

## CHAPTER XI.

## THE TALMUDIC BOOKLET, MASSEKET KUTIM.

At the end of the IVth Seder, or Series, of the Babylonian Talmud, along with a number of extra-Talmudical tractates, are found the "Seven Jerusalemite Booklets," the sixth of which is entitled *Masseket Kutim*, i. e., *De Samaritanis*. The classic edition of these seven tractates is that of Raphael Kirchheim, *Septem libri Talmudici Hierosolymitani*, Frankfurt, 1851 (in Hebrew), edited from the MS. of Eliakim Carmoly, and provided with a sagacious commentary.<sup>1</sup> The sixth tractate is an interesting collection of dicta, some of which are found in the Talmudic literature, some of which are independent Boraitas, and some Talmudic opinions referring to the Gentiles, but now applied to the Samaritans.

The translation herewith appended is intended to afford an easy oversight of the strata of the treatise. In plain type are given such dicta as are not found in the Talmudic literature. Small capitals indicate identity with Talmudic passages; this type is used also where the exact wording of the source does not appear. In italics are given those Talmudic dicta which in their original meaning referred to the Gentiles alone; most of these come from *Aboda Zara*.

This critical discrimination offers an insight into the process of the Jewish legislation concerning the Samaritans. Most of the independent Halakot are favorable to them, e.g.

<sup>1</sup> An excellent English translation, with some notes, is given in Nutt, *Samaritan Targum*, p. 168. In general, see Hamburger, *REJud.* Supplementband, 95; Strack, *RE* xviii, 328, and *Einleitung in den Talmud*, 1900, p. 46; Schürer, *GVV* i, 137.

Nos. 1, 5, 8, 28, and so may be presumed to be discarded Boraitas. On the other hand, the Halakot which have been bodily applied to the Samaritans from the law concerning the Gentiles, testify to the later practical identification of the two classes.

The supplementary notes are to be credited almost entirely to the full apparatus of Kirchheim. Where he corrects the received text, I have indicated such corrections with quotation marks. I have further carefully digested the Halakot with the material given in the preceding Chapter. The numbering of the Halakot is my own.

## MASSEKET KUTIM.

## SECTION I.

1. The usages of the Samaritans are in part like those of the Gentiles, in part like those of Israel, but mostly like Israel.
2. WE DO NOT ACCEPT FROM THEM THE BIRD-OFFERINGS OF MEN OR WOMEN HAVING ISSUES, NOR THE BIRD-OFFERINGS OF WOMEN AFTER CHILD-BIRTH, NOR SIN-OFFERINGS OR GUILT-OFFERINGS. BUT WE ACCEPT FROM THEM "VOWS AND FREEWILL-OFFERINGS."  
*Shek.* i, 5. The quoted words are restored from the Mishna. See above, p. 182. Cf. *Lev.* 12; 15.
3. *We do not give them possession of immovable property, we do not sell them sheep for shearing, or crops that are to be harvested, or standing timber; but we may sell them "cattle" for slaughter.*  
The first clause is from the Mishna, *Ab. Z.* i, 7, those following are the gist of the discussion in the Gemara, *zob.* See above, p. 184.
4. *We do not sell them large cattle, even if they are maimed, nor ass-foals, nor calves; but we may*

sell them that which is maimed so it cannot be healed.

*Ab. Z. i, 5.* This Mishna is directed against the unnatural crimes charged to the Gentiles, of which the discussion in the Gemara, 15b, fully acquits the Samaritans. The transference of this prohibition to the Samaritans is contradicted in 15b, where it is forbidden to sell only a maimed beast to the Samaritans.

5. WE DO NOT SELL THEM WEAPONS, NOR ANYTHING THAT CAN DO DAMAGE TO PEOPLE.  
*Ab. Z. i, 5,* applied in 15b to the Samaritans because they might sell to the Gentiles. The same rule includes all Jews who might make misuse of weapons. See above, p. 174.
6. We do not give them wives, NOR DO WE TAKE WIVES FROM THEM.  
*Kidd. 75a.* See above, p. 179.
7. But we (do not?) lend or borrow on usury with them.  
The text places the Samaritans on the same footing with Gentiles. But Kirchheim, following Geiger, argues that "not" should be inserted, referring to the exception made against the Samaritans of Caesarea, with whom, because of their perversion, the laws of usury obtained; *Ab. Z. Jer. 44d. N. B.* the adversative "but." See above, p. 174.
8. We give them the gleanings and the forgotten sheaf and the corner of the field; and they have the custom of the forgotten sheaf and the corner, and so may be relied upon concerning the gleanings and the forgotten sheaf and the corner in the proper time, and also concerning the tithe for the poor in its year.  
Cf. *Lev. 23, 22: Dt. 24, 19: 26, 12.* The "reliability" of the Samaritans was of importance, because the gleanings were not tithable. Hence *Tosefta Pea, 4, 1,* has it: "The poor of the Samaritans are like the poor of Israel."
9. But their produce is forbidden as untithed, as in the case of the Gentiles.  
For the contradiction of this dictum with *Tos. Demai, 3, 3,* see above, p. 183.
10. They invalidate the Erub even as the Gentiles.  
See above, pp. 170, 187.

11. A Jewess may not deliver a Samaritaness, nor suckle her son; but a Samaritaness may deliver a Jewess and suckle her son in her [the Jewish woman's] quarters.  
*Ab. Z. ii, 2.* As Kirchheim's note shows, the application of this prohibition to the Samaritans brings the Jewish commentators much trouble, because not only was private intercourse with the Samaritans allowed, but also *Tos. Ab. Z. 3, 1,* contains just the opposite dictum. See above, p. 174.
12. AN ISRAELITE MAY CIRCUMCISE A SAMARITAN, AND A SAMARITAN AN ISRAELITE. R. JUDA SAYS: A SAMARITAN IS NOT TO CIRCUMCISE AN ISRAELITE BECAUSE HE CIRCUMCISES HIM IN NOTHING ELSE THAN THE NAME OF MOUNT GERIZIM.  
*Ab. Z. 26b-27a.* For this vexed question see above, pp. 170, 191.
13. WE MAY LODGE A BEAST IN A SAMARITAN INN, OR HIRE A SAMARITAN TO GO BEHIND OUR CATTLE, OR HAND OVER OUR CATTLE TO A SAMARITAN HERDSMAN. WE COMMIT A BOY TO A SAMARITAN TO TEACH HIM A TRADE. WE ASSOCIATE and converse WITH THEM ANYWHERE, which is not the case with the Gentiles.  
*Ab. Z. 15b.* See above, p. 174. Kirchheim approves a suggestion that for *mesapperim*, "converse," "*mishtapperim*," "have one's hair cut," should be read, comparing *Ab. Z. Jer. 7b*: "An Israelite who has his hair cut by a Gentile must look in a mirror, but if by a Samaritan he need not look into a mirror." The innuendo of the precaution is to the effect that the barber may cut his throat!
14. A Samaritan suffers the Chalisa from his sister-in-law, and gives a divorce-writ to his wife. He may be relied upon to bring a divorce-writ from a foreign city to an Israelite.  
See above, pp. 173, 185.
15. These are the things we may not sell them: carcasses not ritually slaughtered, or animals with organic dis-

ease; unclean animals and reptiles; the abortion of an animal; oil into which a mouse has fallen; an animal that is mortally ill, "or a foetus," although Israelites eat them both, lest the sale lead them into error. And as we do not sell these things to them, so we do not buy them from them, as it is written [Dt. 14, 21]: For thou shalt be a holy people to the Lord thy God. As thou art holy, thou shalt not make another people holier than thyself.

Kirchheim reads for the unintelligible *shemen* שֶׁמֶן, *shemen shel seripha*, i. e., the (holy) illuminating oil, which if defiled could be used by the Jews (*Teruma*, xi, 10), though apparently not by the Samaritans. For the principle at the end, cf. *Pesachim*, 50b-51a: "As for things which are allowed but which are prohibited by others, thou mayest not permit them in the presence of such people." In this passage the Samaritans are adduced as an example, the reason given for their scrupulosity being that "they confound one thing with another"; see the correct reading in Jastrow, *Dictionary*, 1028a.

16. A SAMARITAN MAY BE RELIED UPON TO SAY WHETHER OR NOT THERE IS A TOMB [in a field], OR WHETHER AN ANIMAL HAS HAD ITS FIRSTBORN OR NOT. THE SAMARITAN IS TO BE RELIED UPON CONCERNING A TREE whether it is four years old or is still unclean, and CONCERNING GRAVESTONES, BUT NOT WITH REGARD TO THE CLEANLINESS OF OVERHANGING BOUGHS OR PROTRUDING BOUGHS; nor concerning the land of Gentiles, NOR CONCERNING THE BET-PERAS, BECAUSE THEY ARE OPEN TO SUSPICION IN ALL THESE THINGS. THIS IS THE PRINCIPLE: THEY ARE NOT TO BE BELIEVED IN ANY MATTER IN WHICH THEY ARE OPEN TO SUSPICION.

See *Nidda*, vii, 4, and the Gemara following, 57a. For the uncircumcised tree, cf. *Lev.* 19, 23. "Overhanging boughs," etc., make precincts that can harbor uncleanness. Bet-peras is an area of land rendered unclean by the presence of bones.

## SECTION II.

17. WE DO NOT BUY MEAT FROM A SAMARITAN EXCEPT THAT OF WHICH HE HIMSELF EATS, NOR STRINGS OF BIRDS UNLESS HE FIRST PUTS THEM INTO HIS MOUTH. We do not buy offhand what he would give to Israelites, for they have been suspected of giving Israelites flesh of ritually unclean carcasses. *Chol.* 3b seq. See above, p. 172.
18. The Samaritan is on the same footing with the Israelite in respect to all damages laid down in the law. THE ISRAELITE WHO SLAYS A SAMARITAN, OR A SAMARITAN WHO SLAYS AN ISRAELITE, IF UNINTENTIONALLY, IS TO GO INTO EXILE [i. e., to a city of refuge]; IF INTENTIONALLY, HE IS TO BE SLAIN. *Makkot*, ii, 4, reads: "Everyone is to go to a city of refuge for slaying an Israelite, and an Israelite is to go to a city of refuge for slaying anyone. The alien resident (*Ger-toshab*) is excepted; he does not go to a city of refuge except for slaying an alien resident." A following Boraitha, 8b, has it that "a slave or a Gentile goes to a city of refuge or receives lashes on account of an Israelite, and an Israelite the same on account of a Gentile or slave." But with Kirchheim, for "Gentile" in this Boraitha should be read "Samaritan," inasmuch as the Mishna and its Gemara treat the Gentile separately under the head of the *Ger-toshab*.
19. IF THE OX OF AN ISRAELITE GORE THE OX OF A SAMARITAN, IT GOES FREE. BUT IN THE CASE OF THE OX OF A SAMARITAN, IF IT IS ITS FIRST OFFENCE, IT IS TO PAY HALF THE DAMAGE; IF A SUBSEQUENT OFFENCE, THE FULL DAMAGE. R. MEIR SAYS: THE OX OF A SAMARITAN WHICH GORES THE OX OF AN ISRAELITE, WHETHER IT BE THE FIRST OFFENCE OR THE SECOND, IS TO PAY THE FULL DAMAGE AND AT THE HIGHEST APPRAISEMENT. *B. Kamma*, 38b; see above, p. 175.

20. Their cheeses are allowed. R. Simon b. Eleazar says: To wit, the cheeses of householders, but those of dealers are forbidden.  
For "dealers" Kirchheim would read, on the strength of his MS, "villagers," *kepharim*.
21. THEIR POTS AND PRESSES IN WHICH THEY ARE ACCUSED TO MAKE WINE AND VINEGAR ARE FORBIDDEN.  
This law applies to the Gentiles in *Ab. Z.* ii, 6. But *Ab. Z. Jer.* 44d, expands it so as to include the Samaritans: "The cooked foods of the Samaritans are allowed. This law he (R. Eleazar) announced concerning a food which they do not prepare with wine or vinegar."
22. The priests of Israel may share the priestly dues with the Samaritan priests in the territory of the latter, because they are thus, as it were, rescuing the Samaritans from their priests; but not on Israelite territory, lest they should have a presumption on our priesthood.  
See above, p. 183.
23. If a Samaritan priest, when he is unclean, eats and gives of his food to an Israelite, it is permitted; if he is clean, the Israelite is forbidden to eat of his food.  
See above, p. 184.
24. WE DO NOT BUY "BREAD" FROM A SAMARITAN BAKER AT THE END OF THE PASSOVER UNTIL AFTER THREE BAKINGS, NOR FROM HOUSEHOLDERS UNTIL AFTER THREE SABBATHS, NOR FROM VILLAGERS UNTIL AFTER THREE MAKINGS. When does this apply? When they have not celebrated the Feast of Unleaven at the same time with Israel, or have anticipated it by a day; but if they celebrate the feast with Israel, or are a day later, their leaven is permitted. R. Simon forbids it [in general], because they do not know how to observe the feast like Israel.  
Kirchheim compares *Tos. Pesach.* 2, and *Orla Jer. sub.*, ii, 6,

which, with other variations, read "leaven." For the Samaritan observance of the laws of leaven, see above, p. 171. Observe that the restrictions announced here against Samaritan leaven are dependent upon the variation of the Samaritan calendar from the Jewish.

25. FORMERLY THEY SAID: THE WINE OF KADOR IS FORBIDDEN BECAUSE OF [the proximity of] KEPHAR PANSHA. THIS THEY CHANGED TO THE EFFECT THAT WHEREVER THE PEOPLE ARE SUSPECTED OF MINGLING WITH THE GENTILES, WINE THAT IS OPEN IS FORBIDDEN, THAT WHICH IS SEALED IS ALLOWED. R. Meir said: All their wine is allowed except that which is open, if it is in the market. BUT THE WISE MEN SAID: THAT WHICH IS OPEN IN ANY PLACE IS PROHIBITED, THAT WHICH IS SEALED IS ALLOWED; THAT WHICH IS BORED INTO AND THEN SEALED IS AS THOUGH SEALED.  
*Ab. Z.* 31b; *Ab Zar. Jer.* 44d. (For the places see Chapter VIII, § 1.) The opinion of R. Meir is in contradiction of that assigned to him in *Chol.* 6a. See for the general subject and the ambiguity of Meir's position, p. 190.
26. *Their jars if new are permitted, if old are prohibited.*  
*Ab. Z.* ii, 4; 33a.
27. Why are the Samaritans forbidden to marry into Israel? Because they are mingled with the priests of the high places. R. Ishmael said: They were genuine converts at first. WHEREFORE WERE THEY FORBIDDEN? BECAUSE OF THEIR BASTARDS, AND BECAUSE THEY DO NOT MARRY THE BROTHER'S WIDOW.  
*Kidd.* 75b, where Ishmael appears only with the opinion that the Samaritans are lion-converts. See above, p. 176.
28. When shall we take them back? When they renounce Mount Gerizim, and confess Jerusalem and the resurrection of the dead. From this time forth he that robs a Samaritan shall be as he who robs an Israelite. For the Jewish condemnation of Samaritan eschatology, see above, p. 186.