The first part of this study centers on two passages from Sifre Bemidbar which address the adulteress and the range of her possible fates according to the halakha: execution, ordeal or divorce. The second part integrates the conclusions within the broader picture, with elucidation of some of the other basic texts.

Sifre 7 seems to assign an adulteress who should be subject to the death penalty to mandatory divorce instead. She indeed may be relieved, but traditional scholars dealing with this passage have been perplexed. Some solve the crux through emendation, and others through ingenious reinterpretation. Academic scholars have also tried their hand. Here we review the proposals of Chanoch Albeck, Jacob Neusner, Yehuda Youngster, Ishay Rosen-Zvi, and that of Vered Noam, whose study on the issue at hand is the most extensive. Noam postulates that the position under discussion conforms to the opinion of Bet Shammai versus Bet Hillel, and that this clause is a remnant of Bet Shammai’s teachings.

The problematic textual issue involves the lack of the negative particle לא. Even though current talmudic philology rightfully distains emendation, there are situations where it is justified, such as in a text for which only one exemplar has survived, and contains a suspected corruption whose occurrence can be explained through the usual canons of textual criticism, such as homoioteleuton or others. The very universality of the problematic reading among the surviving texts suggests that all witnesses of Sifre Bemidbar are descendent from a single exemplar, itself already removed from the original text. Menahem Kahana, investigator par example of Sifre

* It is a privilege and a pleasure to participate in this festschrift honoring my esteemed colleague, Professor Yaakov Elman. Aspects of this study are supplemented in my edition of bGit 9, to appear in the series Talmud Ha-Igud, by the Society for the Interpretation of the Talmud.
Bemidbar, has determined that this indeed is the nature of all surviving witnesses to this work, lending much strength to our reconstruction, which, when taken into consideration, enables us to sort out the wages of adultery.

We open our study with a short review of the laws from the ancient Near East regarding adultery, the “great sin.”

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The social reality in the ancient Near East and its reflection in legal tradition present a polygamous society in which the prohibition of a wife’s sexual contact with any male other than her husband was a basic norm. This situation engenders a wide range of suspicions or accusations that may befall a married woman’s lot. This can be documented from the ancient Near Eastern law codes.

If a man’s wife is surprised (in flagrante delicto) with another man, both shall be tied and thrown into the water, but the husband may pardon his wife and the king his slaves. (Hammurabi §129)

If the “finger is pointed” at a man’s wife about another man, but she is not caught sleeping with the other man, she shall jump into the river for her husband. (Hammurabi, §132)

If a woman quarrels with her husband, and says: “You are not congenial to me, the reasons for her prejudice must be presented. . . . If she is not innocent, but leaves her husband, and ruins her house, neglecting her husband, this woman shall be cast into the water. (Hammurabi, §142–43)

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2 “The guilty pair are caught in flagrante delicto together, and it appears that in Babylonia and Assyria as elsewhere in the East adultery can be proved only by ocular testimony of the commission of the offence” G.R. Driver and J.C. Miles, The Babylonian Laws 1 (Oxford: Claredon Press, 1952), 281. For the range of the Talmudic requirement of ocular testimony cf. bMak 7a (“Both Abaye and Raba said that the witnesses are to be asked whether they had seen the actual penetration as a painting stick is inserted in the tube . . . Samuel said that being caught in the posture of adulterers is sufficient”).
3 The binding together, “It would have been in keeping with the doctrine of talion if they were sent to their death in a last compulsory embrace” Driver and Miles, The Babylonian Laws, 1281. In a Sumerian document: “To the body of the man on the bed he tied her (and) carried her to the assembly” S. Greengus, “A Textbook Case of Adultery in Ancient Mesopotamia”, HUCA 40–41 (1969–70): 35. See also Num. 25:8, Sifre Bemidbar 131 relates that Phinehas hoisted them in flagrante delicto on his lance and thus presented them to the assembly.
4 “…the permansive ‘he’ or ‘she is (given to) going out’ (Bab. wasi or wasiat) in §§ 142–3, which implies that the parties are in the habit of going out from their house for improper