִיא,

in the name of Rabbi Shimon ben Lakish: It is in accordance with the opinion of Beit Shammai, who maintain that it is possible to declare an article ownerless exclusively with respect to the poor (see Pe'a 6:1).

דָּאֵי בְּבֵית הַלֵּל – עֲנִיִּים אוֹכְלִים
וּמַעֲשָׂרִין.

In defense of the attribution of the mishna to Beit Shammai the Gemara continues: **For if the mishna is in accordance with the opinion of Beit Hillel, who maintain that the court cannot declare something ownerless only for the poor, then the poor would be allowed to eat the kernels touching the ground only after tithing.**

וְאָמַר לִיה רַבִּי יוֹסֵי: שְׁמַעְנוּ שְׂהוּא
פְּטוֹר מִמַּעֲשֵׂר דְּבָרֵי הַכֵּל, מִשּׁוּם
קִנְסָא.

And Rabbi Yosei said to him, Rabbi Ami: We learned a different explanation whereby it is not necessary to attribute the mishna to Beit Shammai, i.e., that everyone agrees that this produce is exempt from tithes because the Sages imposed a fine [kenasa]^l on one who was careless enough to pile his grain on top of gleanings. He forfeits any stalks touching the ground, as they are rendered ownerless, and ownerless food is exempt from tithes. Since some of the kernels touching the ground are from the pile, not the gleanings, the ruling that they are all exempt from tithes depends upon the Sages' power to declare them ownerless. If the mishna in Pe'a is understood in accordance with Rabbi Yosei's opinion, it serves as evidence that the Sages can in fact declare property ownerless to the extent that its produce is exempt from tithes.

הַלְכָה ג' מִתְנִי' בְּחֻמְשָׁה עָשָׂר
בּו שׁוֹלְחָנוֹת הֵיוּ יוֹשְׁבֵי בְּמִדְיָנָה.
בְּעֵשְׂרִים וְחֻמְשָׁה יָשְׁבוּ בְּמִקְדָּשׁ,
מִשִּׁי יָשְׁבוּ בְּמִקְדָּשׁ הִתְחִילוּ
לְמַשְׁכֵּן.

HALAKHA 3 • MISHNA On the fifteenth of Adar, money changers would sit at tables^b set up in the rest of the country,^{HN} outside the Temple, to handle the collection of shekels. On the twenty-fifth of Adar, the money changers sat in the Temple.^N From the time when the money changers sat in the Temple,^N the court began to seize collateral^N from those who had yet to donate the half-shekel.

LANGUAGE

Fine [kenasa] – קִנְסָא: Originally from the Latin word census, which referred both to the counting of residents as well as to the evaluation of citizens' property for the purpose of fixing taxes and determining other rights.

The term developed into the Greek κησος, *kenosos*, meaning poll tax, tax registration, or the payment of taxes from this property. It probably entered Hebrew and Aramaic from the Greek. However, this resulted in a slight change in meaning, as in those languages it is referring to the payment of a fixed sum of money as a punishment, usually for one who caused damage to another.

BACKGROUND

Tables for money changers – שׁוֹלְחָנוֹת: Every Jewish adult male, whether he lived inside or outside Eretz Yisrael, was obligated to contribute a half-shekel for the acquisition of communal offerings and maintaining the Temple. In this manner, all Jews were partners in the sacred service. The most important feature of this mitzva is not the amount itself, but the participation of the entire Jewish people in the giving of an equal sum. Consequently, the precise amount was adjusted over the generations.

At the end of the Second Temple period the fixed amount was two dinars, which equal half a sela, the sacred shekel. In addition to the half-shekel, another small coin was added as payment for the monetary exchange, as not everyone brought the same currency. The remuneration of the money changers, who collected the shekels, was probably paid from those extra coins as well.

HALAKHA

On the fifteenth of Adar they would sit at tables set up in the country, etc. – בְּחֻמְשָׁה עָשָׂר בּו שׁוֹלְחָנוֹת הֵיוּ יוֹשְׁבֵי בְּמִדְיָנָה וכו'. On the fifteenth of Adar money changers set up their tables in each region of the country and gently demand the half-shekel from those who had yet to contribute. They accepted the money from those who gave, but they did not force people to do so. On the twenty-fifth of the month the money changers placed their tables in the Temple to collect the half-shekels there. From this date onward they demanded the money from those who had yet to give it, and they seized collateral from the delinquent and take a pledge even against his will, including his clothes (Rambam *Sefer Zemanim, Hilkhoh Shekalim* 1:9).

NOTES

Money changers would sit at tables set up in the rest of the country – שׁוֹלְחָנוֹת הֵיוּ יוֹשְׁבֵי בְּמִדְיָנָה: The early commentaries dispute the function of money changers in the collection of shekels. Some say that they were appointed by the court to provide change for the small coins people brought in lieu of the rarer half-shekels (Rashi on *Megilla* 29b; Rabbeinu Meshulam). Others maintain that the residents of various countries brought half-shekel coins of their own currency. Since the value of these coins was not always the same as those of Eretz Yisrael, the money changers transferred them into proper half-shekels (Rosh). Yet others state that the officers were not money changers at all, but simply collected the half-shekels from the public, as this was one of the ways in which the coins were collected (Rambam *Sefer Zemanim, Hilkhoh Shekalim* 1:9).

all those places where Jews live, and Temple is referring to Jerusalem (Rav Yehuda ben Rav Binyamin HaRofeh).

From the time when the money changers sat in the Temple – מִשִּׁי יָשְׁבוּ בְּמִקְדָּשׁ: Although the Temple treasurers withdrew money from the chamber for communal offerings only from the beginning of Nisan, they nevertheless began seizing collateral from the public on the twenty-fifth of Adar. On that day they started selecting the lambs designated for the daily offerings, as these lambs had to be set aside to be examined for blemishes four days before they were sacrificed (see *Menahot* 29b). Since the Adar that comes just before Nisan, which is either the regular Adar or Second Adar in a leap year, invariably consists of twenty-nine days, the first lambs had to be chosen on the twenty-fifth of the month (Rabbeinu Meshulam; *Binyan Tziyon HaHadashot, Turei Even* on *Megilla* 29b).

In the rest of the country...in the Temple – בְּמִקְדָּשׁ... בְּמִדְיָנָה: Some commentaries explain that the term country [*medina*] refers in this context to Jerusalem, while Temple means the Temple Mount. Others understand country to mean all towns in Eretz Yisrael apart from Jerusalem, whereas Temple is referring to Jerusalem (*Korban HaEida; Tiklin Hadatin*). A similar explanation is that country means

To seize collateral – לְמַשְׁכֵּן: The later commentaries note that in contrast to the collateral taken from a regular debtor, in this case the agents of the court are permitted to enter the house of someone who refuses to give the half-shekel, as he is commanded by God to give the money. Though the payment of a debt is also a mitzva, there are stricter standards with regard to the Temple (*Tosefot Yom Tov*).

From whom did they seize collateral – אֶת מִי מִמְשָׁבְנִין: All males from age twenty upward are obligated to give the half-shekel, including priests, Levites, Israelites, converts, and emancipated slaves. The obligation does not apply to women, Canaanite slaves, or minors. If any of the latter gave the half-shekel anyway, the money is accepted from them (Rambam *Sefer Zemanim, Hilkhot Shekalim* 1:7).

They do not seize collateral from priests – אֵין מִמְשָׁבְנִין אֶת הַכֹּהֲנִים: No collateral is ever taken from priests for their half-shekels, because of the ways of peace. Nevertheless, the court demands the money from them until they give it, and their contributions are accepted (Rambam *Sefer Zemanim, Hilkhot Shekalim* 1:10).

A priest who does not contribute is a sinner – כֹּהֵן שֶׁאֵינוֹ שׁוֹקֵל חוּטֵא: The priests are obligated to give the half-shekel like all Jews, in accordance with the opinion of Rabban Yoḥanan ben Zakkai (Rambam *Sefer Zemanim, Hilkhot Shekalim* 1:7).

NOTES

They did not seize collateral from women – לֹא נָשִׂים: Some commentaries say that women are exempt from the obligation to donate a half-shekel because the verse states: “Then they shall give every man a ransom for his soul” (Exodus 30:12), which excludes women (*Talmidei HaRashbash; Rabbi Ovadya Bartenura; Korban HaEida; Tiklin Hadatin*; see Rosh on the mishna). Others maintain that the reason for the exemption of women is because it is a time-bound, positive mitzva, and the *halakha* is that women are exempt from all mitzvot of this kind (*Me’iri*). Yet others state that although it is a time-bound, positive mitzva, it can be argued that women should be obligated in this case, as the Torah calls the half-shekel “the atonement money” (Exodus 30:16), and women are in need of atonement too. According to this opinion, the reason women are exempt is because the Torah obligated only “everyone who passes among them who are numbered,” and women were not counted in the census.

An alternative opinion is that the half-shekel is not a time-bound, positive mitzva at all, as one can give the half-shekel for the Nisan collection at any time throughout the year if he so chooses, notwithstanding the fact that the court dealt with this obligation only in Adar. Instead, women are exempt because the mention of “man” in the above verse limits the mitzva to men (*Minḥat Hinukh, mitzva* 105).

And any minor whose father began to contribute on his behalf, he may not cease to do so – וְכֹל קָטָן שֶׁהִתְחִיל אָבִיו – לְשָׁקוֹל עַל יְדוֹ שׁוֹב אֵינוֹ פּוֹסֵק: The *Magen Avraham (Shulḥan Arukh, Oraḥ Ḥayyim* 470:2) implies that once the father began contributing the half-shekel for his son, it is regarded as a vow that he has taken upon himself.

The early commentaries dispute whether collateral is seized from the father in this case. The *Me’iri* claims that the court does take collateral, whereas Rabbeinu Meshulam maintains that although it is a mitzva to give this half-shekel it is not an obligation, and therefore the court does not seize collateral.

אֶת מִי מִמְשָׁבְנִין? לְוִיִּם וְיִשְׂרָאֵלִים וְגֵרִים וְעִבְדִּים מְשׁוּחָרְרִים, אֲבָל לֹא נָשִׂים וְעִבְדִּים וְקִטְנִים. וְכֹל קָטָן שֶׁהִתְחִיל אָבִיו לְשָׁקוֹל עַל יְדוֹ – שׁוֹב אֵינוֹ פּוֹסֵק. אֵין מִמְשָׁבְנִין אֶת הַכֹּהֲנִים מִפְּנֵי דְרָכֵי שְׁלוֹם.

אָמַר רַבִּי יְהוּדָה, הָעֵיד בֶּן בּוֹכְרִי בִּנְבִינָה: כָּל כֹּהֵן שֶׁשׁוֹקֵל אֵינוֹ חוּטֵא. אָמַר לוֹ רַבֵּן יוֹחָנָן בֶּן זַכַּי: לֹא כִי אֲלֵא כָּל כֹּהֵן שֶׁאֵינוֹ שׁוֹקֵל חוּטֵא.

אֲלֵא שֶׁהַכֹּהֲנִים דּוֹרְשִׁים מִקְרָא זֶה לְעֵצְמוֹ: “וְכֹל מִנְחַת כֹּהֵן כְּלִיל תַּהֲרִיף לֹא תֹאכְלוּ.”

הַזֵּאִיל וְעוֹמֵר וְשְׁתֵּי הַלֶּחֶם וְלֶחֶם הַפָּנִים שְׁלֵנוּ הֵיאֵךְ נֶאֱכָלוּ?

גַּמְ' “אֵין מִמְשָׁבְנִין אֶת הַקִּטְנִים.” הָא לְתַבּוּעַ – תּוֹבְעִין. הָדָא דְתִימְרָ – בְּשֶׁהִבִּיא שְׁתֵּי שְׁעֵרוֹת.

אֲבָל אִם לֹא הִבִּיא שְׁתֵּי שְׁעֵרוֹת – לֹא בְדָא. וְלִמְשָׁבְנִין אֵין מִמְשָׁבְנִין אֶף עַל פִּי שֶׁהִבִּיא ב' שְׁעֵרוֹת.

כִּינִי מִתְנִיתִין: אֵין מִמְשָׁבְנִין אֶת הַכֹּהֲנִים מִפְּנֵי דְרָךְ הַכְּבוֹד.

From whom did they seize collateral?^h From Levites, Israelites, converts, and emancipated slaves. However, they did not seize collateral from women,ⁿ slaves, or minors. And any minor whose father began one year to contribute a half-shekel on his behalf, despite the fact that he was not obligated to do so, he may not cease to do soⁿ in subsequent years. The court does not seize collateral from priests,^h although they are legally obligated to give a half-shekel like all other Jews, because of the ways of peace.

The mishna goes on to explain the status of priests with regard to the contribution of the half-shekel. Rabbi Yehuda said that ben Bukhri testified in Yavne:^b Any priest who contributes the half-shekel is not considered a sinner, despite the fact that he is not obligated to do so. Rabbi Yehuda added that Rabban Yoḥanan ben Zakkai said to ben Bukhri: Not so; rather, any priest who does not contribute the half-shekel is considered a sinner,^h as they are obligated like all other Jews.

However, Rabban Yoḥanan ben Zakkai continued, the priests who do not contribute interpret this verse to their own advantage: “And any every meal-offering of the priest shall be wholly made to smoke; it shall not be eaten” (Leviticus 6:16).

Those priests claim as follows: Since the *omer* offering and the two loaves, i.e., the public offering of two loaves from the new wheat brought on the festival of *Shavuot*, and the shewbread placed on the sacred table in the Sanctuary each Shabbat, which are all meal-offerings, are ours, then if we contribute shekels we will have partial ownership of these communal offerings, as they are purchased with the shekels. How, then, can they be eaten? They ought to be regarded as priests’ meal-offerings, which must be wholly burnt. But since these offerings are eaten, the priests concluded that they are not obligated to contribute the half-shekel. This argument does not, however, take into account the fact that communal offerings belong to the public, which is understood as its own entity, and are not regarded as shared offerings of all who contribute to the public purse.

GEMARA The mishna taught that the court does not seize collateral from minors for the half-shekel. The Gemara infers: This indicates that with regard to claiming the half-shekel from minors, the court does claim the money. The Gemara adds: This *halakha* that you say, i.e., that the court does not claim the money, applies to a young person who has grown two pubic hairs^b and therefore is legally an adult in other respects, but is not yet twenty years old. Before he is twenty he is obligated to donate the half-shekel only by rabbinic law, and for that the court does not seize collateral.

However, if he did not grow two hairs, the *halakha* does not apply to this case and he has no obligation at all to contribute a half-shekel. The Gemara continues: And as for seizing collateral, the court does not seize collateral from a minor, even if he grew two hairs, until the age of twenty.

The mishna taught that no collateral is taken from priests because of the ways of peace. The Gemara adds that this is how the *halakha* of this mishna is taught in a *baraita*: One may not seize collateral from priests because of the way of honor, i.e., priests must be treated with respect. This is also the meaning of the ways of peace mentioned in the mishna.

BACKGROUND

Yavne – יבנה: A town in Judea. After the destruction of the Second Temple, Yavne became an important Torah center and the seat of the Sanhedrin. Apparently, it had been a center of Torah study even before the Temple was destroyed, but it attained great prominence only afterward, when Rabban Yoḥanan ben Zakkai reestablished the Sanhedrin there. For a while it was the spiritual center of the entire Jewish population in Eretz Yisrael. The yeshiva there, initially headed by Rabban Yoḥanan ben Zakkai, and later by Rabban Gamliel II of Yavne, attracted many of the greatest Torah scholars of that era. It remained an

important center until the time of the bar Kokheva revolt. At Yavne many ordinances were enacted to restore Jewish religious and spiritual life after the destruction of the Temple.

Two hairs – שְׁתֵּי שְׁעֵרוֹת: Legal adulthood begins with the appearance of at least two pubic hairs after a boy turns thirteen and a girl turns twelve. Pubic hair can begin to grow earlier or later due to various genetic, nutritional, and climatic factors. The appearance of pubic hair earlier than expected is not a sign of puberty, but is called a mole by the Gemara.

This they shall give, twelve tribes shall give – יְהִי יְתֵנוּ שְׁנֵים עָשָׂר – שְׁבָטִים יִתְּנוּ: This is referring to the twelve tribes, whose names are inscribed on the breastplate, which includes the tribe of Levi, not the tribes listed at the beginning of the book of Numbers for the census. In that list Levi is omitted, while the sons of Joseph, Menashe, and Ephraim are counted as two tribes (Rash Sirilio).

HALAKHA

A communal sin-offering is not left to die – איִן חֲטָאת צְבוּר מֵתָה – If a communal sin-offering was lost and subsequently found after another animal was sacrificed in its place, it is left to graze until it develops a blemish. At that point the animal is sold, and the proceeds are allocated for the purchase of free-will offerings (Rambam *Sefer Avoda, Hilkhot Pesulei HaMukdashin* 4:1).

“אָמַר רַבִּי יְהוּדָה הַעִיד” כּו'. אָמַר רַבִּי בְּרֵכְיָה: טַעְמָא דְרַבִּין יוֹחָנָן בֶּן זַכַּאי, “זֶה יִתְּנוּ” – שְׁנֵים עָשָׂר שְׁבָטִים יִתְּנוּ.

The mishna further taught that **Rabbi Yehuda said** that ben Bukhri testified that any priest who contributes the half-shekel is not considered a sinner, to which Rabban Yoḥanan ben Zakkai retorted that any priest who does not contribute is a sinner. **Rabbi Berekhya said: Rabbi Yoḥanan ben Zakkai's source** is the following verse: “**This [zeh] they shall give**, everyone who passes among them that are numbered, half a shekel after the shekel of the Sanctuary...” (Exodus 30:13). The word *zeh* has a numerical value of twelve, from which it is derived: **Twelve tribes shall give**,^N including the tribe of Levi, of which the priests are members.

רַבִּי טַבִּי בְּשֵׁם רַב הַמְּנוּנָא, בֶּן מְשִׁיבִין חֲכָמִים לְרַבִּי יְהוּדָה: חֲטָאת יַחֲדֵי מֵתָה, אֵין חֲטָאת צְבוּר מֵתָה. מִנְחַת הַיַּחֲדֵי קָרִיבָה כָּלִיל, וְאֵין מִנְחַת הַצְּבוּר קָרִיבָה כָּלִיל.

Rabbi Tavi said in the name of Rav Hammuna that the Rabbis respond in this way to Rabbi Yehuda, who quoted Rabbi Yoḥanan ben Zakkai's criticism of ben Bukhri's opinion: The *halakha* is that **the sin-offering of an individual**, which for some reason cannot be sacrificed, must be left to die, by confining the animal in an enclosure and withholding food and drink from it. However, **a communal sin-offering is not left to die**^H (see *Temura* 16a). A similar distinction applies to meal-offerings: **The meal-offering of an individual may be entirely sacrificed** on the altar, e.g., when it belongs to a priest. **But a communal meal-offering**, i.e., the *omer*, the two loaves, and the shewbread, all of which come from the collection of shekels, **is not entirely sacrificed**, but is always eaten. If the priests are obligated to contribute the half-shekel, these meal-offerings will partly belong to them, and it is prohibited to eat the meal-offering of a priest.

וְקָשָׁיָא: מְשִׁיבִין לְאָדָם דְּבַר שְׂאִינוּ מוֹדָה בּוֹ? דְּתַנָּן: שְׂאִין חֲטָאת צְבוּר מֵתָה, רַבִּי יְהוּדָה אָמַר: תַּמּוּת.

The Gemara asks: **But this is difficult**. How could this question be presented against the opinion of Rabbi Yehuda? **Can one raise a difficulty against a person from a matter with which he does not agree? As we learned in a mishna (Yoma 62b) that a communal sin-offering is not left to die**, and yet **Rabbi Yehuda says: It is left to die**. According to Rabbi Yehuda there is no distinction between a communal sin-offering and an individual sin-offering in this regard. If so, there should likewise be no difference between communal and individual meal-offerings, and it should be possible to sacrifice the communal meal-offerings in their entirety.

וְהוּא מוֹתִיב לָן, זוֹ לֹא נִדְבַת יַחֲדֵי הֵיא? וְאֵינוֹן מְתִיבִין לֵיהּ: בֵּינָן שְׁנַמְסָרָה לְצְבוּר – בְּמִי שְׁהוּא נִדְבַת צְבוּר.

The Gemara adds: **And he**, Rabbi Yehuda, **responds to** the difficulty of the Rabbis against his opinion: **Isn't this half-shekel given by a priest an individual donation?** Since he is not obligated to donate the half-shekel, the contribution of a priest may be considered an individual donation, which separates it from the money of the rest of the community. For that reason, the communal offerings are not considered the property of the priests. **And the Rabbis respond to him that since the priest's half-shekel has been handed over to the community, it is considered part of the communal donation.**

כְּתִיב: “כָּל הָעוֹבֵר עַל הַפְּקוּדִים,” רַבִּי יְהוּדָה וְרַבִּי נְחֵמְיָה, חָד אָמַר: כָּל דְּעֵבֵר בֵּימָא יִתֵּן, וְחֲרָנָא אָמַר: כָּל דְּעֵבֵר עַל פִּיקוּדֵיִיא יִתֵּן.

The Gemara notes that there is another dispute of *tanna'im* along the same lines as this one. **It is written:** “This they shall give, everyone who passes among them that are numbered, half a shekel after the shekel of the Sanctuary” (Exodus 30:13). **Rabbi Yehuda and Rabbi Neḥemya** disputed the meaning of this verse. **One of them said** that the verse means that **all who passed through the Red Sea must give** a half-shekel, i.e., the entire Jewish people. **And the other said** that **all who passed before Moshe to be numbered must give** the donation, whereas those who were not counted with the rest of the Jewish people, i.e., priests and Levites, need not provide a half-shekel.

מֵאן דְּאָמַר כָּל דְּעֵבֵר בֵּימָא יִתֵּן – מְסִייעַ לְרַבִּין יוֹחָנָן בֶּן זַכַּאי, מֵאן דְּאָמַר כָּל דְּעֵבֵר עַל פִּיקוּדֵיִיא יִתֵּן – מְסִייעַ לְבֶן בּוּכְרִי.

The Gemara comments: **The one who said that all who passed through the Red Sea must give a half-shekel supports** the opinion of **Rabbi Yoḥanan ben Zakkai**, who maintains that the priests must also contribute, whereas **the one who said that all who passed to be numbered must give the donation supports** the opinion of **ben Bukhri**.

Samaritans [*Kutim*] – בְּתִימִים: The name *Kutim* refers to the members of the nations, only some of whom were actually from Kuta, who were brought to Eretz Yisrael by the Assyrian kings to replace the Jews exiled from there. These gentiles settled in Samaria and are therefore also known as Samaritans. It is related in II Kings 17 that they accepted upon themselves some of the strictures of Judaism out of fear of lions that were attacking them. For this reason they are sometimes dubbed lion converts. Apparently, they also did not entirely abandon idolatry.

At the beginning of the Second Temple era, when the Jews returned from Babylonia, relations with the Samaritans and their allies deteriorated. The Samaritans attempted to prevent and undermine the construction of the Temple and the wall of Jerusalem by a host of means, including informing on the Jews to the Persian government and even taking military action. During this period there was also assimilation and intermarriage between Jews and Samaritans. Over time, attitudes toward the Samaritans fluctuated: There were times when deep feelings of hatred separated Samaritans and Jews. Yohanan Hyrcanus even waged war against Samaria and destroyed their temple on Mount Gerizim. At other times there was some measure of cooperation between the two communities, such as during the bar Kokheva revolt.

The Sages initially disagreed concerning the halakhic status of the Samaritans and the validity of their conversion. Ultimately, the opinion prevailed that Samaritans are legally gentiles, especially after it was discovered that they persisted in various idolatrous practices, which was partly due to Greek and Roman influences. In the last several hundred years different opinions have been voiced with regard to the status of contemporary Samaritans.



Mount Gerizim

HALAKHA

A gentile or a Samaritan who contributed, they do not accept it from them – הַנְּכָרִי וְהַבְּתִי שֶׁשָּׁקְלוֹ אֵין מִקְבְּלִין מֵהֶן – The half-shekel is not accepted from gentiles (Rambam *Sefer Zemanim, Hilkhot Shekalim* 1:7).

Anything that can be a vow or a free-will offering, they accept it from them – כָּל שְׁנֵי דָר וְנִדְבָר מִקְבְּלִין מֵהֶן: Only burnt-offerings that are vows or free-will offerings are accepted from gentiles. These include both animal and bird offerings (see *Hullin* 13b; *Menaḥot* 73b). If the burnt-offering is neither a vow nor a free-will offering, like the burnt-offering of a woman who gave birth, it is not accepted from a gentile. Likewise, peace-offerings, meal-offerings, sin-offerings, and guilt-offerings are not accepted from them. This *halakha* applies even to gentiles who worship idols (Rambam *Sefer Avoda, Hilkhot Ma'aseh HaKorbanot* 3:2).

הַלְבָּה דַּ מַּתְנִי אֵף עַל פִּי שְׁאִמְרוּ
אֵין מִמְשַׁבְּנִין נְשִׁים וְעַבְדִּים וְקִטְנִים,
אֲבָל אִם שֶׁקְלוֹ מִקְבְּלִין מֵהֶן. הַנְּכָרִי
וְהַבְּתִי שֶׁשָּׁקְלוֹ – אֵין מִקְבְּלִין מֵהֶן.
וְאֵין מִקְבְּלִין מֵיָדָם קִנְי וְבִין קִנְי וְבוֹת
וְקִנְי יוֹלְדוֹת, וְחַטָּאוֹת וְאַשְׁמוֹת.

וְהַהֲלָל: כָּל שְׁנֵי דָר וְנִדְבָר – מִקְבְּלִין
מֵהֶן, כָּל שְׁאִינוֹ נִדְבָר וְנִדְבָר – אֵין
מִקְבְּלִין מֵהֶן. וְכֵן מִפּוֹרֶשׁ עַל יְדֵי
עוֹרָא שְׁנַאמְרַ "לֹא לָכֶם וְלָנוּ לְבָנוֹת
בֵּית לְאֱלֹהֵינוּ."

HALAKHA 4 • MISHNA Although the Sages said, as stated in the previous mishna, that the court **does not seize collateral from women, slaves, and minors**, as they are not obligated to contribute, **however, if they contributed a shekel of their own accord, the Temple treasurers accept from them.**^N Conversely, in the case of a gentile^N or a Samaritan [*Kuti*]^{BN} who contributed a shekel to participate in the communal offerings, **they do not accept it from them.**^H And likewise, **they do not accept from a gentile or a Samaritan pairs of birds sacrificed in the purification ritual of a *zav*,^N pairs of birds of a *zava*, or pairs of birds of a woman who gave birth, all of which are brought for ritual purification, or sin-offerings or guilt-offerings.**

This is the principle: With regard to anything that can be brought to the altar as a vow or as a free-will offering, the priests accept it from gentiles and Samaritans,^H and with regard to anything that cannot be brought as a vow or as a free-will offering, they may not accept it from them. And this principle was similarly articulated by Ezra, when he recorded the Jewish leadership's rejection of the Samaritans' request to assist the Jews in the construction of the Second Temple, as it is stated: "But Zerubbabel, and Joshua, and the rest of the heads of fathers' houses of Israel, said unto them: **You have nothing to do with us to build a house unto our God; but we ourselves together will build unto the Lord the God of Israel, as King Cyrus the king of Persia has commanded us**" (Ezra 4:3).

NOTES

And minors, if they contributed they accept from them – וְקִטְנִים... אִם שֶׁקְלוֹ מִקְבְּלִין מֵהֶן: There is a difficulty here, as a minor cannot transfer property by Torah law, and therefore he cannot bestow a gift. Consequently, his shekel does not become part of the public treasury from which communal offerings are purchased. An offering bought with his shekel does therefore not fully belong to the public. Later commentaries resolve this problem by claiming that since the Sages decreed that he can give the half-shekel, the coin of a minor subsequently belongs to the public by Torah law, as the transfer is valid by fiat, given the courts' power to declare property ownerless (*Ketzoṯ HaHoshen* 235, cited by *Tosefot Rabbi Akiva Eiger*; see *Netivot HaMishpat*, who rejects this explanation). Others state that the half-shekels are not transferred to the public in the form of a gift, but as consecrated money for the requirements of the community. Since this is presumably an instance of a minor old enough for his vows to be binding (see *Nidda* 46b), his consecration is likewise binding (Rabbi Yitzhak Ze'ev Soloveitchik, *Menaḥot* 21b).

Gentile – נְכָרִי: Certain offerings can be brought to the Temple by a gentile. There is a dispute as to whether this is limited to burnt-offerings or includes peace-offerings as well (see *Menaḥot* 73b). However, this applies only to individual, not communal offerings, from which the Torah excludes gentiles (see *Torat Kohanim, Leviticus* 22:25). Consequently, the half-shekel is not accepted from gentiles, as it is used for the purchase of communal offerings.

Or a Samaritan [*Kuti*] – וְהַבְּתִי: When King Shalmaneser of Assyria exiled the ten tribes of Israel, he and his successors brought Kutites from Kuta and resettled them in Samaria. These Kutites converted due to the threat of lions that were attacking

them. Yet they both "feared the Lord and served their graven images" (II Kings 17:41). The Sages of the Mishna disputed whether they were sincere converts or whether they should not be considered full-fledged Jews but rather so-called lion converts (see *Kiddushin* 75b).

According to the opinion that they did not properly convert, Samaritans had the status of gentiles, and the verse that excludes gentiles applies to them as well. According to those who maintain that Samaritans were full-fledged Jews, they were excluded from contributing shekels by Ezra's decree that Samaritans should have no share in the construction of the Temple, and consequently the leftover shekels were partly used for maintaining the Temple. See mishna on *daf 5a* (*Penei Moshhe*).

And they do not accept from them pairs for a *zav*, etc. – וְאֵין מִקְבְּלִין מֵהֶן קִנְי וְבִין וְכוּ: A *zav*, a *zava*, and a woman who gave birth are obligated to bring an offering for the completion of their ritual purification. The *zav* and *zava* bring a pair of birds, either two turtledoves or two young pigeons, one for a sin-offering and the other for a burnt-offering. As for a woman who gave birth, if she is wealthy she brings a lamb for a sin-offering and a bird for a burnt-offering, and if she is poor she brings a pair of birds, either turtledoves or young pigeons, for a sin-offering and a burnt-offering.

The Gemara explains further on (4a) that it is only with regard to a Samaritan that the mishna needs to explicitly exclude their offerings for a *zav*, *zava*, and woman who gave birth. Since Samaritans kept some of the mitzvot, including the *halakhot* pertaining to these three statuses, it might have been thought that those offerings are accepted from them. In the case of gentiles, the *halakhot* of a *zav*, a *zava*, and a woman who gave birth are irrelevant to them and therefore there is no need to mention that they cannot sacrifice those offerings.