

ARGUMENTATION AND ITS LIMITS: A LESSON FROM THE STAM

By Daphna Oren

Recent scholarship concerning the development of the Babylonian Talmud (the Bavli) has stressed that it was substantially transformed during its final stages of editing by the scholars known as the “*stamma'im*” (or, collectively, the “*stam*”). These activities are now dated to around the 6th and 7th Centuries CE (and perhaps extending even to the middle of the 8th Century CE). These

modern scholars have stressed how, among other values, the *stamma'im*: a) esteemed argumentation for its own sake, and b) were content to leave debates unresolved, thereby suggesting a certain pluralism of legitimate outcomes.¹ On another front, Dov Weiss, in *Pious Irreverence: Confronting God in Rabbinic Judaism*², has recently argued that it was only in the “late” midrashic works - known collectively as the Tanhuma, dating largely to the same 6th and 7th Centuries, edited in part in Babylonia following the conquest by Islam, completed around 641 - that the Rabbis began, cautiously to be sure, to articulate protests against God’s justice in managing matters in this world. (Earlier midrashic teachings, Weiss shows, rejected the possibility of such protest.)

This essay argues that these two developments in late Rabbinic thought are related to each other: perhaps the *stamma'im* recognized that the intellectual disorder that they allowed - and that they promoted in the convergence of studying God’s words - was itself problematic and suggested a criticism of God as the ultimate source of that disorder. Accordingly, this treatment will focus on perhaps the most well-known story in the *Bavli* addressing an uncertainty in God’s commandments, the story of the Oven of *Akhnai*. Too often, advocates of the concept of the *mitzvot* as an evolving and Human-Divine interactive project conclude this Talmudic story at the point where God smiles and laughs, reading this apparent pleasure as God’s endorsement of R Joshua’s teaching that the Torah is NOT in heaven, but must be interpreted by humans for their own times. The tale goes on, however, to terrible tragedy, raising the questions of why God laughed (and if S/He were laughing ironically). Moreover, God’s failure to intervene effectively - as God does in the context of debate

¹ See, e.g., Richard Hidary, *Dispute for the Sake of Heaven: Legal Pluralism in the Talmud* (Providence: Brown Judaic Studies, 2010). Also, focussing on the role of the *stamma'im*, Joshua Kulp and Jason Rogoff, *Reconstructing the Talmud, Vol. II* (Hadar Press, 2019). For a recent survey, see Moulie Vidas, *Tradition and the Formation of the Talmud*, (Princeton: Princeton University Press, 2014), 3-19.

² Dov Weiss, *Pious Irreverence: Confronting God in Rabbinic Judaism*, (Philadelphia: University of Pennsylvania, 2017).

between Beit Hillel and Beit Shammai, also reviewed herein as contrast - seemed somehow to blame for the tragic conclusion of the Oven of *Akhnai*. This story, as thus read in full, suggests perhaps an anxiety within the *stam* concerning its own intellectual project - and perhaps an acknowledgement that the basic values of community and mutual respect need to be given more weight, and that these are values that WE can pursue and that may achieve some harmony, even if God does not help us out.

This paper will thus proceed to: describe briefly the stammaitic editorial process of the Talmud; introduce Weiss's argument regarding protest against God; pose a Rabbinic instance of happy resolution by a *bat kol* (a voice from Heaven) after a *makloket* (debate) between *Batei* Hillel and Shammai; examine the tragic banishment of R Eliezer in the second half of the Oven of *Akhnai* story; and, finally, assess the understanding that the Bavli affords us of the later rabbinic Sages and their intent in crafting the Talmud.

THE ROLE OF THE STAM

The rabbinic journey towards developing the argumentative collection known as the *Bavli* was taken on by several generations of scholars who, over time, accrued knowledge, sophistication, and *chutzpah*, taking somewhat into account the contemporaneous difficulties of Jewish communities.³ The *tanna'im* were those earliest sages who, witnessing the fragility of the besieged Jewish community in Judea at the beginning of the Common Era, aimed to write down that which

³ A Yiddish word, understood as audacity or insolence.

had been designated the Oral Law.⁴ The product of their efforts was the Mishna, “the codification of the Oral *Torah* ... [as distinct from] the Written *Torah* of the Pentateuch.”⁵ This compilation of teachings, completed around the year 200 CE, served as the basis of the subsequent work of the *amora'im* (“speakers” or “expounders”⁶). The *amora'im* and the later *stamma'im*⁷ were the following generations of *chazal* - Sages living in Babylonia - who persevered in this project by redacting the *Bavli*,⁸ the Talmud of greater length, detail, and refined, purposeful argumentation (in contrast to the *Yerushalmi*, the earlier collection of teachings of the *amora'im* living in the land of Israel). Successive generations of *amora'im* worked over the next 3-5 centuries, teaching and adding to the *Gemara*. This complementary corpus - presenting “the appearance of a disorderly mass of the most heterogeneous material”⁹ - was nevertheless based on the more systematic Mishna. It was comprised of a mix of commentary, “history, legend, folk-lore, medicine... and a host of other matters.”¹⁰ The *Gemara* recorded, amplified, and organized¹¹ the discussions within the academies in Judea and Babylonia. David Kraemer, in *The Mind of the Talmud*, notes that these rabbis shaped the *Gemara* to advance the notion that their scholarship and guidance expressed the religious philosophy that they thought should be adopted by the Jewish people as a whole.¹² This philosophy, in turn, formed the theoretical and practical roadmap for the life of this people. These dialogues included the strenuous argumentation that the *amora'im* preserved and the *stamma'im* so volubly enhanced.¹³

⁴ There is a debate as to whether the *tanna'im* had already articulated the concept of an Oral Torah as distinct from the Written Torah, but the review thereof is a matter outside the scope of this piece.

⁵ Abraham Cohen, *Everyman's Talmud* (New York: Schocken Books, 1949), xxvi.

⁶ Cohen, xxxi.

⁷ The *stamma'im* were the authors of the anonymous, usually added-on, material in the *Gemara*. Cohen, 87

⁸ Adin Steinsaltz, *The Essential Talmud* (United States of America: Basic Books, 1976), 40.

⁹ Cohen, xxxiii.

¹⁰ Cohen, xxxiii.

¹¹ To call the *Gemara* “organized,” is perhaps a liberal use of the word in that the *Gemara* wanders across the whole of life throughout the scores of volumes. The Sages do indeed categorize their work, but apparently do not consider categorical boundaries impermeable to other realms of ideas when they see relevance.

¹² Kraemer, *The Mind of the Talmud: An Intellectual History of the Bavli*. (New York: Oxford, 1990), 6.

¹³ While not a focus of this paper, polemics factored into the Jewish argumentation as the Rabbis were also aware of negative commentary from Christian sources. The rabbinic insistence, for example, that “God fulfills His own mitzvot [is] a polemic against early Christian thinkers who attempted to downplay the importance of the Law.” Still,

The *stamma'im* may have even gone one step further in their finishing of this document. This paper accepts the recent scholarship showing that the later redactors of the *Bavli* left as their gift to the Jews the unresolved arguments לשם שמים (in the name of Heaven) to keep a people deeply, powerfully, and eternally enmeshed in tomorrow's plans. These rabbis may well have understood that the arguments they refined and bequeathed to a people were the lifeline needed to renew the covenant of the Jewish people in every generation. These arguments would prove the unbounded ability of the Jewish people to continue their life-giving conversation over the arc of time toward the understanding of their God. Certainly, since the discussions involved all aspects of human life, challenges that arose in every generation would continue to require renewed consideration of a people with its norms.

While the intentions of the *stamma'im* cannot be known, argumentation was the supreme manner of rabbinic expression, shaping the redaction accordingly. Even where argumentation may not have been original to the matter at hand, the *stamma'im* superimposed argument onto pre-existing issue. As Kraemer emphasizes, "argumentation was essential on its own terms and would not be limited on account of its absence in sources."¹⁴ For example, the *tanna* R Akiva was known as a scholar who so deeply respected his teachers that he hesitated even to build on their arguments lest it appear that he was attempting to better them.¹⁵ Nevertheless, later *amora'im* slowly appear to become more comfortable with argumentation directed at God, as they "intensified ... the

the argumentation built for the primary consumption of the Jewish community was most important. Weiss, *Pious Irreverence* (Philadelphia: University of Pennsylvania Press, 2017), 57.

¹⁴ Kraemer, 90.

¹⁵ Barry W. Holtz, *Rabbi Akiva: Sage of the Talmud* (New Haven and London: Yale University Press, 2017), 189.

anthropomorphic biblical imagery” to “humanize God.”¹⁶ By reducing the distance between man and God, it became more permissible to engage in protracted discussion, even disagreement, with the Divine. To escalate the drama of the debated issue, the *stamma'im* composed “argumentation that led to no conclusion at all.”¹⁷ The intense focus on the dialectical discussion was due in part to the rabbis’ “ardent search for truth.”¹⁸ They followed promising paths and unlikely possibilities seeking to attain greater degrees of understanding. In other words, it had become a hallmark of rabbinic assurance that their work was based on the most high of civilized values: reason. If logical argumentation could produce a concept, it was defensible on its own merits. This method is eminently on display in the *Bavli*, where logic—known as *sevara* to the rabbis—allowed “human reason to prevail [even] over Torah.”¹⁹

The perceived correctness of the rabbinic point of view would strengthen the claim of both rabbinic authority in the community as well as a rabbinic moral high ground when critiquing God. The rabbis deployed their argumentative acumen to reinforce their guidance and authority over an embattled Jewish community. They advanced their “system of religious observance, including study of Torah” as a form of earthly salvation, and linked it to Jews’ perennial hope for the coming of the Messiah.²⁰ Rabbinic argumentation makes for solutions to problems, to advance interests in the face of barriers. Thus, the rabbis project the aspirations of a people to keep themselves together in historically challenging environments. Moreover, the Sages (primarily the later Sages) forcefully voiced the right of moral argumentation against God.

¹⁶ Weiss, 151.

¹⁷ Kraemer, 90.

¹⁸ Steinsaltz, 231.

¹⁹ Kraemer, 146.

²⁰ Jacob Neusner, *The Scriptures of the Oral Torah* (San Francisco: Harper and Row, 1987), 36.

DOV WEISS AND *PIOUS IRREVERENCE*

The notable new work, *Pious Irreverence: Confronting God in Rabbinic Judaism*, seeks to clearly establish how rabbinic conceptions of God shifted significantly in the early centuries of the Common Era. Specifically, the attitude toward theological protest underwent fluctuations until the *midrashim* of the *Tanhuma-Yelammedenu* (in the 6th-7th Centuries) took a generally more liberal and expansive approach to exploring how God seemed to have disappeared in the contemporaneous times of trial, under late Persian, and then Islamic, rule. Provocatively, the Rabbis often observed a shortfall between the actual conduct of God and the conduct that they believed God mandated and that they themselves deemed acceptable. Over time, their tolerance for this gap decreased, and so the rabbis insisted more sharply in their later writings that God had disappointed Her people. “Drawing from their own reservoir of values and concerns,” *amoraic* and *post-amoraic* Sages confronted troubling Divine behavior by speaking through biblical characters.²¹ After all, some stories in the canon depict an openly jealous, miserly, and vengeful Deity Who does not act as we might presume an omniscient Creator should.

As God took on more humanistic characteristics in the later *midrashic* collections - often in an attempt to make the Divine “more relatable”²² - the opportunity for God to err as humans would simultaneously opened. Weiss summarizes: “the openness to critique God supplied the rabbinic exegetes with a distinctive method to confront the ethically problematic God of the Hebrew Bible.”

²¹ Weiss exemplifies this idea with a brief discussion about God’s “near-omnicide” in Genesis 6-9, the story of Noah and the Flood. The *amoraic* *Genesis Rabbah* takes God to task for His “problematic act of violence” and voices its dismay with divine misconduct. Weiss, 132.

²² Weiss, 185.

In other words, the increasingly bold forays of the *stam* allowed for later midrashists to remonstrate with the erstwhile perfect God.

The confluence of the *stam's* editing and the transparently critical texts of later rabbinic scholars may thus reveal a concern within the rabbinic community that their contributions to the community conversation were ambiguous. That is, even as these rabbis allowed a diminished God to share in the disaffections of the Jewish community, perhaps they too registered some hesitation that their representations were augmenting the damage. The possibility that the rabbinic leaders of these Jews might have worsened the plight of their charges therefore can take on a heightened urgency in considering these works. It is with this perspective that we can assess two cases of Talmudic storytelling and illustrate how they approached argumentation and its role in human dramas.

First to be considered are the discussions in *Eruvin 13b*. In a series of stories apparently retold and reshaped by the *stamma'im*, intellectual paragons are on peacock-like display in a *sugya* that ultimately celebrates that which truly distinguishes the people of the “living God.” Despite the impressive exhibition of knowledge and cognitive derring-do of the scholars in this *sugya*, the rabbis in this instance decidedly do not favor razor-sharp argumentation. When faced with powerful challenges on both sides, the practical concern then emerges: how do the rabbis move forward as a body and decide which side to follow? Remarkably, it is through argumentation (!) that they emphasize the humility of the rabbis who defer to others, and they allow precedence to those who would represent themselves modestly.

THESE AND THOSE: RABBINIC MULTIVOCALITY

8

Erwin 13b, in the second tractate of the order *Moed*, establishes a contained multivocality that understands how interpretations can both multiply as well as stay within rabbinic control.

To launch this discussion, we are introduced to the Sage Rabbi Meir.

Rabbi Aḥa bar Ḥanina said: It is revealed and known before the One Who spoke and the world came into being that in the generation of Rabbi Meir there was no one of the Sages who is his equal. Why then didn't the Sages establish the *halakha* in accordance with his opinion? It is because his colleagues were unable to ascertain the profundity of his opinion. As he would state with regard to a ritually impure item that it is pure, and display justification for that ruling, and likewise he would state with regard to a ritually pure item that it is impure, and display justification for that ruling.²³ (Appendix 1a²⁴)

R Meir is reportedly so intellectually gifted that he could argue a ritually pure item into certain impurity. Moreover, his arguments are so abstruse that the rest of the Sages are unable to follow them. Therefore, the Sages, as a body, are not in a position to either ratify or refute R Meir. This situation imposed a necessary paralysis on the rabbis because their mode of conduct has already been predicated on majority rule.²⁵ As a result, though the gifts of R Meir might appear to be a boon to the deliberative body, it was rather an impediment because the other scholars were challenged to make good use of impenetrable argumentation. The *sugya* later adds to the dilemma:

²³ Translations herein are from Steinsaltz (Sefaria). See appendices for original texts.

²⁴ In his translator's notes, Steinsaltz elaborates: "He [R. Meir] was so brilliant that he could present a cogent argument for any position, even if it was not consistent with the prevalent halakha. The Sages were unable to distinguish between the statements that were halakha and those that were not."

²⁵ The biblical basis for the rabbinic "inclination after the majority" is in Exodus 23.2 and emerges through an oblique reference to doing evil, "You shall not side with the mighty [numerous] to do wrong."

Rabbi Abbahu said that Rabbi Yoḥanan said: Rabbi Meir had a disciple, and his name was Sumakhus, who would state with regard to each and every matter of ritual impurity forty-eight reasons in support of the ruling of impurity, and with regard to each and every matter of ritual purity forty-eight reasons in support of the ruling of purity. (Appendix 1b)

Helpfully, R Meir's disciple Sumakhus similarly has a dazzling and agile mind such that he is able to argue both sides of a question of purity. His mastery of his material is so great that he could argue for and against to the 48th degree, a clearly inflationary number intended to singularly impress those paying attention. Furthermore, surely such a statistic would serve to separate the mental gymnastics of this sage from the more pedestrian capacities of his colleagues. The implication of this description, however, again isolates the sage from his brethren. If he could conjure such skill, and the other rabbis could be no match for him, they are no longer able to join him in debate and could not support (or argue against) his point of view. Thus, they would have to debate and rule with their perhaps more tame rhetorical talents. The next sentence in the *sugya* proceeds to put an even finer point on this subject:

It was taught in a *baraita*: There was a distinguished disciple at Yavne who could purify the creeping animal, explicitly deemed ritually impure by the Torah, adducing one hundred and fifty reasons in support of his argument. (Appendix 1c)

This disciple is so impossibly clever that he is able to argue the *Torah*-decreed impure creeping animal into purity with the robust support of 150 points of argumentation.²⁶ The assertions of such a scholar might thus be intimidating. Additionally, the deliberative body is again left behind

²⁶ An unavoidable parallel to this scenario presents itself in Sanhedrin 17a, which states that a prerequisite for a judge to sit on the Sanhedrin is his ability to argue precisely this point: that the *Torah*-decreed impure animal is actually pure. Provocatively, however, this point also divides the two mentions. In *Eruvin* 13b, it separates the rabbis from one another, whereas, in *Sanhedrin* 17a, it is part of the job description for all the judges. In the latter case, it would seem that all the judges, in order to be effective, should be sufficiently wily to follow and discern the validity of any argument to determine its logic or illogic. On the other hand, rabbis whose argumentative cleverness so outstrips that of their colleagues only serves to depress constructive exchange, therefore diminishing the effectiveness of the group.

intellectually, and the superior debate skills have no benefit to a group that cannot follow. Then, an accommodation emerges:

Rabbi Abba said that Shmuel said: For three years Beit Shammai and Beit Hillel disagreed. These said: The *halakha* is in accordance with our opinion, and these said: The *halakha* is in accordance with our opinion. A Divine Voice emerged and proclaimed: Both these and those are the words of the living God. However, the *halakha* is in accordance with Beit Hillel. (Appendix 1d)

This *sugya* offers several examples of different interpretations giving rise to different decisions among rabbis. Classically, the opposing parties are represented by the House of Hillel and the House of Shammai. Unable to bridge the gap over three years of debate, these scholars are assisted by the fortunate emergence of a *bat kol*, which verifies that both interpretations are founded upon the words of God. Still, even if both follow from God's own words, some guidance from the Sages is always helpful, and the *Gemara* offers the nod to the House of Hillel. The *sugya* proceeds with an explanation:

Since both these and those are the words of the living God, why were Beit Hillel privileged to have the *halakha* established in accordance with their opinion? The reason is that they were agreeable and forbearing,²⁷ they would teach both their own statements and the statements of Beit Shammai. Moreover, they prioritized the statements of Beit Shammai to their own statements. (Appendix 1e)

The reader is presented with unexpected reasoning: the *Gemara* states that since the House of Hillel is humble in its analysis and gives primacy of placement to the argument of the House of Shammai, the *halakha* is weighted toward the House of Hillel. (As Rubenstein notes, this teaching is not found

²⁷ Steinsaltz explains: "showing restraint when affronted."

in the parallel *Yerushalmi*, but is rather distinctively Babylonian.) That is, irrespective of the finer details of rabbinic argumentation around determinative language, the House of Hillel's humility in handling the decision-making *process* is enough to ensure that the *halakha* is in accordance with their ruling. Does the *sugya* thus imply that Hillel's scholars will be perhaps more likely to arrive at a humble and more dispositive? decision? Do the Sages understand that a more generous argumentative stance may generate a better or more broadly applicable ruling? While these points are left unsaid, the inclination towards humility is apparent.²⁸ Moreover, we might infer that if the *Gemara* favors humility in the decision-making process, it is perhaps because a) the Sages want to promote a more humble approach as a model to others or b) a more humble process will yield better rulings. Either way, in an instance where God's word is reflected in multiple sides in a ruling which the Talmud regularly showcases this *sugya* offers a discernible path out of the competing perspectives. The backstory presents a more complicated tableau: *Beit* Hillel and *Beit* Shammai existed well more than a century before R Meir. It is unlikely that *Beit* Shammai would have countenanced such closure. Moreover, the House of Shammai seems to have disappeared by the time of the destruction of the Second Temple and the House of Hillel had the influence to fashion law.²⁹ The serendipitous participation of the *bat kol* - if true - is also key to the divinely approved conclusion, but the *sugya* does not return to its initial query: how is *halakha* decided? The *sugya* rather continues in its emphasis on the conduct of the Houses of Hillel and Shammai:

As in the mishna that we learned: In the case of one whose head and most of his body were in the *sukka*, but his table was in the house, *Beit* Shammai deem this *sukka* invalid; and *Beit* Hillel deem

²⁸ The nexus of argumentation and what might be seen as preening argumentation is important to note. The Talmud powerfully aims to advance the superiority of logic as a means to resolve conflict. Nevertheless, this body of texts also repeatedly reminds us that the humanity of all individuals ranks importantly in any dealing. Hence, argumentation may be a defining feature of the Talmud, but it is balanced by *בצלם אלהים* – *imitatio dei*. In fact, Rubenstein notes that “this tradition should probably be understood as an attempt to ameliorate the hostile environment that prevailed in the Babylonian academies.” Aware of the “verbal violence and hostility,” the *stamma'im* tried to improve the academic ethos by promoting collegial conduct. (Rubenstein, *The Culture of the Babylonian Talmud*, pp. 65-66)

²⁹ Lee I. Levine. *The Rabbinic Class of Roman Palestine in Late Antiquity* (Jerusalem: Yad Izhak Ben-Zvi and the Jewish Theological Seminary of America, 1985) 194.

it valid. Beit Hillel said to Beit Shammai: Wasn't there an incident in which the Elders of Beit Shammai and the Elders of Beit Hillel went to visit Rabbi Yoḥanan ben HaḤoranit, and they found him sitting with his head and most of his body in the *sukka*, but his table was in the house? Beit Shammai said to them: From there do you seek to adduce a proof? Those visitors, too, said to him: If that was the manner in which you were accustomed to perform the mitzva, you have never fulfilled the mitzva of *sukka* in all your days. (Appendix 1f)³⁰

Seeking to apply the lesson from above, the *Gemara* offers another instance where the elders of Hillel appear to note the perspective of *Beit* Shammai before their own. The phrasing of the *sugya* implies that the view of *Beit* Shammai - that the *sukkah* is invalid for one whose table cannot also be in the *sukkah* - is articulated first. The view of *Beit* Hillel is recorded second. Additionally, when the incident arises whereby visitors come to visit R Yoḥanan ben HaḤoranit, only the view of Shammai is noted; the view of *Beit* Hillel is understood but not stated. As a result, it can be inferred that *Beit* Hillel points first to the position of *Beit* Shammai before asserting their own. Thus, while the matters of the case as to whether a *sukkah* is valid are mentioned first, the text seems to imply that the House of Hillel should be favored due to its humble argumentative approach. The *sugya* continues:

This is to teach you that anyone who humbles himself, the Holy One, Blessed be He, exalts him, and anyone who exalts himself, the Holy One, Blessed be He, humbles him. Anyone who seeks greatness, greatness flees from him, and, conversely, anyone who flees from greatness, greatness seeks him. And anyone who attempts to force the moment,³¹ the moment forces him too, and he is unsuccessful. And conversely, anyone who is patient and yields to the moment, the moment stands by his side, and he will ultimately be successful. (Appendix 1g)

³⁰ Steinsaltz clarifies: "It is apparent from the phrasing of the mishna that when the Sages of Beit Hillel related that the Elders of Beit Shammai and the Elders of Beit Hillel visited Rabbi Yoḥanan ben HaḤoranit, they mentioned the Elders of Beit Shammai before their own Elders."

³¹ Steinsaltz adds: "and expends great effort to achieve an objective precisely when he desires to do so."

Here, the House of Hillel is roundly supported by the Talmud. The passage explicitly asserts that God exalts the humble and humbles the exalted. Thus, if we are referring to the deliberations of a body of rabbis regarding a point of *halakha*, the rabbis stress in no uncertain terms that of prime importance is the humility of he who comes before God. The humble fare well before God, the arrogant are felled before God. Thus, connecting this paragraph with the previous, the House of Hillel has conducted itself humbly by ensuring that the House of Shammai has the first word. (And also, the last word: the opinion of *Beit* Shammai on the matter of the *sukkah* of R Yoḥanan ben HaḤoranit is repeated and the opinion of the House of Hillel is left silent, though understood.) The reader is therefore led to conclude that the House of Hillel is exalted and the House of Shammai is unsuccessful. The *halakhic* decision is virtually an afterthought.

Finally, this *sugya* leads to a fascinating conclusion:

The Sages taught the following *baraita*: For two and a half years, Beit Shammai and Beit Hillel disagreed. These say: It would have been preferable had man not been created than to have been created. And those said: It is preferable for man to have been created than had he not been created. Ultimately, they were counted and concluded: It would have been preferable had man not been created than to have been created. However, now that he has been created, he should examine his actions.³² And some say: He should scrutinize his planned actions. (Appendix 1h)³³

The Houses of Shammai and Hillel have been arguing for two and a half years. The relative positions of the referents and their verbs suggest that *Beit* Shammai posit that it would have been preferable had man not been created and that *Beit* Hillel argue otherwise. (A textual predisposition to affirming that these arguments are thus aligned also obtains since *Beit* Shammai is more typically associated

³² Steinsaltz adds: “that he has performed and seek to correct them.”

³³ Steinsaltz clarifies: “and evaluate whether or not and in what manner those actions should be performed, so that he will not sin.”

with a more rigid perspective on human conduct.) An ultimate vote shows that the majority goes with the former. Recognizing that this sentiment may not be useful, given the fact that humanity exists, the scholars thus cleverly impose a Hillel-tinged mandate: since humanity has been created, one should exercise humility and so, through action, find favor before God. Despite having brought ill upon the world, humans can redeem their presence through humility before God.

In a *sugya* that traverses as wide a territory as any in the far-ranging Talmud, a notable unity resonates in *Eruvin* 13b. Across its breadth of examples, the understanding that man's humility is his virtue and arrogance is his paramount sin. Even in the first example, where R Meir's intellectual feats eclipse those of his colleagues, this comparison confers no advantage to R Meir. No subtlety or contrary ruling obscures this message. Also, no specific ruling, nor point of view, nor *halakha* is cited. This message evokes a much more modern take that nonetheless applies here: as Tolstoy launched his classic, *Anna Karenina*, "All happy families are alike; each unhappy family is unhappy in its own way." Tolstoy's jewel-like insight is that happy families tend to the welfare of each individual within the welfare of the larger group. Guided by such a perspective, any conflict can be approached and resolved. In *Eruvin* 13b, the rabbis illustrate again an ideal, whether or not realized in the end, that their emphasis lies with how decisions are made rather than with the decision actually made (or, in some cases, never even resolved). And, in the case of man and, of course, rabbis if decisions are made with humility, they will be exalted.

It would seem, as *Eruvin* 13b makes apparent, the Talmud comes down to later generations with a pronounced prejudice for decency of conduct. Such preference is not always conveyed so clearly. As Kraemer notes, "the *Bavli* will more often content itself with a successful defense of all

competing opinions than it will decide in favor of one or the other.”³⁴ Still, the Talmud’s redactors were insistent in some of its most affecting narratives that the dignity of human beings ranks primary among earthly concerns. So, it is with the Oven of *Akhnai*, where rabbis argue throughout the *sugya* and this ideal may fail, but with disastrous consequences.

CONFLICT (AND RESOLUTION) IN THE OVEN OF AKHNAI

The Talmud’s Oven of *Akhnai* dramatically pits both rabbi against rabbi, and rabbis against God. Two preeminent *tanna'im*, R Eliezer and R Yehoshua, argue their positions forcefully before the rabbinic court. God and Her retinue exhibit supernatural support for each side. Banishment and death await two of Israel’s greatest rabbis. Yet, the thrust of this Talmudic story is instructive of simple comity. Decisions may “incline after the majority,” but conduct must always incline toward the individual. Reason is paramount, but the rabbis of the Talmud *Bavli* drop decency among men at their peril. As told in *Bava Metzia* 59a-b, in a version heavily reshaped by the *stam*:³⁵

We learned in a mishna there (*Kelim* 5:10): If one cut an earthenware oven widthwise into segments, and placed sand between each and every segment, Rabbi Eliezer deems it ritually pure.³⁶ And the Rabbis deem it ritually impure. And this is known as the oven of *akhnai*. What is the relevance of *akhnai*, a snake? Rav Yehuda said that Shmuel said: It is characterized in that manner due to the fact that the Rabbis surrounded it with their statements like this snake,³⁷ and deemed it impure. The Sages taught: On that day, when they discussed this matter, Rabbi Eliezer answered all possible

³⁴ Kraemer, 104.

³⁵ Rubenstein, in *Talmudic Stories, Narrative Art, Composition, and Culture* (Baltimore and London: The Johns Hopkins University Press, 1999) reviews in Chapter 2 the evolution of this story in comparison with the version in the Yerushalmi. The Yerushalmi records a story of the Oven of Achinai.[#] It is a notably shorter tale, less encumbered with stock phrases found throughout the Babylonian Talmud, and, most noticeably, does not conclude with the shofar blast signaling the death of Rabban Gamaliel (an anachronistic detail which would not have occurred in Palestine). Since the narrative in the Palestinian Talmud represents an earlier tradition, Rubenstein builds a persuasive case that the redactors of the *Bavli* intentionally reshaped this story.

³⁶ Steinsaltz explains: “because of the sand, its legal status is not that of a complete vessel, and therefore it is not susceptible to ritual impurity.”

³⁷ Steinsaltz illustrates: “which often forms a coil when at rest”

answers in the world to support his opinion, but the Rabbis did not accept his explanations from him. (Appendix ii)

Right away, the *sugya* establishes a clear *makhloket*. Not only that, but a premier Sage, R Eliezer, “answered all answers in the world” to support his stance, but to seemingly no avail. From this tense standoff, the scene moves in a decidedly strange direction. R Eliezer appears to summon supernatural forces to his aid:

Rabbi Eliezer said to them³⁸: If the *halakha* is in accordance with my opinion, this carob tree will prove it. The carob tree was uprooted from its place one hundred cubits, and some say four hundred cubits. The Rabbis said to him: One does not cite halakhic proof from the carob tree. Rabbi Eliezer then said to them: If the *halakha* is in accordance with my opinion, the stream will prove it. The water in the stream turned backward and began flowing in the opposite direction. They said to him: One does not cite halakhic proof from a stream. Rabbi Eliezer then said to them: If the *halakha* is in accordance with my opinion, the walls of the study hall will prove it. The walls of the study hall leaned inward and began to fall. Rabbi Yehoshua scolded the walls and said to them: If Torah scholars are contending with each other in matters of *halakha*, what is the nature of your involvement in this dispute? The Gemara relates: The walls did not fall because of the deference due Rabbi Yehoshua, but they did not straighten because of the deference due Rabbi Eliezer, and they still remain leaning. Rabbi Eliezer then said to them: If the *halakha* is in accordance with my opinion, Heaven will prove it. A Divine Voice emerged from Heaven and said: Why are you differing with Rabbi Eliezer, as the *halakha* is in accordance with his opinion in every place? Rabbi Yehoshua stood on his feet and said: It is written: “It is not in heaven” (Deuteronomy 30:12). What is the relevance of the phrase “It is not in heaven”? Rabbi Yirmeya says: Since the Torah was already given at Mount Sinai, we do not regard a Divine Voice, as You already wrote at Mount Sinai, in the Torah: “After a majority to incline” (Exodus 23:2).³⁹ Years after, Rabbi Natan encountered Elijah the prophet and said to him: What did the Holy One, Blessed be He, do at that time? Elijah said to him: The Holy One, Blessed be He, smiled and said: My children have triumphed over Me; My children have triumphed over Me. (Appendix ij)

³⁸Steinsaltz instructs: “After failing to convince the Rabbis logically”

³⁹Steinsaltz adds: “Since the majority of Rabbis disagreed with Rabbi Eliezer’s opinion, the halakha is not ruled in accordance with his opinion.”

The Oven of *Akhnai* is one of the most well-known of Talmudic stories, perhaps due primarily to the *halakhic* victory of a majority of earthbound rabbis over the insistence of (a magic-wielding) R Eliezer and, ultimately, God (it seems). The story revolves around the failed argumentation of the traditionalist - and divinely well-connected - R Eliezer. He so alienates his colleagues that they excommunicate him - in the continuation of the *sugya* (below) - after declaring their earthbound right to differ with even the voice of God. Unfortunately, the grievously insulted Eliezer burns with such pain that his internal dislocations manifest themselves in external physical damage. After considerable crop destruction and Rabban Gamliel's nearly doomed boat journey, R Eliezer's pain ultimately results in the death of Gamliel, who - as the *Nasi* (patriarch) of the community - certainly represented his rabbinic colleagues. Hence it is clear that any terrestrial achievements of the Rabbis come hard-won. Ultimately, with such compromised conclusions, the lessons from this narrative hearken back to the simplest of instructions from *Pirke Avot*. This component of the Talmud, tucked toward the end of *Nezikin* (Damages), deals centrally with ethics. One of its most well-known teachings is in *Pirke Avot* 1:2: "The world rests on three things - on Torah, on service to God, and on deeds of love." The reader of the Oven of *Akhnai* can see clearly that deeds of love were insufficiently valued by the rabbis of this tale.

As the parable details, while engaged in a determined battle with his colleagues regarding the contested purity of a certain oven, R Eliezer is so assured of the correctness of his ruling that he invokes the forces of nature and God to provide supporting evidence. Fortuitously (for the moment), all called upon oblige R Eliezer. It appears that God, and all the natural forces under God, uphold R Eliezer's understanding. When R Eliezer sees that כל תשובות שבעולם - all the answers in the world!

- are not sufficient to satisfy his colleagues, he resorts to cosmic intervention. He declares that if he is correct in his argumentation first the carob tree, then the waters of the stream, and finally the walls of the *beit midrash* itself will move according to his will. All do so. (Though, in an appeasing nod to R Yehoshua as an important scholar and teacher in his own right, the walls waffle somewhat in their position.)⁴⁰

The contrast is striking. In the Beit Hillel/Beit Shammai context, the *bat kol* was accepted as determinative. Here, it would seem, solely from reading the first half of the story, that the new lesson is that the decisions are not in the heavens; God has already ceded authority to those on earth to decide. This position is equally staggering, however. That the Omnipotent, Omniscient, Omnipresent God is outvoted by a quorum in a *beit midrash*? What self-respecting monotheistic religious institution would allow such an upset? It is precisely this shocking message which makes this story resonate so strongly. In a world where the unknowable is a part of everyday life, including everyday survival, ensuring that matters must lie with more terrestrial powers can be a source of consistency and reassurance. *Chazal*, however, recognized that their effectiveness lay with earthly influence, notwithstanding even compelling evidence to the contrary. They are willing to take this message so far as to condemn the dissenting R Eliezer to excommunication in order to assert their proper authority. R Eliezer, the pious, noted scholar, would need to be ostracized – an outcome more palatable than the potential lost influence of the rabbis. This conduct thus focuses the narrative back from a question about ritual purity to the mechanics of a governing, reason-based body, and then to the interpersonal influences of that body on individuals. The *sugya* therefore

⁴⁰ In a delightful bit of wordplay, the *sugya* uses the same verb when the walls of the study hall lean (להטות) in response to R Eliezer's command as used in Talmud when addressing "incline after the majority." That is, the walls lean, but do not fall. Similarly, the majority may hold sway, but the minority voices are not silenced. Jeffrey Rubenstein, 41.

travels full circle from an individual to the operation of a governing institution back to the impacts of that institution on an individual.

This fraught tableau does not conclude the drama, however. The story continues with the rabbis summarily dismissing R Eliezer from their ranks, and natural disasters ensue. R Akiva volunteers to deliver the sensitive message to the legendary titan of Jewish law, knowing that R Eliezer's response could bear significant, unknowable implications:

The Sages said: On that day, the Sages brought all the ritually pure items deemed pure by the ruling of Rabbi Eliezer with regard to the oven and burned them in fire, and the Sages reached a consensus in his regard and ostracized him. And the Sages said: Who will go and inform him of his ostracism? Rabbi Akiva, his beloved disciple, said to them: I will go, lest an unseemly person go⁴¹ and he would thereby destroy the entire world. What did Rabbi Akiva do? He wore black and wrapped himself in black, and sat before Rabbi Eliezer at a distance of four cubits.⁴² Rabbi Eliezer said to him: Akiva, what is different about today from other days, Rabbi Akiva said to him: My teacher, it appears to me that your colleagues are distancing themselves from you.⁴³ Rabbi Eliezer too, rent his garments and removed his shoes,⁴⁴ and he dropped from his seat and sat upon the ground. His eyes shed tears, and as a result the entire world was afflicted: One-third of its olives were afflicted, and one-third of its wheat, and one-third of its barley. And some say that even dough kneaded in a woman's hands spoiled. The Sages taught: There was great anger on that day, as any place that Rabbi Eliezer fixed his gaze was burned. And even Rabban Gamliel,⁴⁵ was coming on a boat at the time, and a large wave swelled over him and threatened to drown him. Rabban Gamliel said: It seems to me that this is only for the sake of Rabbi Eliezer ben Hyrcanus.⁴⁶ Rabban Gamliel stood on his feet and said: Master of the Universe, it is revealed and known before You that neither was it for my honor that I acted when ostracizing him, nor was it for the honor of the house of my father that I acted; rather,

⁴¹ Steinsaltz details: "and inform him in a callous and offensive manner,"

⁴² Steinsaltz indicates: "which is the distance that one must maintain from an ostracized individual"

⁴³ Steinsaltz explains: "He employed euphemism, as actually they distanced Rabbi Eliezer from them."

⁴⁴ Steinsaltz notes: "as is the custom of an ostracized person."

⁴⁵ Steinsaltz adds: "the Nasi of the Sanhedrin at Yavne, the head of the Sages who were responsible for the decision to ostracize Rabbi Eliezer,"

⁴⁶ Steinsaltz explains: "As God punishes those who mistreat others."

it was for Your honor, so that disputes will not proliferate in Israel. In response, the sea calmed from its raging. (Appendix ik)

In other words, if R Eliezer would not accept this new idea of majority rule, his own insistence on traditions had to be rejected. But the result is disaster. It is Rabban Gamliel's entreaty for God's mercy in the affairs of human beings that emphasizes the destruction caused by R Eliezer's pain. His boat was not capsized in the gathering storm. Still, the avalanche of catastrophes is not yet to be concluded. The rare woman then enters into the narrative, Imma Shalom, who is Rabban Gamaliel's sister as well as R Eliezer's wife. She acts in the recognition that yet more misery may await:

The Gemara further relates: **Imma Shalom, the wife of Rabbi Eliezer, was the sister of Rabban Gamliel. From that incident forward, she would not allow Rabbi Eliezer to lower his head.⁴⁷ A certain day was around the day of the New Moon, and she inadvertently substituted a full thirty-day month for a deficient.⁴⁸ Some say that a pauper came and stood at the door, and she took bread out to him. (Appendix il)⁴⁹**

Imma Shalom knows that her husband's suffering could somehow be the proximate cause of her brother's demise. She therefore takes pains to watch over her husband so as to guard her brother from any untoward harm that could come his way. It is only the supplication of someone in need that briefly diverts her attention. This diversion is to prove terrible:

When she returned, she found him and saw that he had lowered his head in prayer. She said to him: **Arise, you already killed my brother. Meanwhile, the sound of a *shofar* emerged from the house of Rabban Gamliel to announce that the *Nasi* had died. Rabbi Eliezer said to her: From where did you know that your brother would die? She said to him: This is the tradition that I received from the**

⁴⁷ Steinsaltz explains: "and recite the *tahnanun* prayer, which includes supplication and entreaties. She feared that were her husband to bemoan his fate and pray at that moment, her brother would be punished."

⁴⁸ Steinsaltz adds: "twenty-nine-day month, i.e., she thought that it was the New Moon, when one does not lower his head in supplication, but it was not."

⁴⁹ Steinsaltz clarifies: "the result was that she left her husband momentarily unsupervised."

house of the father of my father: All the gates of Heaven are apt to be locked, except for the gates of prayer for victims of verbal mistreatment. (Appendix 1m)

The majority, it turns out, will not have the last word or deed in the escalated battle. R Eliezer, the heretofore influential and prominent Sage, is so wounded by the harsh punishment of his colleagues that his injury results in the destruction of crops, the spoilage of bread, and even a storm at sea that threatens the life of Rabban Gamaliel (who, as the *Nasi*, was the symbolic leader of the group that voted for R Eliezer's excommunication).⁵⁰ Nevertheless, despite Imma Shalom's vigilance, R Eliezer's wounds still burn - and cause destruction - and Rabban Gamaliel dies. The *sugya* concludes with damning language: even when all the gates of Heaven are locked, they are opened for the prayers for victims of verbal mistreatment.

In sum, a story that began with a question about the purity of an oven resolves with the excommunication of a great Rabbi and the death of the *Nasi* - thus teaching a lesson in the primacy of decency in human relations.⁵¹ What we see is an anxiety, both as to the roles of human argumentation and Divine interventions: for all the importance of legal process and following the law held for the Jewish community, if we fail to be governed by human decency, we have lost our way.⁵²

⁵⁰ Rubenstein, 60.

⁵¹ Kraemer, in *The Mind of the Talmud*, digs deeply into this story as well, but fails to mention the response of Eliezer to the decree and Imma Shalom altogether. Kraemer instead emphasizes the affirmation of rabbinic governing control. He uses the story rather to assert that "the best we can do is to seek the truth, approach the truth ... [and the process which we use] and the study of that process must become the ultimate act[s] of piety." Kraemer, 124.

⁵² Throughout rabbinic literature, particularly in *Pirke Avot*, acting in God's image is detailed according to Biblical example. Since God clothed the naked, visited the sick, and buried the dead in Torah, these fundamentally compassionate acts are models for humanity to follow. (*Sotah* 14a) Ben Azzai is credited with a most expansive view of the dignity of every individual and the decent conduct he merits in *Pirke Avot* 4:3 where he says: "אל תהי בך לכל אדם, ואל תהי מפליג לכל דבר, שש אין לה אדם שש אין לו מקום לו שעה וְאין לה דבר שש אין לו מקום לו שעה וְאין לה דבר שש אין לו מקום לו שעה וְאין לה דבר שש אין לו מקום לו שעה." "Do not despise any man, and do not [underrate] anything, for there is no man that has not his hour, and there is no thing that has not its place."

It is precisely this centrality of argumentation and conflict that establishes this ancient text so resonantly within our modern context. Our Sages understood well that the strength of a society depended greatly on its ability to be sustained over time. Thus, they predicated Jewish law on rationality and argumentation, but also hoped for an ability to resolve differences soberly and in a peaceful democratic fashion. As David Kraemer reasons in *The Mind of the Talmud*, the *Bavli*,

as an argumentative text, is rhetorical, that is, it seeks to persuade. It does so within the context of community (the rabbinic community) and by doing so seeks to strengthen that community. This is the nature of its approach because it begins with certain assumptions: (1) that it may not, finally, coerce the minds it addresses. (2) that authority, by itself, is insufficient, and (3) that truth, finally, is ambiguous and alternatives are always available.⁵³

Irrespective of the power of the intellect to persuade, move, or otherwise decide where to end indecision, a community can ultimately survive only based on its commitment to secure that community.

CONCLUSION

The writers and compilers and redactors of Talmud exhibited varying levels of satisfaction with the all-powerful God of Torah. Though the earliest Sages were loath to argue with God - R Akiva is chief proponent of the “God does no wrong” flank - the Talmud assiduously records the rabbis’ discord among themselves, and, in the Oven of *Akhnai*, included an implicit critique of God. In *Eruvin* 13b, the Talmud definitively avows that “these and those” are the words of the Living God. That is, some words which might imply one thing and other words which may imply something else

⁵³ Kraemer, 117.

could lead to opposing implications, yet still derive from the One God. Moreover, the opposing implications may be considered as equally valid derivations, yet the decision as to which will ultimately be favored is neither due to its assumptions nor its conclusions. Rather, the Talmud in this instance throws its weight behind those who advocate their position with greater humility. The Oven of *Akhnai* illustrates this same point, but by way of counterexample. The *Bavli* concludes the *sugya* with an understanding that, if those who argue aggrandize the repartee over those individuals the discussion affects, they have lost their way. The conclusion of this bit of Talmud is all the more striking when one considers that it is through argumentation that the Sages explicated the limits of argumentation.

It is the Talmud's highly effective method that the varying points of view - up to 150, at last count - represent the immersion of scholars in their Divine endeavor. As Boyarin discerns, the Talmud is:

the text of a dialogue between one's deep commitment to a given practice and one's own self-reflexive critique of it at one and the same moment, between the dominant voice of authoritative discourse, the *Torah*, and the ongoing developing inner convictions of a given community, the *stamma*. As in Plato, the dialogue is ultimately a dialogue of the self with the self, of the asserting self with the self that doubts itself, and thus one in which, always "the unity of the polyphonic text has yet to be discovered."⁵⁴

It is a peculiar exercise, indeed, and even a somewhat anxious act of balancing that the Jewish sages have aimed to manage. But manage they have, by constructing a philosophical approach to their people and their culture based on reason, decency, and sustainability. In a world of uncertainty - where civilizations come and go, where republics wax and wane, where the oldest democracies are

⁵⁴ Daniel Boyarin. *Socrates and the Fat Rabbis* (Chicago and London: University of Chicago Press, 2009) 146.

still in the experimental stages - the Rabbis' approach to *sevara* backed by the commitment to learning God's will would appear to hold up against the best of them.

Daphna Oren is a lifelong student of Jewish texts. She maintains her studies through regular learning with a chavruta, formal studies with a beit midrash, and teaching middle school teens about the Talmud. This article is adapted from her recent Master's thesis, completed at the Baltimore Hebrew Institute of Towson University.

BIBLIOGRAPHY

- Boyarin, Daniel. *Socrates and the Fat Rabbis*. Chicago: University of Chicago Press, 2009.
- Cohen, Abraham. *Everyman's Talmud*. New York: Schocken Books, 1949.
- Hidary, Richard. *Dispute for the Sake of Heaven: Legal Pluralism in the Talmud*. Providence: Brown Judaic Studies, 2010.
- Holtz, Barry W. *Rabbi Akiva: Sage of the Talmud*. New Haven and London: Yale University Press, 2017.
- Kraemer, David. *The Mind of the Talmud: An Intellectual History of the Bavli*. New York: Oxford, 1990.
- Levine, Lee I. *The Rabbinic Class of Roman Palestine in Late Antiquity*. Jerusalem: Yad Izhak Ben-Zvi and the Jewish Theological Seminary of America, 1985.
- Neusner, Jacob. *The Scriptures of the Oral Torah*. San Francisco: Harper and Row, 1987.
- Kulp, Joshua and Jason Rogoff. *Reconstructing the Talmud, Volume II*. Hadar Press, 2019
- Rubenstein, Jeffrey. *The Culture of the Babylonian Talmud*. Baltimore and London: The Johns Hopkins University Press, 2003.
- Rubenstein, Jeffrey. *Talmudic Stories: Narrative Art, Composition, and Culture*. Baltimore and London: The Johns Hopkins University Press, 1999.
- Steinsaltz, Adin. *The Essential Talmud*. United States of America: Basic Books, 1976.
- Vidas, Moulie. *Tradition and the Formation of the Talmud*. Princeton: Princeton University Press, 2014.
- Weiss, Dov. *Pious Irreverence: Confronting God in Rabbinic Judaism*. Philadelphia: University of Pennsylvania Press, 2017.

APPENDIX 1: BAVLI TEXTS (FROM SEFARIA)

ia

א"ר אחא בר חנינא גלוי וידוע לפני מי שאמר והיה העולם שאין בדורו של רבי מאיר כמותו ומפני מה לא קבעו הלכה כמותו שלא יכלו חביריו לעמוד על סוף דעתו שהוא אומר על טמא טהור ומראה לו פנים על טהור טמא ומראה לו פנים.

ib

אמר רבי אבהו אמר רבי יוחנן: תלמיד הנה לו לרבי מאיר וסומכוס שמו, שהנה אומר על כל דבר ודבר של טומאה ארבעים ושמונה טעמי טומאה, ועל כל דבר ודבר של טהרה ארבעים ושמונה טעמי טהרה.

ic

תנא תלמיד ותיק היה ביבנה שהיה מטהר את השרץ במאה וחמשים טעמים

id

א"ר אבא אמר שמואל שלש שנים נחלקו בי"ש ובי"ה הללו אומרים הלכה כמותנו והללו אומרים הלכה כמותנו יצאה בת קול ואמרה אלו ואלו דברי אלהים חיים הן והלכה כבי"ה

ie

וכי מאחר שאלו ואלו דברי אלהים חיים מפני מה זכו בי"ה לקבוע הלכה כמותן מפני שנחין ועלובין היו ושונין דבריהן ודברי בי"ש ולא עוד אלא שמקדימין דברי בי"ש לדבריהן

if

כאותה ששנינו מי שהיה ראשו ורובו בסוכה ושלחנו בתוך הבית בית שמאי פוסלין ובי"ה מכשירין אמרו בי"ה לבי"ש לא כך היה מעשה שהלכו זקני בי"ש וזקני בי"ה לבקר את ר' יוחנן בן החורנית ומצאוהו יושב ראשו ורובו

בסוכה ושלחנו בתוך הבית אמרו להן בית שמאי (אי) משם ראייה אף הן אמרו לו אם כך היית נוהג לא קיימת מצות סוכה מימך

ig

ללמדך שכל המשפיל עצמו הקב"ה מגביהו וכל המגביה עצמו הקב"ה משפילו כל המחזר על הגדולה גדולה בורחת ממנו וכל הבורח מן הגדולה גדולה מחזרת אחריו וכל הדוחק את השעה שעה דוחקתו וכל הנדחה מפני שעה שעה עומדת לו

ih

ת"ר שתי שנים ומחצה נחלקו ב"ש וב"ה הללו אומרים נוח לו לאדם שלא נברא יותר משנברא והללו אומרים נוח לו לאדם שנברא יותר משלא נברא נמנו וגמרו נוח לו לאדם שלא נברא יותר משנברא עכשיו שנברא יפשפש במעשיו ואמרי לה ימשמש במעשיו

ii

תנן התם חתכו חוליות ונתן חול בין חוליא לחוליא ר"א מטהר וחכמים מטמאין וזה הוא תנור של עכנאי מאי עכנאי אמר רב יהודה אמר שמואל שהקיפו דברים כעכנא זו וטמאוהו תנא באותו היום השיב רבי אליעזר כל תשובות שבעולם ולא קיבלו הימנו

ij

אמר להם אם הלכה כמותי חרוב זה יוכיח נעקר חרוב ממקומו מאה אמה ואמרי לה ארבע מאות אמה אמרו לו אין מביאין ראייה מן החרוב חזר ואמר להם אם הלכה כמותי אמת המים יוכיחו חזרו אמת המים לאחוריהם אמרו לו אין מביאין ראייה מאמת המים חזר ואמר להם אם הלכה כמותי כותלי בית המדרש יוכיחו הטו כותלי בית המדרש ליפול גער בהם רבי יהושע אמר להם אם תלמידי חכמים מנצחים זה את זה בהלכה אתם מה טיבכם לא נפלו מפני כבודו של רבי יהושע ולא זקפו מפני כבודו של ר"א ועדיין מטיין ועומדין חזר ואמר להם אם הלכה כמותי מן השמים יוכיחו יצאתה בת קול ואמרה מה לכם אצל ר"א שהלכה כמותו

בכ"מ עמד רבי יהושע על רגליו ואמר (דברים ל, יב) לא בשמים היא מאי לא בשמים היא אמר רבי ירמיה שכבר נתנה תורה מהר סיני אין אנו משגיחין בבת קול שכבר כתבת בהר סיני בתורה (שמות כג, ב) אחרי רבים להטות אשכחיה רבי נתן לאליהו א"ל מאי עביד קוב"ה בההיא שעתא א"ל קא חייך ואמר נצחוני בני נצחוני בני.

ik

אמרו אותו היום הביאו כל טהרות שטיהר ר"א ושרפום באש ונמנו עליו וברכוהו ואמרו מי ילך ויודיעו אמר להם ר"ע אני אלך שמא ילך אדם שאינו הגון ויודיעו ונמצא מחריב את כל העולם כולו מה עשה ר"ע לבש שחורים ונתעטף שחורים וישב לפניו ברחוק ארבע אמות אמר לו ר"א עקיבא מה יום מיומים אמר לו רבי כמדומה לי שחבירים בדילים ממך אף הוא קרע בגדיו וחלץ מנעליו ונשטט וישב על גבי קרקע. זלגו עיניו דמעות לקה העולם שלישי בזיתים ושליש בחטים ושליש בשעורים ויש אומרים אף בצק שבידי אשה טפח תנא אך גדול היה באותו היום שבכל מקום שנתן בו עיניו ר"א נשרף. ואף ר"ג היה בא בספינה עמד עליו נחשול לטבעו אמר כמדומה לי שאין זה אלא בשביל ר"א ב הורקנוס עמד על רגליו ואמר רבונו של עולם גלוי וידוע לפניך שלא לכבודי עשיתי ולא לכבוד בית אבא עשיתי אלא לכבודך שלא ירבו מחלוקות בישראל נח הים מזעפר.

il

אימא שלום דביתהו דר"א אחתיה דר"ג הואי מההוא מעשה ואילך לא הוה שבקה ליה לר"א למיפל על אפיה ההוא יומא ריש ירחא הוה ואיחלף לה בין מלא לחסר איכא דאמרי אתא עניא וקאי אבבא אפיקא ליה ריפתא

im

אשכחתייה דנפל על אנפיה אמרה ליה קום קטלית לאחי אדהכי נפק שיפורא מבית רבן גמליאל דשכיב אמר לה מנא ידעת אמרה ליה כך מקובלני מבית אבי אבא כל השערים ננעלים חוץ למשערי אונאה