The chapter is formed of two long constructions of disputes between Eliezer and Joshua, M. 8:1-3 and M. 8:8-12. These are distinct from one another both in form and in the substance of their particular cases. These units have been redacted together because in both of them, problems regarding the improper consumption and disposition of heave-offering are employed to illustrate a single encompassing legal issue. This issue is whether or not in certain circumstances an individual may do what normally is prohibited to him, and yet not be deemed to have transgressed.\footnote{Eliezer's view throughout is that there are no such circumstances, but that an individual who does what he normally should not always is culpable. Joshua, on the other hand, takes into account extenuating circumstances. He holds that if the individual has no way of knowing that what he is doing is improper, or if his actions only hasten what anyway is inevitable, he has done no wrong. Unlike Eliezer, Joshua thus holds that culpability is relative to the circumstances under which an action is performed.}

These two units of disputes between Eliezer and Joshua are separated by M. 8:4-7, which offer rules regarding liquids and foods which are suspected of containing snake venom. The material is relevant to this tractate only at M. 8:4A, which states that heave-offering which is suspected of containing venom must be destroyed. It seems that this rule is redacted in its present location because it signals the specific interest of the cases which follow at M. 8:8-12. This, as I said, is the proper treatment of heave-offering. M. 8:4B-7 are then included because topically they belong with M. 8:7A. They are however autonomous of the laws of heave-offering.

M. 8:1-3 and M. 8:8-12's attributions to the Yavneans Eliezer and Joshua are paralleled by references to other Yavneans, Gamaliel (M. 8:8F) and Nathan (T. 7:10bE). The discussion of foods which are suspected of containing snake venom takes place at Usha. Attributions are to Simeon (T. 7:12), Nehemia (M. 8:1, T. 7:13, T. 7:14), Ishmael b. R. Johanan b. Berqah (T. 7:14), Judah b. Baba' (T. 7:15) and Simeon b. Menasia (T. 7:16).

8:1-3

I. A. (1) The wife [of a priest] who was eating heave-offering,
B. [and] they came and told her, "Your husband has died," or "[Your husband] has divorced you" [such that the woman no longer has the right to eat heave-offering];

C. (2) and so [in the case of] a slave [of a priest] who was eating heave-offering,

D. and they came and told him, "Your master has died," "He sold you to an Israelite," "He gave you [to an Israelite] as a gift," or, "He has made you a freeman" [in any of which case, the slave no longer may eat heave-offering];

E. (3) and so [in the case of] a priest who was eating heave-offering,

F. and it became known that he is the son of a divorcée, or of a ḥalwah [and therefore may not eat heave-offering]--

G. R. Eliezer declares [all of these individuals] liable to payment of the principal and [added] fifth [of the heave-offering they unintentionally had eaten as non-priests].

H. But R. Joshua exempts.

II. I. [If a priest] was standing and offering sacrifices at the altar, and it became known that he is the son of a divorcée or of a ḥalwah--

J. R. Eliezer says, "All of the sacrifices which he had [ever] offered on the altar are invalid."

K. But R. Joshua declares them valid.

L. If it became known that he is blemished--

his service [retroactively] is invalid.

III. M. And [in] all of these [cases] (ukwlm), if they had heave-offering in their mouths [at the time they were noti-fied that they were not fit to eat heave-offering]--

N. R. Eliezer says, "Let them swallow [it] (yblrw)."

O. But R. Joshua says, "Let them spit [it] out (ypltw)."

II. P. [If] they told him [i.e., anyone with heave-offering in his mouth], "You have become unclean," or "The heave-offering has become unclean"--

Q. R. Eliezer says, "Let him swallow [it]."

R. But R. Joshua says, "Let him spit [it] out."

S. [If they told him,] "You were unclean [at the time you began to eat the heave-offering]," or, "The heave-offer-ing was unclean,"
T. or [if] it became known that it [i.e., what he thought was heave-offering] is untithed produce, first tithe from which heave-offering [of the tithe] had not been taken or second tithe or produce dedicated [to the Temple] which had not been redeemed,

U. or if he tasted a bed-bug (מקושי) in his mouth—

V. lo, this one should spit it out.

M. 8:2 (U-V: b. Nid. 58b)

V. W. [If] he was eating a cluster of grapes [as a chance meal, free from liability to tithe] and entered from the garden into the courtyard [at which point the grapes are subject to the separation of tithes (M. Ma. 3:5-6)]—

X. R. Eliezer says, "Let him finish [eating the cluster]."

Y. R. Joshua says, "He may not finish it [before he separates tithes]."

VI. Z. [If he was eating a cluster of grapes as a chance meal and] dusk fell on the eve of the Sabbath [at which point the produce he is eating is subject to the separation of tithes (M. Ma. 4:2)]—

AA. R. Eliezer says, "Let him finish [eating the cluster]."

BB. R. Joshua says, "He may not finish it."

M. 8:3 (W-Y: y. Ma. 3:4; W-BB: b. Bes. 35a)

The three pericopae are formally unitary, each comprised of a pair of disputes between Eliezer and Joshua (M. 8:1A-H, I-K+L; M. 8:2M-O, P-R+S-T; M. 8:3W-Y, Z-BB). The juxtaposition of these disputes is justified by the fact that they each refer to the same situation: an individual is carrying out an action under the assumption that he is permitted to do so, when it is discovered that he is not so permitted. This situation yields two different questions of law. At M. 8:1 the issue is whether or not an individual is held liable for performing an act which he had every right to assume that he was permitted to perform. At M. 8:2-3 the problem shifts to whether or not the individual may complete without permission an action which he was permitted to begin to perform. On the basis of this substantive analysis, it is clear that two related, though distinct, issues of law have been brought together for reason of the common situation addressed and authorities cited. As we presently shall see, the joining of these issues also is on solid substantive grounds, for, at least in the
case of Joshua, through their joining, a consistent approach to
the law is illustrated. Let us begin with M. 8:1 and then move to
the rule covered in M. 8:2-3.

The key to the exegesis of M. 8:1 is at I-L, which gives both
a case in which Eliezer and Joshua disagree and one in which they
agree. A priest is discovered to be of impaired lineage, and so
not to be fit to offer sacrifices (Lev. 21:7). Eliezer declares
that since the man never was fit to offer sacrifices, all sacri­
fices which he ever did offer are invalid. Joshua's position is
that the individual's past offerings are valid. This means that
Joshua regards the individual to have been a legitimate priest,
at least up until the time that his real status became known. 3
Put simply, therefore, Joshua's position is that self-perception
determines actual status. Although in reality the priest never
was fit to serve, as long as he perceived himself as fit, Joshua
claims that his service was valid. That this is Joshua's view is
further evidenced from L. There Joshua agrees with Eliezer that
if the man is found to be blemished, his previous sacrifices are
retroactively invalid. In such a case the priest, aware of his
own physical defect, would have known all along that he is not
fit to serve (Lev. 21:17). Since such a person never could have
perceived himself as fit, Joshua has no grounds on which to de­
clare his past service valid. 4 The same positions which Joshua
and Eliezer hold at I-L are operative at A-H. Eliezer holds that
the fact that the individuals believed that they had the right to
eat heave-offering is irrelevant. 5 They objectively no longer had
that right, 6 and so must pay the principal and added fifth, as
would any non-priest. As at K, Joshua holds that it is self­
perception which counts. The individuals were acting under the
assumption that they had the right to eat heave-offering. Even
when it turns out that they did not have that right, they are not
liable for a transgression.

At M. 8:2-3, as I said, the question shifts to whether or not
an individual may complete without permission an action which to
begin with was permitted. 7 Joshua's view remains consistent with
what has preceded. He states that as soon as the individual knows
that his actions are not permitted, he must stop doing them.
Eliezer's view, on the other hand, is that since the individual
was permitted to begin the act, he may complete it. 8 That this is
Eliezer's position is proven by his agreement with Joshua at S-V.
There it becomes clear that the individual should not even have
begun to eat the produce, since, from the start, it was unclean or
otherwise forbidden. In such a case, Eliezer has no basis on which to rule that the person may continue to eat. I can, however, find no way to correlate Eliezer's position here with his view at M. 8:1. Here, as there, the individual objectively does not have the right to continue eating the produce. We therefore would expect Eliezer to rule, as he does at M. 8:1, that the person is liable for his actions and may not go on eating. It is evident from this that the issues of M. 8:1 and M. 8:2-3 have been juxtaposed with Joshua's view in mind. He is shown to have a consistent, and innovative, perspective on the law. Through the combination of the two issues, Eliezer is shown simply to contradict himself.

E. Said R. Nathan, "R. Eliezer would say, 'Let him wait until the end of the Sabbath, or (w) let him leave the courtyard, and [then] finish eating!'" [see M. 8:3W-BB].

T. 7:10b

Nathan removes the contradiction in Eliezer's position by having Eliezer state that the individual may continue to eat without tithing only if he does so under the conditions under which he initially was permitted to eat, i.e., outside of the courtyard or after the Sabbath.

A. R. Joshua says, "Blood which is on a loaf [of bread]--

"he scrapes its [i.e., the blood's] place [to remove the blood] and eats the rest.

B. "[If] it is discovered [already] between his teeth--

"he brushes it off (E reads: he eats it) and need not scruple [lest he has eaten blood]."

I. C. One who eats a grain worm (Jastrow, p. 305, for *dyrh*), or an ant, or a louse which is [found] in produce is culpable [for having eaten a forbidden thing (cf., M. Par. 9:2)].

II. D. [If he ate] a mite which is [found] in lentils, gnats that are [found] in pods, or worms that are [found] in dates and dried figs, he is exempt.

III. E. [If any of these insects] separated [themselves from the produce] and returned [to it]--[the one who eats it is] culpable.

IV. F. [If one ate] worms which are [found] in the roots of trees, or the leech which is [found] in vegetables, he is culpable.
V. G. [And as to] gnats (Jastrow, p. 560, for ḥbhwyn) which are [found] in wine and vinegar, lo, these are permitted.

VI. H. [If] he strained them [out of the wine or vinegar], lo, these are forbidden.

I. R. Judah says, "One who strains (read ḥmsmm with E; V reads ḥmpyn) wine and vinegar,

J. "and one who says a blessing over the sun—

K. "lo, this is a different path (drk ḫrt)."

T. 7:11 (A-B: b. Ket. 60a, b. Ker. 21b, 22a; C-D: b. Hul. 67b, see Sifra, Shemini, pereq 12:1; G-H: see b. Hul. 67a; J-K: T. Ber. 7:6)

The pericope is in three parts, A-B, C-H and I-K, each with its own point, and all autonomous of M. Joshua, A-B, states that the individual need not worry that the blood, which is forbidden for consumption, was spread throughout the food. He simply scrapes off all that is visible and eats the rest. I see no correlation between this statement and Joshua's opinions on heave-offering and the rules for tithing, M. 8:1-3. C-H apparently has been re­dacted here in light of M. 8:2U's reference to an individual's tasting a bed-bug in his mouth (so Lieberman, TK, I, p. 406). It lists several other types of insects which are either permitted or forbidden as food. The belief in parthenogenesis generates these rules. An individual is not held culpable for eating an insect which, according to T., is generated by, and therefore is an intrinsic part of, the produce in which it is found (Lieberman, HY, MB). Such an insect is not considered an autonomous creature, but part of the fruit. That this is the point is proven by E and H. If insects which normally may be eaten without liability are known to have left the produce in which they grew and to have re­turned, or if the householder himself detaches them, he is liable for subsequently eating them. At this point the insects are con­sidered autonomous creatures, and forbidden as food. H's refer­ences to straining wine introduces the quite separate concern of Judah, I-K. Judah's statement is enigmatic.

8:4

A. Wine in the status of heave-offering which is left uncovered—

let it be poured out [lest a snake drank from it and deposited in it venom].
B. And there is no need to state [that this is the law in the case] of unconsecrated [wine which is left uncovered].
C. Three [kinds of] liquids are forbidden [for consumption] on account of being left uncovered:
D. (1) water, (2) wine and (3) milk.
E. But all other liquids are permitted [for consumption, even if they are left uncovered].
F. Remaining [uncovered for] how long renders them [i.e., the liquids listed at D] forbidden?
G. Long enough for a snake to leave a nearby [hiding-] place and drink [from them].

M. 8:4 (C-D+F-G: b. Hul. 10a)

M. 8:4 introduces a series of pericopae (M. 8:4-7) on the rules governing liquids which have been left uncovered and foods which have on them the marks of snake bites. The issue is taken up here as a facet of the question of the proper treatment of heave-offering which may have become unfit for consumption, the topic of M. 8:8-12. What this pericope adds to that discussion is at A. Wine in the status of heave-offering in which a snake may have deposited venom must be destroyed, lest it poison the person who drinks it. A's rule, however, is autonomous of the statement of the rules of uncovered liquids at C-G, and, in fact, of the rest of M.'s discussion of this topic. These latter materials have been given a place in this tractate at the redactional level, through the employment of the transitional element at B.

A. (1) Brine (ṣyr), (2) vinegar, (3) fish-brine (ḥmwryys), (4) oil, and (5) honey are permitted on account of [the law of] uncovered liquids [i.e., these things are not subject to that law].
B. But R. Simeon prohibits.
C. Said R. Simeon, (read with E, ed. princ.:) "In Sidon I saw a snake drink brine."
D. They said to him, "There is no evidence [to be drawn] from [the actions of] insane creatures (ḥṣwtyyn)."

T. 7:12 (b. Hul. 49b; D: b. Shab. 104b, b. Nid. 30b)

Simeon offers evidence that snakes drink liquids other than the three mentioned in M. 8:4C-D. The snake which he saw is declared exceptional, D, and so Simeon's view is rejected.
8:5
A. [This is] the quantity of uncovered water [which is permitted for consumption]:
B. [any amount] such that the venom [of a snake] will be diluted ('BD) in it [and not poison the water].
C. R. Yose says, "[Water] in [uncovered] vessels [becomes forbidden] in any quantity [i.e., no matter how large the vessel, water left uncovered in it is prohibited];
D. "and [as for water in pools in] the ground-- "[if there is more than] forty se'ahs [it is permitted]."

Despite its present formulation, the pericope is not a dispute, for Yose, at C, does not respond to the superscription, A. A asks for a quantity of water which is not liable to the law of uncovered liquids. Yose gives a quantity which is liable. This discontinuity is indicative of the fact that the disputant parties have entirely different notions about liability to the law of uncovered liquids. B's view is that the rule of uncovered liquids does not apply when there is sufficient liquid to dilute the venom. In such a case the liquid presents no danger to life. Yose has a different theory. He equates venom with uncleanness, and reasons by analogy to immersion-pools. These render cultically clean objects which are rinsed in them. Such pools are dug in the ground and contain forty se'ahs of rain-water. When they meet these requirements they are not invalidated by drawn water which falls into them. Yose claims that if these same specifications are met, uncovered water counteracts the effect of venom which is deposited in it. The water thus must be contained in the ground, not in a vessel (C), and must be forty se'ahs in quantity (D). Under such conditions, the water neutralizes venom which is deposited in it, just as an immersion pool counteracts uncleanness of drawn water which is placed in it.

A. Water which has been left uncovered--
B. (1) one may not spill it out in the public way, (2) may not mix plaster with it, (3) and may not give it to a gentile, or to cattle owned by others, to drink.
C. But he may water his own cattle [with it].
D. Water which has been left uncovered--
E. (1) one may not sprinkle his house with it [in order to lay down the dust], (2) and may not wash his face, hands or legs with it.
F. Others say, "They did not say [that E2 is the case] except if he has a cut."

G. And how much [uncovered water is permitted; cf., M. 8:5A]?

H. [In the case of water in a pool in the ground, forty se'ahs [= Yose, M. 8:5D].

I. Others say, "Two se'ahs,

J. "whether [the water is] deep (mkwnsyn) or shallow (mpwzryn)."

K. R. Nehemia says, "[There must be enough water] for a keg made in Shihin (read with E and y. 8:6; V reads əwɔyn; see Lieberman, TK, I, p. 415) to be filled from it."

L. [As for] a spring—

M. as long as it is running (mɔšk), it is not liable to [the law of] uncovered liquids.

N. Said R. Ishmael b. R. Johanan b. Beroqah "Mɔš ə: R. Johanan b. Beroqah went to [the home of] R. Johanan b. Nuri in Beth Shearim and found a pond (gby; alternatively: cistern) which did not have in it three logs of water. And he bent over and drank from it."

O. [As for] wine—

P. whether it is in the ground or in a vessel, it is forbidden [on account of the law of uncovered liquids; see M. 8:5E-D].

T. 7:14 (y. Ter. 8:6; A-C: b. B.Q. 115b)

A-F augments M. with a list of uses, other than drinking, which may not be made of uncovered water. An individual may not use uncovered water in a way which endangers his own life, the life of others, or the property of others (A-B, E). He may, however, endanger his own property (C; see M. B.Q. 8:6). F holds that if there is little likelihood that venom will enter his bloodstream, an individual even may wash himself with water which has been left uncovered. H-K offers its own dispute on the quantity of uncovered water which is not subject to the law of uncovered liquids. I and K, Nehemiah, suggest much smaller quantities than did Yose, M. 8:5D (cited anonymously at H). No reason is indicated. L-M and N continue the discussion. A spring is not subject to the law because the water in it constantly is changing. It is likely that the maɔâšə at N is intended to illustrate this rule. Since a pond, like a spring, has its own
source of water, Johanan b. Beroqah did not hold it subject to the law. In terms of lexical items ("spring" at L; "pond" at N), however, the unit surely is independent, and thus simply makes the point that Johanan did not hold ponds subject to the law. O-P carries forward Yose's analogy between the ability of an immersion pool to purify unclean things and water's ability to neutralize venom which is deposited in it. Wine may not be used in an immersion pool. According to O-P, it likewise does not neutralize venom which is deposited in it.

8:6

A. (1) Figs, (2) grapes, (3) cucumbers, (4) gourds, (5) watermelons, and (6) chate-melons which have on them teeth marks [of snakes] (nqwy),
B. even if they are in a jug (follow Albeck in reading bkd; 7 MSS. read kkd; printed editions read kkr),
C. it is all the same ('hd) whether they are large, or small,
D. it is all the same whether they are picked or unpicked,
E. any [of them] which has moisture in it
F. is forbidden.
G. And [a beast which has been] bitten by a snake is forbidden [for slaughter as food],
H. as a danger to life.

M. 8:6 (G-H: see M. Hul. 3:5, T. Hul. 3:19)

The pericope is in two formally autonomous parts, A-F and G-H. These state for produce and meat the same law that M. 8:4 gave for liquids. Produce or meat which shows signs that it contains venom may not be consumed, for fear that the one who eats it will be poisoned. The point at A+E-F is that only fresh produce is forbidden in this way. The moisture in such produce may be venom, which also is a liquid. Dry produce, self-evidently, does not contain venom, and so is not forbidden for consumption, even if it has on it marks of snake bites. B and C-D make a single point. No matter how unlikely it is that a snake has deposited venom in the produce, that produce still may not be eaten. This applies if the produce is in a jug, such that it is unlikely that a snake could have deposited venom in the pieces of produce on the bottom, and if the piece of produce is large, so that only part of it may contain venom. I assume that the point
at D is that even if the produce still is on the vine, where the snake does not have easy access to it, it is forbidden.  

8:7

A. [A container of wine covered with] a wine-strainer (māmr tālyyn) is forbidden on account of [the laws of] uncovered [liquids].

B. R. Nehemiah permits.

M. 8:7

A claims that a wine-strainer does not prevent a snake from depositing venom in the jug or vat which it covers. Nehemiah, B, disagrees.

A. [A container of wine covered with a wine-]strainer is forbidden on account [of the law of] uncovered [liquids] [= M. 8:7A].

B. R. Nehemiah says, "If the bottom [vat; i.e., the one into which the wine is being strained] was covered [by the strainer], even though the top [of the strainer, where the wine being strained is poured] was uncovered—"lo, this [i.e., the wine which has been strained] is permitted [see M. 8:7B],

C. "for the venom of a snake is like a sponge, and stays in its own place [i.e., it does not pass through the strainer into the lower vat]."

D. Dough which one kneaded in water which had been left uncovered,

E. even though it is [dough] of heave-offering,

F. must be burned.

G. And there is no need to state [that this is the rule] as regards unconsecrated [dough; see M. 8:4A-B].

H. R. Nehemiah says, "[If] one baked it, lo, this is permitted,

I. "since the venom of a snake burns up (kīlḥ) in fire."

I. J. (1) Water used in pickling [vegetables], (2) water used in boiling [food], and (3) water used in soaking lupines [Lieberman, TK, I, p. 412 for my tfirmusyn] is not liable to [the law of] uncovered [liquids].

II. K. Water in which one soaked pickled [vegetables], foods which had been boiled (šalquṭ) or lupines--

L. if [the vegetables] were of sufficient [quantity] to impart taste [to the water, the water] is permitted [i.e., not subject to the law of uncovered liquids].
But if not, it is forbidden [i.e., is subject to
the law].

III. N. Water in which one rinsed quince (Jastrow, p. 1047, for ʿubtyn; see also Lieberman, TK, I, p. 413), or Damascene
plums (Jastrow, p. 324, for drmsqnywt) for a sick person,

O. (read with E, y. and Maimonides, cited by Lieberman, TK, I, p. 414:) is forbidden [i.e., is subject to the law].

IV. P.²⁴ Water which was left uncovered and which one
[subsequently] heated is forbidden on account of [the law of]
uncovered [liquids].

V. Q. [And as for] hot water [in an uncovered pot]—
R. as long as it releases steam, it is not subject to
[the law of] uncovered [liquids].

T. 7:13 (A-I: y. Ter. 8:5; A-C: Suk. 50a, b. B.Q. 115b)

The pericope is in three parts, A-C, D-I, and the five re­
lated rules at J-R. A-C cites M. 8:7 and, at B-C, offers an
expanded version of Nehemiah's view, that venom does not pass
through a strainer. D-F+G gives the logical rule that foods which
are made from forbidden water themselves may not be eaten. The
basis for Nehemiah's qualification of this rule, H, is clear, as
given at I. J-N depends on M. 8:4C-E's rule that only water, wine
and milk are subject to the law of uncovered liquids, and that
other liquids which have been left uncovered remain permitted for
consumption. The question here is under what conditions water
which has been used in the preparation of food is deemed no longer
to be water and therefore not to fall under the law. The criterion
is clearly stated at K-M. If the taste of the water has been
changed, it no longer is considered water, and so may be left un­
covered without becoming forbidden for consumption. While K-M
thus gives the point of the whole construction in which it is
found, it must be noted that it is formally autonomous of that
construction. It uses the apodosis "prohibited/forbidden," while
the other cases at J-R use "liable to the law/not liable to the
law." It therefore is not surprising that the substance of J3 is
repeated at K. Only P and Q-R require further comment. P holds
that water which is left uncovered and then is heated does not
become permitted, but remains subject to the law. Unlike in the
preceeding cases, this liquid still is deemed to be water.
Nehemiah, however, should not agree, for he holds (I) that heat
destroys venom. Q-R assumes that a snake will not drink from water which is boiling.

A. חֹל: A snake was found dead in a vat of wine. 
(w) They came and asked R. Judah b. Baba' [to rule on whether or not the wine was forbidden] and he declared the vat permitted for them.

B. Wine which still is fermenting (גִּבְנֶת תַּשֶּׁב) --
C. as long as it is fermenting, it is not liable to [the law of] uncovered liquids.
D. And how long [after its manufacture is wine deemed still to be] fermenting?
  Three days.

T. 7:15 (y. Ter. 8:6; B-D: b. Ta. 30a, b. San, 70a, b. A.Z. 30b)

Judah b. Baba, A, says we may assume the snake already was dead when it fell into the vat. It therefore could not deposit venom in the wine (see Lieberman, TK, I, p. 416). It is unclear, however, why the wine in the uncovered vat is not in all events forbidden.

I. A. An [open] bottle (לָגַי) [filled with liquid] which they placed in a chest, a strong box, or a cupboard (V: 'lpsn̂h; E: plsqr; y. Ter. 8:5: mgdl; see Lieberman, TK, I, p. 416, and Jastrow, p. 1183) --
  lo, this is forbidden [on account of the law of uncovered liquids].
B. [If] he checked them [i.e., the storage places, to see that no snake was in them and then] placed (read with E: הָנָּה) [the bottle of liquid, in the storage place]--
  lo, this is permitted.
II. C. A bottle in its case (E: טֵיֶּו מ) --
  D. lo, it is forbidden.
E. [If] he inspected it [i.e., the case] and then placed it [i.e., the bottle, in it]--
  lo, this is permitted.
III. E. [If] he placed it in a pit,
  F. even if it is a hundred 'ammaḥ deep--
  G. lo, this is forbidden.
IV. H. [If] he placed it in a turret (מִגְדָּל)
  I. even if it is a hundred 'ammaḥ high--
  J. lo, this is forbidden.
V.  K. [If] he placed it in a store-room (trqlyn),
L. even if it is painted (mpwyyh),
M. even if it is whitewashed (mswyyd)—
N. lo, this is forbidden.
O. [If] they cover [the bottle], but do not seal [it],
P. (Read with y. Ter. 8:5 and Lieberman, TK, I, p. 417:)
it is forbidden.
Q. But if the seal had an [open] space (V: ḥs; E: ḥss)
in it [cf., Lieberman, TK, I, p. 417]—
lo, this is permitted.
R. How wide can the opening [in the seal, or in the
neck of the bottle] be [before the bottle is subject to the
law of uncovered liquids]?
S. Wide enough for the small finger of a child (qtn) to
fit in.
T. Cooked food with teeth marks [of snakes] on it, and
stalks of cabbage and anything which has moisture in it [see
M. 8:6E] is forbidden [on account of the law of uncovered
liquids].
U. R. Simeon b. Manasia says, "He throws out the [part
with the] bites and eats the rest."
V. Mushrooms are forbidden as a danger to life.
W. [If there were] bite marks on a fig and it was made
into a dried fig,
X. on a date, and it was made into a dried [date]—
Y. both of these are permitted [for consumption].
T. 7:16 (C-E, O-Q: y. Ter. 8:5)
The five cases at A-K make a single point. Unless we have
solid evidence to the contrary, we assume that a snake had access
to an uncovered bottle. This same point is made in the formally
autonomous continuation of the pericope, P-Q+R-S. A container
must be tightly sealed if it is not to be subject to the law of
uncovered liquids. A simple cover is not permissable, for we
assume that a snake can lift a corner of it and drink from the
liquid. An opening the size of a child's finger, R-S, does not
allow a snake to place its head in the bottle in order to drink.
T-Z states in its own language the law of M. 8:6E. Food
which is moist is subject to the law. Simeon b. Menasia, U, dis­
agrees, holding that the venom does not contaminate all of the
food, but only the area around the bite.26 V is interpolated,
possibly because it shares with M. 8:6G the phrase "as a danger to life." It has nothing to do with cases of snake bites, and so does not belong.\(^{27}\) When the produce at W-Y is dried, the venom is removed with the rest of the moisture. The produce therefore becomes permitted for consumption.

A. [If] one saw a bird peck at a fig, or a mouse (\(\text{kbr}\)) gnaw at a watermelon—

B. both of these are forbidden [on account of the law of food with snake bites on it (M. 8:6)].

C. For I say, "Lest they [already] had (Lieberman supplies \(\text{hwy}\) with E and ed. princ.) snake bites on them."

D. [As for] a watermelon at which [the mouse] gnawed, and ten men [later] ate from it [without being poisoned]—

E. the rest [of the watermelon], lo, this [still] is forbidden.

F. And so [in the case of] a jug [of wine] which was left uncovered, and [later] ten men drank from it [without being poisoned]—

G. the rest [of the wine], lo, this is forbidden.

T. 7:17 (A-C: y. Ter. 8:5, b. Hul. 9a-b; D-G: y. Shab 1:4)

Food and liquids are forbidden on account of venom even if there is some evidence that they are safe for consumption. The marks on the fig or watermelon, A-B, seem to derive from a bird or mouse, and not from a snake. We assume that these creatures gnawed at a place on the produce at which a snake already had bitten (C). Even though individuals who eat forbidden food or liquid (D-E, F-G) are unaffected, the rest of the same food or liquid remains forbidden, lest there is venom in the portion which has not yet been consumed (y. Shab. 1:4).

8:8-12

A. A jug of [wine in the status of] heave-offering concerning which there arose a suspicion of uncleanness (\(\text{spq} \text{twm}'\text{h}\))—

B. R. Eliezer says, "If it was lying in an exposed place, he should place it in a concealed place.

C. "And if it was uncovered, he should cover it."

D. R. Joshua says, "If it was lying in a concealed place, he should place it in an exposed place.

E. "And if it was covered, he should uncover it."
F. Rabban Gamaliel says, "Let him not do anything new with it."

M. 8:8 (b. Bek. 33b, y. Shab. 1:8; A-E: b. Pes. 15a 20b)

G. [As to] a jug [of wine in the status of heave-offering] which broke in the upper vat, and the lower [vat] is unclean--

H. R. Eliezer and R. Joshua agree (mwdḥ) that if he can save from it a fourth in a state of cleanness, he should save [it].

I. But if not:

J. R. Eliezer says, "Let it go down [into the lower vat] and be made unclean.

K. "But let him not make it unclean with his hand [i.e., through his own actions]."

M. 8:9 (b. Pes. 15a, 20b, b. Men. 48a-b)

L. And so [in the case of] a jug of oil [in the status of heave-offering] which was spilled--

M. R. Eliezer and R. Joshua agree that if he can save from it a fourth in a state of cleanness, he should save [it].

N. But if not:

O. R. Eliezer says, "Let it run down and be soaked up [in the ground].

P. "But let him not soak it up with his hands."

M. 8:10

Q. But as regards both of these cases (lit.: But on this and this):

R. Said R. Joshua, "This is not heave-offering concerning which I am warned against rendering unclean.

S. "Rather, [it is heave-offering which a priest is warned] against eating."

T. And "not to render it unclean." How so? [i.e., in what case must the individual not render heave-offering unclean?]

U. [If] one was walking from place to place, and loaves [of bread] in the status of heave-offering were in his hand--

V. [if] a gentile (all MSS.: nkry; printed edition: ʾwbḥ kwbym) said to him, "Give me one of them and I shall make it unclean, and if not, lo, I shall make all of them unclean"--
W. R. Eliezer says, "Let him make all of them unclean, but let [the Israelite] not give him [i.e., the gentile] one of them that he make it unclean."

X. R. Joshua says, "Let him place one of them before him, on a rock."

M. 8:11

Y. And so [in the case of] women to whom gentiles said, "Give [us] one of you that we may make her unclean, but if not, lo, we will make all of you unclean"--

Z. let them make all of them unclean, but they should not hand over a single Israelite.

M. 8:12

It is the obligation of the householder to protect heave-offering in a state of cleanness, for only in such a state may the offering be eaten by a priest. At issue here is the point at which the householder may consider his responsibility discharged, such that he no longer need concern himself with the cleanness of the priestly gift. In normal circumstances the individual's responsibility ends either at the point at which he presents the clean heave-offering to a priest or, alternatively, when the offering perchance is made unclean. In either case, the householder no longer has control over the cleanness of the offering, and so is not expected to protect it. Mishnah characteristically states its problem through a case of doubt. Heave-offering either is suspected of being unclean, or is in a situation in which the householder no longer can prevent it from being made unclean. In both cases the heave-offering ultimately will not be eaten by a priest. Since, however, it is not yet certainly unclean, and still is in the control of the householder, we must ask whether that individual is responsible to protect it. The larger issue to be addressed is whether or not he is culpable if, through his own actions, he hastens the priestly gift's becoming unclean.

When matters are stated in this way, it is clear that the issue here is the same as at M. 8:1-3, specifically, the circumstances under which an individual is or is not blameworthy for performing actions which normally are forbidden. Eliezer and Joshua's positions are consistent with what has come before. Eliezer, first, is concerned only with the objective facts of the individual's original responsibility. If, as in the present case, the householder is responsible for protecting heave-offering until it is in the hands of a priest or is certainly unclean, then he is
culpable for any actions by which he renders the heave-offering unclean before these conditions are met. The fact that the heave-offering is suspected already of being unclean, or will in all events become unclean, is of no concern to Eliezer. The householder's responsibility remains what it originally was, to protect the heave-offering in cleanness. Unlike Eliezer, Joshua takes into account the actual impact of the actions of the householder. Joshua holds that the householder does no wrong if through his own actions he does what is in all events inevitable. In the present case, no matter what the householder does, the heave-offering ultimately will not be eaten by a priest. Joshua therefore declares that the householder is not culpable if he himself renders the priestly gift unclean.

We turn now to the specifics of the pericopae before us. M. 8:8A-E is a formally unitary and balanced dispute, setting out the positions of Eliezer and Joshua. Even though heave-offering which is suspected of being unclean may not be eaten by a priest, Eliezer holds that the householder must continue to protect it against being made certainly unclean. Joshua's view is that the householder no longer is accountable for the heave-offering and therefore may take actions to assure that it becomes certainly unclean. The heave-offering then may be destroyed, assuring that it will not accidentally be consumed by a priest. Gamaliel, F, presents a mediating position, which shows no formal similarity to the balanced views of Joshua and Eliezer and, indeed, does not recur in these materials. Gamaliel holds that the individual must leave the doubtfully unclean heave-offering as it is. He should not protect from uncleanness what already may not be consumed by a priest. He may not, however, take actions designed to render the heave-offering certainly unclean.

M. 8:9 and M. 8:10 are formally and substantively parallel, providing two examples of essentially the same case. Heave-offering has been spilled and is about to become unclean (G) or to be soaked up in the ground (L). The householder, however, cannot save the priestly gift without himself rendering it unclean. As we would expect, Eliezer, M. 8:9J-K and M. 8:10/O-P, states that the householder must let the heave-offering become unclean or be soaked into the ground by itself, but himself may do nothing improper with the offering. Gamaliel's position is lacking from both pericopae. Instead there is an agreement-clause at M. 8:9H and M. 8:10M, and a general statement of Joshua's view at M. 8:11R-S. The question is whether or not these materials in
fact reflect the opinion which Joshua holds at M. 8:11R-S. When we turn to the agreement-clauses, we see that they do not reflect his particular view. They tell us only what should be obvious to all parties. If the householder can save the heave-offering in cleanness, he should do so. R-S, on the surface, does not help matters. Joshua's statement there is not even formulated as a response to Eliezer's view. When examined more closely, however, R-S does, in fact, counter Eliezer's view, and is compatible with Joshua's position at M. 8:8. Joshua states that the issue here is the prevention of the consumption of the heave-offering. This being the case, Joshua holds that what the householder does to the heave-offering itself does not matter.

In light of these considerations, we see that the problem here is not the content of Joshua's statement, but the reason that it has been formulated in the somewhat elliptical way that it is before us. The reason for this formulation becomes clear when we turn to the case at M. 8:11U-X. The case is complete in itself, and formally separate from the preceding. Yet it is attached to Joshua's opinion with T, which cites Joshua's statement at R. It appears, therefore, that R-S+T has been formulated in such a way as to tie to the preceding construction a further set of cases. The artificial nature of the link is clear, when we see that U-X does not continue Joshua's statement. While T leads us to expect an example in which Joshua holds that the householder must protect the cleanness of heave-offering, this is not what U-X presents. U-X, rather, is a replay of the disputes which have gone before, with the positions of both Eliezer and Joshua remaining exactly the same. Eliezer's view is that the householder may not bear responsibility for the gentile's making unclean a loaf of bread in the status of heave-offering. Should the gentile make all of the loaves unclean, that is not the householder's fault. Joshua, likewise, is consistent with his previous position. Since the loaves are sure to be made unclean, the householder is no longer responsible for them. He may place a loaf on a rock, where assuredly the gentile will make it unclean. This is comparable to M. 8:8, where Joshua has the householder place the heave-offering in an open place, where it will be rendered certainly unclean.

Although stated anonymously, M. 8:12 gives another example of Eliezer's view. Despite the extenuating circumstances, the women may not take responsibility for the rape of one of their number. They must, rather, allow each one of themselves to be raped.
G. R. Eleazar says, "[As to] an individual who was coming along the road and had in his hand figs, grapes or cucumbers [in the status of heave-offering] which could not reach the city [before spoiling]--

"he should throw them into the ravine or into thorn bushes.

H. "[If] he was passing among gentiles or Samaritans and had with him foods (dbrym) [in the status of heave-offering] which could not reach the city [before spoiling],

"he should place them on a rock" [see M. 8:11].

I. R. Yose says, "He should place them in his sack until they stink [and only then may he leave them for others to find]."

T. 1:14b

T. supplements M. 8:11's dispute on the householder's responsibility to protect heave-offering from being made unclean. Eleazar,\(^35\) G, has the position Eliezer holds at M. 8:11W. While the householder may abandon heave-offering which is going to spoil, he must ensure that it will not be eaten or made unclean by another person. He therefore hides the priestly gift in a ravine or thorn bush. H is problematic, for it assigns to Eleazar the position held in M. by Joshua, and contradicts the statement at G. Now Eleazar states that the householder may leave the heave-offering on a rock, where it will be taken by a gentile or Samaritan.\(^36\) Yose, I, rejects both G and H. He holds that the heave-offering must be protected until it actually is spoiled and no longer is fit for use as food.

A. They do not mix with one another [batches of heave-offering] of suspended status of uncleanness (tlywyt).

B. But they do mix heave-offering which was rendered unclean by an offspring of uncleanness with heave-offering which was rendered unclean by a Father of uncleanness,

C. even though they [thereby] add uncleanness to its [i.e., the heave-offering rendered unclean by an offspring's] uncleanness.

D. If he declared ('mr) of [heave-offering of] suspended status of cleanness, "It is clean," lo, this is [deemed to be] clean.

E. If he said, "Lo, I am going to leave it [i.e., the heave-offering of doubtful status] until I can ask of its status," lo, this is unclean.
F. [If] a suspicion of uncleanliness was born concerning a loaf [of bread] and [this happened while] it was in his hand [see Lieberman, TZ, p. 148],

G. or [if] a suspicion of uncleanliness [was born to it while it was] on top (read with E: א"ל; V reads ש"ל) of a table—

H. he takes it [i.e., the loaf] and places it in a concealed place [see M. 8:8B].

T. 7:18 (See M. Pes. 1:6-7, T. Pes. 1:5; E: see T. Toh 8:14)

The pericope is in three parts, A-B+C, D-E and F-H, all supplementary to M. 8:8-12's discussion of the proper treatment of heave-offering which either is unclean or is suspected of being unclean. Heave-offering which is suspected of being unclean, we know, may not be consumed. Even so, according to A, several batches of such heave-offering may not be mixed together. This is because one of the batches may in fact contain clean heave-offering. In mixing it with the other batches the householder himself would render unclean this clean heave-offering. This clearly is Eliezer's view. Joshua, M. 8:8D-E and M. 8:11R, who holds that the householder need not continue to protect from uncleanness heave-offering which already may be unclean, will hardly agree. At B, since the heave-offering surely is unclean and must be destroyed, it is of no concern that the householder raise its level of uncleanness. Eliezer, as well as Joshua, can agree to this.

The point at D-E is made through the contrast between the two cases described. The decisive factor in the ultimate status of cleanness of the suspect heave-offering is the householder's attitude towards that heave-offering. If he declares it to be clean and therefore protects it as such, the heave-offering indeed is deemed to be clean. If, however, the householder leaves the heave-offering unprotected and goes to ask of its status, it immediately must be considered unclean. F-H states anonymously the view of Eliezer, M. 8:8B.

A. [As to] a jug [of wine in the status of heave-offering] which broke in the upper vat, and in the lower vat is unclean [wine] [= M. 8:9G, with slight variations]—

B. all agree that it should go down [into the lower vat] and impart to [all of the wine] the status of heave-offering.
C. But he should not make it unclean (read $ytm'ynh$ with E; V, ed. princ. read $ydm°nh$) with his hands [= Eliezer, M. 8:9K].

T. 7:19

T. cites the opinion of Eliezer, M. 8:9K, and claims that Joshua agrees. This clearly is not the case, as M. 8:11Q-S explicitly states. 39

A. [As to] a group of men to whom gentiles said, "Give us one of your number that we may kill him, and if not, lo, we will kill all of you"—

B. let them kill all of them, but let them not give over to them a single Israelite [see M. 8:12].

C. But if they singled one out,

D. such as they singled out Sheba the son of Bichri [2 Sam. 20]—

E. let them give him to them, that they not all be killed.

F. Said R. Judah, "To what case does [the rule of A-B] apply?

G. "To the case in which he [i.e., the one who would be handed over] is inside and they [i.e., the killers] are outside.

H. "But if he is inside and they are inside, since he is [in all events] going to be killed, and they [i.e., the other Israelites] are going to be killed, let them give him over to them so that they all not be killed."

I. And so it says [in Scripture], Then the woman went to all the people in her wisdom (2 Sam. 20:22).

J. She said to them, "Since he is going to be killed, and you are going to be killed, give him to them that you all not be killed."

K. R. Simeon says, "Thus she said to them, 'Anyone who is a rebel against the kingship of the House of David is liable to execution.'"

T. 7:20 (A-E+K: y. Ter. 8:10)

A-B's case and ruling are parallel to those found at M. 8:12. 40 C-E, F-H and I-J+K all clarify that rule. If the gentiles single out for death a particular Israelite, the other Israelites may hand him over, and are not held responsible for his murder. Judah's statement, which follows, is out of place, for it ignores C-E and refers directly to A-B. 41 Judah's point, however, is the
same as that of C-E. If it is certain that a particular one of the Israelites is going to be killed, he may be handed over, and the others saved. I-J is clear, giving the principle which stands behind C-E. Simeon, K, rejects the case of Sheba the son of Bichri (2 Sam. 20) as evidence for the proposition of C-E. Simeon claims that Sheba was killed because he was a traitor and deserving of death, not because he was singled out.