Mishnah Bava Kamma, chapter 7

(1) There is more frequent occasion for the measure of double payment [kefel] to be applied for theft, in accordance with Exodus 22:3] than the measure of fourfold or fivefold payments [for the slaughtering (or selling) of a sheep or ox respectively], since the measure of double payment applies both to something live and something inanimate, whereas the measure of fourfold and fivefold payments [for the slaughtering (or selling) of a sheep or ox respectively] applies only to an ox and a sheep [respectively], as it says, “If a man steals an ox or a sheep and then slaughters it or sells it, then he must pay five cattle animals to replace [each] ox and four flock animals to replace [each] sheep. (Exodus 21:37) One who steals articles already [stolen] in the hands of a thief need not make double payment [since regarding kefel the verse states “And the item is stolen from that man’s house — if the thief is caught, then he must pay double.” (Exodus 22:6) The Sages deduced, only if stolen from that man’s house but not if stolen from the house of the thief], and so too, one who slaughters or sells [the animal] while in the possession of [another] thief need not make fourfold or fivefold restitution [since the fine of fivefold includes the double payment for the theft, which, in this case, he cannot be fined, as stated above, and we don’t find a fine of threefold].

(2) If a thief is convicted of the theft [of a sheep or an ox] based on the evidence of two [witnesses], and of the slaughter or sale [of it] by the same two, or based on the evidence of another two witnesses, he has to make fourfold or fivefold payment [respectively]. If he steals and sells on the Sabbath [for though it is prohibited to do business transactions on the Sabbath, no capital charge is
thereby involved, and civil liability could thus be established; however, if he slaughtered on the Sabbath, for which there would be a capital charge, and where there is a capital charge there is no monetary liability]; or if he steals and sells for idolatrous purposes [but does not worship]; or if he steals and slaughters on the Day of Atonement [as for desecrating the Day of Atonement — no capital charge is involved, the sole punishment is karet by Divine punishment, or thirty-nine lashes by the Courts (see Makkot 3:15) and though one who receives lashes does not pay, here we are referring to a case where he was not properly warned and thus is exempt from lashes]; or if he steals from his own father, and after he had slaughtered or sold his father died [and the thief became heir to the estate]; or if he steals and slaughters and then consecrates it, he has to make fourfold or fivefold restitution [for the slaughter which preceded his father’s death or the consecration, in the first case, he divides the payment as he would the estate]. If he steals and slaughters to use the meat for medicinal purposes or to give to dogs; or if he slaughters and finds the animal treifah [i.e., ritually unfit to be eaten due to a life-threatening disease or defect in the animal]; or if he slaughters it as unconsecrated in the azaarah [the precincts of the Temple Courtyard where only sacrificial animals might be slaughtered, thereby resulting that the meat becomes prohibited; still, even though in the latter two cases, the slaughtering did not permit the meat to be eaten], he has to make fourfold or fivefold restitution [as the ritual unfitness of the animal, in the last two cases, is not due to defect in the act of slaughter but arises through other circumstances]. Rabbi Shimon, however, rules that there is exemption in these [last] two cases [of fourfold or fivefold payment, for it his view that improper slaughter is not considered legally to be slaughter].

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(3) If a thief [is convicted of the theft of an ox] based on the evidence of two witnesses, and of the slaughter or sale of it based on the evidence of the same two, and these witnesses are later proved zomemim [i.e., plotting witnesses, proven by the subsequent evidence of two other witnesses to have been absent from the location of the offense at the alleged time of occurrence], they must pay [the accused] in full [i.e., five times the value of the alleged theft, as is the rule of plotting witnesses, that they pay what they plotted to do to their victim (see Deuteronomy 19:19)]. If, however, the theft [has been established] by the evidence of one pair of witnesses, and the slaughter or sale by that of another pair, and both pairs are proved zomemim, the first pair makes [to the accused] double payment [representing the kefel which the intended victim would have had to pay through them for the alleged theft] and the second pair, threefold payment [i.e., the difference between the double and the fivefold payment intended by the witnesses to have been inflicted on the intended victim]. If [only] the second pair were proved zomemim, the thief makes double payment [as the evidence regarding the theft still holds good], whereas they pay [him] threefold [i.e., the difference between the double and the fivefold restitution intended by them to have been inflicted on the accused thief]. Should one of the second pair of witnesses be proved zomem, the testimony of the second pair becomes null and void (see Makkot 1:7). Should one of the first pair of witnesses be proved zomem, the entire testimony [of both pairs] becomes null and void, for...
if there was no theft there could be no [illegal] slaughter or sale [for the fine of fivefold includes the double payment for the theft, so that when the initial theft could not be established, as in the case here, no fine could be imposed for the slaughter or sale].

(4) If the theft [of an ox or a sheep] was testified to by two witnesses [see Deuteronomy 19:15, “One witness will not rise up against a man for any iniquity”], whereas the [subsequent] slaughter or sale of it was testified to by only one witness, or by the thief himself, he would have to make double payment [for the act of stealing testified to by two witnesses] but would not have to make fourfold and fivefold payments [as the act of the slaughter or sale was testified to by one witness, who, in matters of fine, is of no consequence at all, even for the purpose of imposing an oath. So, too, the admission of the thief himself, is of no consequence, regarding matters of fine]. If he stole and slaughtered it on the Sabbath [being a capital offense, all possible punishments and liabilities are merged and the offender is only liable the most severe penalty, which is the death penalty], or if he stole it and slaughtered it for the service of idols [being a capital offense in which all possible punishments and liabilities are merged], or if he stole it from his own father, who subsequently died and the thief then slaughtered it or sold it [so that at the time of the slaughter or sale, the thief as a joint heir, was also a joint owner of the animal], or if he stole it and consecrated it [to the Temple, and Temple property is not subject to the law of the fine], and afterwards, he slaughtered it or sold it, he would have to make double payment, but would not have to make fourfold and fivefold payments. Rabbi Shimon, however, says: In the case of consecrated...
cattle [where one said "it is incumbent upon me to bring a sacrifice], the loss of which the owner has to make good, the thief has to make fourfold or fivefold payment [Rabbi Shimon does not argue with the first opinion in this Mishnah, but rather with another ruling by the Sages, that a person who steals a dedicated animal from the house of the owner is exempt from four and fivefold payments, as is deduced above (see Mishnah 1), only if stolen from that man's house but not if stolen from the house of the thief or of hekdesh; however, where he is ultimately responsible for the animal, Rabbi Shimon maintains that this would fall under the category of that man's house, but in those cases [where he pointed to an animal and said "let this animal be a sacrifice] the loss of which the owner does not have to make good, the thief is exempt [for it is only then that we may consider the animal as not having been stolen from “that man's house,” since he is not responsible, if it gets lost or stolen].

(5) If he sold [the stolen sheep or ox] with the exception of one hundredth part of it [in which case the sale did not extend to the whole animal], or if he had some partnership in it [before he stole it, in which case the entire act of the sale was not unlawful], or if he had slaughtered it and it became neveilah under his hand [i.e., he didn't slaughter it properly], or if he stabbed it or tore loose [the windpipe and gullet before cutting, thus rendering the animal neveilah], he would have to make double payment [for the act of theft] but would not have to make...
fourfold and fivefold payments [since these are not considered sold or in the latter cases, slaughtered properly]. If he stole [a sheep or an ox standing] in the premises of the owners and [then removed it from the premises, thereby halachically taking criminal possession of the animal, and] slaughtered it or sold it outside their premises; or if he stole it outside their premises [the animal was standing on the road and he took criminal possession by meshikah — pulling the animal] and slaughtered it or sold it on their premises; or if he stole it and slaughtered it or sold it outside their premises [and took criminal possession of the animal], he would have to make fourfold or fivefold payment. But if he stole it and slaughtered it or sold it in their premises, [without ever taking criminal possession] he would be exempt [since the theft was never completed; however, he would be responsible for damages].

(6) If, as he was pulling it out, it died while still in the premises of the owners, he would be exempt [of kefel, since he never took criminal possession, the theft has never been completed], but if it died after he has lifted it up [he would be liable, since possession is transferred by lifting up even while in the premises of the owners; see Kiddushin 25b], or after he had already taken it out of the premises of the owners [possession is not transferred by the act of pulling unless the animal has already left the premises of the owners], he would be liable [for as soon as the animal came into the criminal possession of the thief, the theft became complete]. So, too, if he gave it to a Kohen for the redemption of his firstborn son [i.e., he told the Kohen: Go to the field and take my animal in lieu of the five shekel I owe you; see Numbers 18:16, and it was not his animal] or to a creditor, or [he says] to an unpaid guardian [go take my animal and guard her], or [he says it] to a borrower, or to a paid guardian, or to one hiring [pay me and you may hire and take her, and it turns out that the animal was not his],
and as he [the Kohen or creditor or guardian etc.] was pulling it out it died, while still in the premises of the owners, he would be exempt; but if it died after he [the Kohen or creditor or guardian etc.] had lifted it up or already taken it out of the premises of the owners, he [the thief] would be liable (see Rashi 79b).

(7) It is not right to breed small cattle [sheep and goats, as these destroy the crops of the field] in Eretz Yisrael [where the produce of the fields was of public concern]. They may, however, be bred in Surya [those areas captured by King David in a manner where they did not assume the holiness of Eretz Yisrael and these areas are not of public concern. However, if he damaged someone's field he has to pay for it] or in the deserts [which are far from the fields] of Eretz Yisrael. It is not right to breed hens [as these usually peck in garbage heaps and may expose impurities] in Jerusalem on account of the sacrifices [which are eaten there and might easily be defiled by some impurity brought by the chickens], nor may Kohanim do so [i.e., breed hens] throughout the whole of Eretz Yisrael, on account of their food [consisting mainly of terumah], which has to be ritually clean [in accordance with Leviticus 22:6-7]. It is not right to breed pigs anywhere. No man should breed a dog [as, by barking, it might frighten pregnant women and cause miscarriages] unless it is on a chain. One does not place nets for doves unless at a distance of thirty ris

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[= four mil] from inhabited settlements
so that doves belonging to private
owners in the settlement should not be
enticed into the nets].

רבן עבדרא מברנאו

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