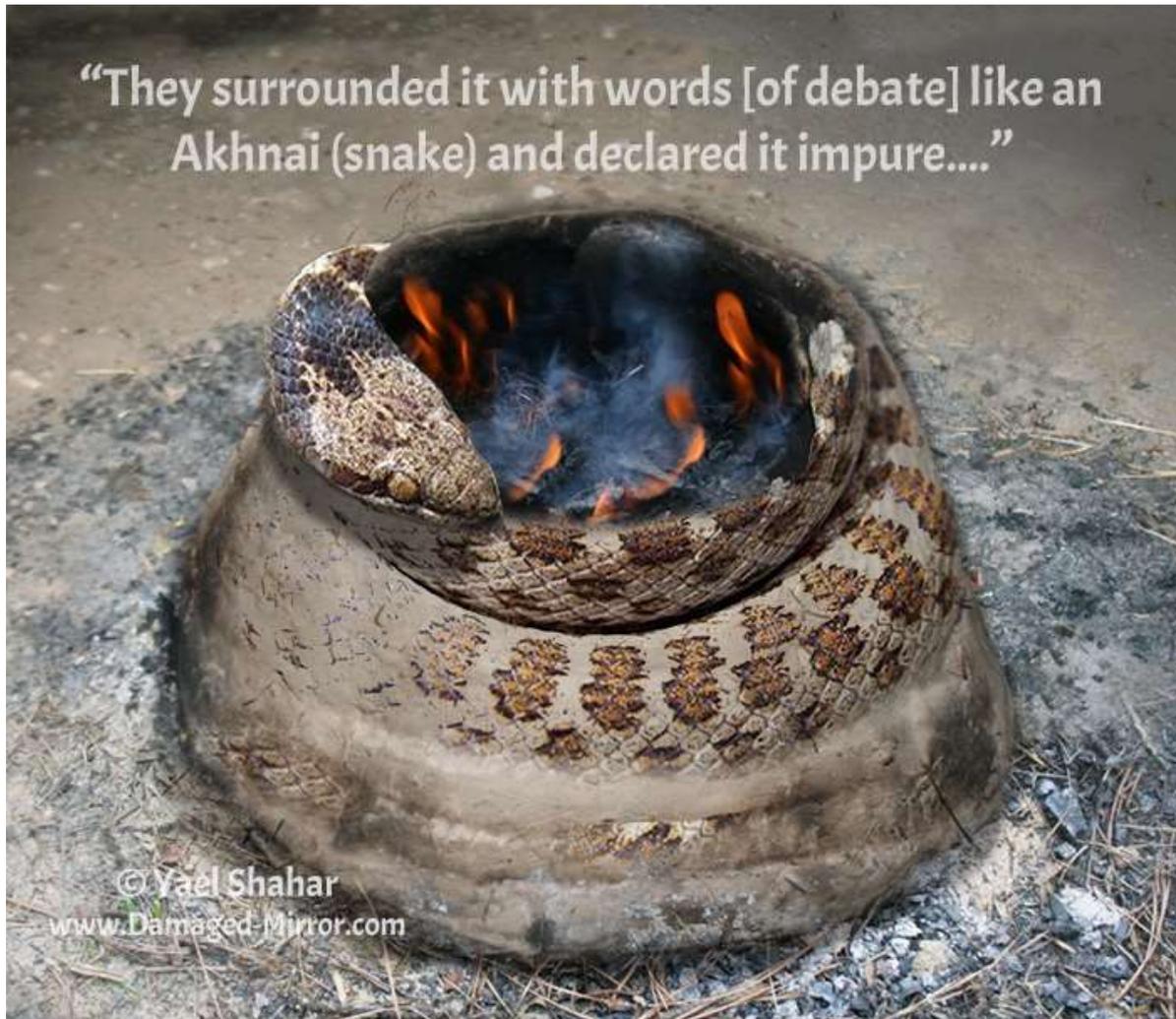


The Tanur shel Akhnai: A tale of two methods

July 18, 2016 by [Yael Shahar](#) [5 Comments](#)

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One of the most quoted Talmudic stories is the story of the Tanur shel Akhnai—the “oven of Akhnai”. The story tells of a debate between the famous R’ Eliezer ben Hyrcanus on the one side and the rest of the sages of Israel on the other side. It includes all the trappings of a good story: drama and pathos; miraculous occurrences and steadfast adherence to logical proof. But behind the scenes, it is the story of a dramatic upheaval in the Jewish world, whose echoes continue to reverberate down the corridors of halakhic study and practice to this day.

The earliest allusion to the “Oven of Akhnai appears in Tosefta Eduyot 2:1, which lists “four things that R’ Eliezer rules pure and the Sages rule susceptible to impurity.” The last of these is an oven cut into segments with sand filling the gaps between each segment, about which “disagreements multiplied in Israel.”^[1]

But really, our story begins even earlier. The Tosefta on Eduyot begins with this critic passage:

When the sages assembled in the vineyard at Yavne they said: in the future, people will search for something from the words of Torah and not find it, from the Divrei sofrim (Oral traditions) and not find it, as it is said (Amos 8: 11-12): “Days are coming, says the Lord God [when I will send hunger in the land, not hunger for bread, nor thirst for water, but for hearing the words of the Lord. They shall wander from sea to sea and from North to East, and run to and fro to seek the word of Hashem, but they will not find it.”]... for not one word of the Torah will be like another.

כשנכנסו חכמים לכרם ביבנה אמרו עתידה
שעה שיהא אדם מבקש דבר מדברי תורה ואינו
מוצא מדברי סופרים ואינו מוצא שנאמר (עמוס
ח) הנה ימים באים נאם ה' וגו' ישוטטו לבקש
את דבר ה' ולא ימצאו דבר ה' זו נבואה דבר
ה' זה הקץ דבר ה' שלא יהא דבר מד"ת דומה
לחבר

ואמרו נתחיל מהלל ומשמאי שמאי אומר מקב
חלה הלל אומר מקבים וחכ"א לא כדברי זה
ולא כדברי זה אלא קב ומחצה חייב.

They said, let us start with Hillel and Shammai, for Shammai said the priest’s share of dough is a *kav*, and Hillel said it is two *kavs*, and the sages said, it is not according to the opinion of the former nor of the latter, but a *kav* and a half.

This puts the Tanur shel Akhnai story into context. At the time “the sages entered the vineyard at Yavne”, Jerusalem was under siege by the Romans and would soon be destroyed. Jewish national sovereignty had long been in name only; it was about to become nothing more than a cherished memory. The sages, under the leadership of Rabban Yochanan ben Zakai, had gathered at Yavne to salvage anything they could from the ruins. But the success or failure of this task would depend on their ability to tap into the source of Jewish survival up until then—the Torah and its Oral traditions.

At that time, there were two main approaches to applying the principles of Torah to communal and private life: the traditional approach and the Babylonian approach. The traditional method depended upon very precise preservation of earlier traditions, word for word. These “Divrei Sofrim” were very carefully handed down from teacher to student. This is the approach of students of Shammai such as R’ Eliezer ben Hyrcanos.

The newer system of interpretation had been brought from Bavel to Eretz Yisrael by Hillel. Hillel’s approach used exegetical methods to reinterpret texts so that they could be applied to later times. This was the approach of R’ Yehoshua and his students.

In the Mishna and the Talmud these two methods are reframed as *Mesorah* (tradition) and *Hiddush* (innovation). Both schools of thought were used from the time of the return from Bavel up until... well, they’re both in use today, come to think of it. But Hillel had put the Babylonian

method on a firm footing, so that when necessary it could overturn even those rulings that had been passed down unchanged for millennia.

In the Tosefta quoted above, the sages in Yavne lament that Shammai says one thing, Hillel says another, and yet common practice accords with neither of them. Let us, therefore, return to our sources, they say, to the teachings of Hillel and Shammai, before the time when disagreements multiplied in Israel. Let us try to resolve these differences and restore unity.

During the days of Hillel and Shammai, the two approaches could exist side by side, so long as nothing was decided overly definitively. However, once a time came when a decision had to be made once and for all, then one approach had to carry the day.

But this decision came with a heavy price for those involved. One of the most poignant aspects of the story of the Tanur shel Akhnai is that it was just this attempt to “resolve the differences” and reach a unified decision that brought about a terrible schism among the sages at Yavne.

R’ Eliezer was one of the founding pillars of the School of Yavne, along with his friend and sparring partner, R’ Yehoshua. Their teacher, Rabban Yochanan ben Zakai described R’ Eliezer as “a plastered cistern that never loses a drop.” For his part, R’ Eliezer’s maxim was: “I never said anything (in Halakhah) that I did not hear from my teachers.”

While R’ Eliezer was a strong proponent of the Mesorah approach to Halakhah, R’ Yehoshua was the champion of innovation and creative interpretation. Both approaches were vital to the success of Rabban Yochanan ben Zakai’s program. Both were needed to ensure that something survived the devastation, to grow and flourish when the darkness had passed.

Indeed, this same tension runs through Jewish history to this day—the tension between the “conservative / preservative” strain of thought, which transmits faithfully only what it heard from its teachers, and the innovative—and risky—strain of thought that attempts to incorporate new ideas and values. We can’t do without either of these viewpoints. This is the true meaning of the saying: “These and these are the word of the living God”. It’s not that both viewpoints are equally important; it’s that only the *combination* of the two viewpoints is a reflection of the Divine.

And yet, in every age, one of these viewpoints must be the standard for decision-making. It is noteworthy that the rift that tore apart the fledgling “government in exile,” and shook the foundations of rabbinic Judaism, began with a disagreement over the ritual status of a makeshift camping stove! What is even more striking is that, at the time our story takes place, this ritual status—*tuma’ah* and *taharah*—was a purely theoretical issue, with little practical import. With the destruction of the Temple in Jerusalem, ritual purity or impurity no longer had any practical application. Such questions were studied in the hopes that they would soon once more become relevant to daily practice.

Purity and Impurity

On the most basic level, purity (*tahara*) qualifies a person or an object to come in contact with the Holy, while impurity (*tuma'ah*) disqualifies that person or object from coming into contact with the Holy. Thus, a person who is in a temporary state of *tuma'ah* can't go into the Bet HaMikdash to bring an offering.

There are different levels of *tuma'ah*, of which the most severe stems from contact with the dead. Rabbi Shimshon Raphael Hirsch tends to see all of these levels as defined by a consciousness of mortality. That is: there is nothing inherently “pure” or “impure” in those things that cause a person to be ritually impure; it's just that certain people and things bring us to a mental space where we are focused on our own transience as created beings.

The Tzadokim (Sadducees), and at least one of the Dead Sea sects, were very much occupied with ritual purity, almost to the exclusion of all else. Several of the Pharisaic sages of the time sought to limit the application of impurity for pragmatic reasons.

But even though purity and impurity were no longer of practical application at the time our story takes place, nor indeed in our day, these matters are far from academic: the laws of purity and impurity were an attempt to define where the partition between the mundane and the holy should be located, and how high a partition it should be. (At times we seem afraid of God looking into our backyards, and want a higher partition, just for the sake of privacy!) Although there is no word for “religion” in Biblical—or even in Talmudic—Hebrew, questions of *tuma'ah* and *taharah* also have a bearing on the question of where we should put the dividing line between “religious” and “secular” life. This line is never fixed, nor could it ever be. Hence the enduring relevance of stories like the Tanur shel Akhnai.

What was the “oven of Akhnai”?

If an oven is cut into rings, and sand is placed between the rings, Rabbi Eliezer says it is pure. But the sages say it is susceptible to impurity. This is the oven of Akhnai. Arabian vats, which are holes dug in the ground and plastered with clay—if the plastering can stand by itself, it is susceptible to impurity; otherwise, it is not susceptible. This is the oven of Ben Dinai.

התכו חליות ונתן חול בין חליא לחליא, רבי אליעזר מטהר, וחכמים מטמאין. זה תנורו של עכנאי. יורות הערביין שהוא חופר בארץ וטח בטיט, אם יכול הטיט לעמוד בפני עצמו, טמא. ואם לאו, טהור. וזה תנורו של בן דינאי משנה כלים א: י

– Mishnah Kelim 5:10

The underlying assumption here is that a natural object is not susceptible to ritual impurity, while a man-made object is susceptible. But when does such susceptibility actually commence? Only when the object is a completed tool. Here, the fact that the oven is composed of individual parts, none of which is susceptible to impurity on its own, is the basis for declaring it pure. However, once the thing is put together, the sages rule that its status changes from a collection of random objects (each of which isn't complete enough to be impure) to a finished product.

The story according to the Talmud Yerushalmi

Here is how our story is recorded in the Talmud Yerushalmi (Jerusalem Talmud)

They wished to excommunicate R. Eliezer. They asked, “Who will go and inform him of this?”

ביקשו לנדות את רבי ליעזראמר אמרין מאן
אזל מודע ליה אמר רבי עקיבה אנא אזל מודע
ליה.

R’ Akiva volunteered. When he came to R’ Eliezer, R’ Akiva said, “Rebbi, your friends are excommunicating you.”

אתא לגביה א”ל רבי ר’ חביריך מנדין לך.

R’ Eliezer took him outside and said, “Carob tree! Carob tree! If the Halakhah is like the Chachamim, uproot yourself!” The tree was not uprooted.

נסתיה נפק ליה לברא אמר חרוביתא חרוביתא
אין הלכה כדבריהם איתעוקרין ולא איתעקר’.

אין הלכה כדבריי איתעוקרין ואיתעקרת אין
הלכה כדבריהם חוזרין ולא חזרת.

“If the Halakhah is like me, uproot yourself!” The tree was uprooted.

אין הלכה כדבריי חוזרין וחזרת.

“If the Halakhah is like the Chachamim, let the carob return to its place”. The tree did not return. “If the Halakhah is like me, let the carob return to its place!” The tree returned.

כל הזין שבחא ולית הלכה כר’ אליעזר?

א”ר חנינה משניתנה לא ניתנה אלא אחרי רבים
להטות.

All this, and the Halakhah is not like R’ Eliezer!?

ולית ר’ אליעזר ידע שאחרי רבים להטות?

R’ Haninah said, Since the Torah was given, we follow the opinion of the majority.

לא הקפיד אלא על ידי ששרפו טהרותיו בפניו.

But did R’ Eliezer not know that we follow the majority?

תמן תנינן חיתכו חוליות ונתן חול בין חולייא
לחולייא רבי ליעזר מטהר וחכמים מטמאין זה
תנורו של חכניי.

He was upset because they burned his Tahor food in front of him [showing that they ruled that it was Tameh].

אמר רבי ירמיה חכך גדול נעשה באותו היום
כל מקום שהיתה עינו של רבי ליעזר מבטת
היה נשדף ולא עוד אלא אפילו חיטה אחת
חצייה נשדף וחצייה לא נשדף והיה עמודי בית
הוועד מרופפין.

The Mishnah [in Masechet Keilim] teaches: If they sliced up a [Tameh] earthenware oven and inserted sand in between each slice, R’ Eliezer says the oven is Tahor and the Chachamim say that it is Tameh. This is called the Chachinai oven.

אמר להן ר’ יהושע אם חברים מתלחמים אתם
מה איפכת לכם ויצאה בת קול ואמרה הלכה
כאליעזר בני.

R’ Yirmiyah said: A great disaster occurred on that day—wherever R’ Eliezer looked, the crops were ruined. Even in the same wheat stalk, one half was ruined and the other

א”ר יהושע לא בשמים היא!

half was not; and the pillars of the Study Hall trembled.

—ירושלמי, מועד קטן פג

R' Yehoshua said [to the walls]: If friends disagree, why should it interest you?

A Heavenly voice came out and declared, “The Halacha is like my son Eliezer”.

R' Yehoshua responded, “It [the Torah] is not in heaven!”

—Moed Katan Perek 3

Deconstructing the story

In his class on Reading Midrash Aggadah, Rav Ilay Oferan offers a few tips on parsing the stories of the Oral Torah:

1. The story typically has three acts.
2. The first line of the story is often a synopsis of the entire story and may be repeated or restated at the end.
3. The words used are very carefully chosen and will have mnemonic and symbolic value.

Guided by these rules, here is how we might parse the Yerushalmi's version of the Oven of Akhnai:

Act 1 – R' Eliezer asks for a sign

The sages have decided to ostracize R' Eliezer. We are told neither the reason nor the context. From the identity of the principle actors, we can surmise that the incident took place during the reign of Rabban Gamliel II. In the chronology of the story, there is no debate about the Tanur shel Akhnai at all; just the information that R' Eliezer held it to be not susceptible to *tuma'ah*.

R' Akiva goes to tell R' Eliezer of the decision. At this point, it seems that R' Eliezer himself asks for a sign. He seems to be questioning, perhaps unsure of himself. His taking R' Akiva outside is evocative of the wording in B'reishit, where Avram—not yet Avraham—[questions God on the matter of his having descendants](#), and God “took him outside”. Several Midrashim on this passage see the act of “taking outside” as a means of changing a person's way of thinking—taking him out from under a misconception, showing him another way of seeing things.

Was R' Eliezer trying to convince R' Akiva to help rescind the ban? Probably not, as at that time, R' Akiva was still one of the younger and less qualified students and would not have had much influence with Rabban Gamliel. Perhaps R' Eliezer was trying to convince himself that God was on his side. And of course, as the Bat Kol emphasizes, He was!

The sign that R' Eliezer asks for is that a Carob tree (*Haravuta*)^[2] uproot itself. The word used is “רקעתיא” a word which is sure to evoke the question asked by the Gemara in several places: “But can the sages really uproot (רקוע) a law of the Written Torah?” R' Eliezer seems to be saying, “Only God can uproot what God has given.”

The narrative voice of the Gemara asks: All these signs and wonders! How could it be that the Halakhah is not as R' Eliezer says it is? Even God agrees with him!

Act 1 leaves us with the question hanging in the air. It's a question that every posek (Halakhic decisor) must ask throughout the generations: is my p'sak in line with Heaven? Is my dispute with my colleagues for the sake of Heaven or merely for the sake of my own ego?

At this point: *Tyuvta*^[3]! It's a valid question!

Act 2 – An open rift

R' Haninah says, “From the time it was given, we follow the majority.” To which the Gemara asks (in Aramaic) the rhetorical question, What? Didn't R' Eliezer know this? Of course he did. He didn't lose his temper until they burned things that he had declared *Tahor* in front of him.

At this point, it's not clear which *tohorot* are referred to, so the Gemara points back to the Mishnah in Kelim, where R' Eliezer ruled that the coiled oven was not susceptible to impurity (and thus, things cooked in it did not lose their status as *tohorot*). Now, if we say that it is susceptible to impurity, then those things cooked in it are not *tohorot* (or rather they are *tohorot* that have become *tumot*). What can you do with such objects? Nothing! The only thing you can do is burn them to keep someone from eating them accidentally, not realizing their status.

It seems likely that the burning of the *tohorot* was a deliberate provocation. While Rabban Gamliel isn't mentioned here, the Bavli definitely puts Rabban Gamliel squarely at the head of the apparatus that ostracized R' Eliezer, and there's a good historical basis for doing so. Based on other stories, it would be entirely in character for Rabban Gamliel to require some dramatic demonstration that his view was the one to be followed. One need only call to mind his dramatic humiliation of R' Yehoshua in their dispute about the calendar.

In any event, this was the last straw for R' Eliezer, and a sign of an open rift.

Note that it wasn't the disagreement about the Halakhah that caused the crisis, but *the decision to act on it*, to resolve the dispute once and for all. Had the dispute been left unresolved, the crisis probably would not have happened. The problem here is the attempt to decide who's right!

The sages' (or possibly Rabban Gamliel's) insistence on forcing a decision ends with a terrible schism and a sense of loss. By banning R' Eliezer, the sages managed to preserve unity at a time when it was desperately needed, but at the expense of destabilizing the very pillars (the *Amudim*) of the Torah. The loss of R' Eliezer's wisdom was a tragedy that shook the foundations of Halakhah.

The Beit Midrash has lost the voice of R' Eliezer, and all the immense learning that only he could have taught, but the impact on R' Eliezer was equally devastating.

Every place on which R' Eliezer's eyes rested was burned. Even a single shaft of wheat was left burned on one side and whole on the other side.

כל מקום שהיתה עינו של רבי ליעזר מבטת
היה נשרף, ולא עוד אלא אפילו חיטה אחת-
חצייה נשרף וחצייה לא נשרף

We find the same expression about the “burning gaze” in the story of R' Shimon bar Yochai and his son who hid in a cave for years to escape the Romans. When they come forth from the cave, the same expression is used: everywhere they looked was burned. They could not see the good in the world, but only the ruination of it. In our story too, R' Eliezer is left unable to see anything good in the world. The substance of reality is no longer wholesome and life-giving. Perhaps the half-burnt shaft of wheat hints at the house of study, which has lost half its substance in silencing the voice of R' Eliezer.

Kenneth Chan points out that R' Eliezer's “burning gaze” was measure-for-measure:

As a response to the sages burning his stuff, R Eliezer was angry and in response wherever his eyes gaze, it burned also. An eye for an eye. Thus the fabric of the Rabbinic society is falling apart. The ban is now threatening the very existence of the Rabbinic society—in fact of the World.

Act 3 – “Not in Heaven!”

The next act opens with a sense of the bottom having dropped out of the world. R' Eliezer's grief has already been felt in the ruination of crops, but now the sages are feeling it directly. The very pillars of the study hall have become shaky and unstable. Jewish law, if it is to be balanced, requires that both viewpoints be heard.

At this point, R' Eliezer's lifelong friend and sparring partner rises to the challenge. He calls upon the pillars to stop wobbling, “If friends debate (the phrase used is *מימחלתם*—war against each other!) what is that to you?” The house of study, like the Torah itself, is eternal and isn't going to crumble just because of this dispute!

But here God gets into the act, arguing against R' Yehoshua: “All well and good, but R' Eliezer is right and the whole lot of you are wrong!”

To which R' Yehoshua's resounding retort is: “It is not in Heaven! You've had Your say; now the Torah is in our hands, and we will decide who is right and what is the Halakhah! Butt out!”

This would seem a triumphant ending to the story; the sages have asserted their right to adjust Divine law as circumstances warrant. They have also come together to present a united front, even against God Himself. And yet, the story doesn't end there. We're left with a heartbreaking postscript:

One time R' Eliezer was passing through the marketplace and he saw a woman cleaning her house. She threw out the dirt from her house, and it fell on his head. He said, "It seems to me that today my colleagues will bring me close to them and lift the ban of excommunication so that I might fulfill what is written, 'From the ash heap He lifts up the needy. To sit him with princes, with princes of His people. He sets the barren one of the house as a happy mother of many children'."

חד זמן הוה עבר בשוקא וחמת הדא איתא
סחותא דביתא וטלקת ונפלת גו רישיה אמר
דומה שהיום חביריי מקרבין אותי דכתיב
(תהילים קיג) מאשפות ירים אביון

Of course, we know that this hope was misplaced; the ban was lifted only when R' Eliezer was old and sick. To the end of his days, R' Eliezer felt as one who is barren, who longs only to give birth to the truth he knows is in him, but is prevented. This incident shows how badly the ban has hurt him, and how low he feels himself to have sunk. We're left with a human victory over God, but the Yerushalmi makes it clear that this victory comes at a heavy price.

The Bavli's version

In the Babylonian Talmud, the story of the Tanur shel Akhnai appears on page 59b of Bava Metzia (the "Middle Gate"). The three "Bavot" (Gates) are really all one book broken up into three due to the sheer volume of text. They appear in the part of the Talmud that deals with damages, financial matters, commerce, etc. But being the Talmud, a large variety of peripheral issues get tossed into the mix.

The story of the ban on R' Eliezer appears in the midst of a discussion on *Ona'at D'varim*—deceitful or injurious speech. Just before our story, we find admonishments not to humiliate one's wife, while just after it are admonishments not to wrong a convert either financially or with words.

While this story is usually used to justify the right of human beings to interpret the Torah according to the needs of the time, the placement of the story in context tells its own story. In fact, while the story was significantly altered from the Yerushalmi's version, it would seem that by putting the story in this particular context, the editors of the Bavli sought to preserve the *Nafka Mina* (the Take-away lessons) of the Yerushalmi's version of the story about the dangers of humiliating others.

The Mishna that heads this section is:

Just as deceit in business (is wrong) so is deceit by words. One should not ask "how much is that object"? (in a store) if one has no intention to buy it. One should not say to a ba'al teshuvah, "remember what you did!" One should not say to a convert: "remember the deeds of your ancestors" as we are taught "Do not oppress a ger!"

מתני' כשם שאונאה במקח וממכר כך אונאה
בדברים לא יאמר לו בכמה חפץ זה והוא אינו
רוצה ליקחאם היה בעל תשובה לא יאמר לו
זכור מעשיך הראשונים אם הוא בן גרים לא
יאמר לו זכור מעשה אבותיך שנאמר (שמות
כב, כ) וגר לא תונה ולא תלחצנו

Act 1 – The debate

Bava Metzia 59b (carrying over from the last few words on 59a):

If one made an oven out of separate coils [of clay, placing one upon another], then put sand between each of the coils— R' Eliezer declared such an oven not susceptible to tuma'ah, while the sages declared it susceptible.

תנן התם חתכו חוליות ונתן חול בין חוליא וזה הוא תנור של עכנאי
מאי עכנאי אמר רב יהודה אמר שמואל שהקיפו דברים כעכנא זו וטמאוהו .

[in Aramaic] What is “Akhnai”? R' Yehuda said in the name of Shmuel: They surrounded it with words [of debate] like an Achnai (snake), and declared it impure.

Act 2 – R' Eliezer appeals to Authority

After providing the Mishnaic background, our story opens with, “On that day, R' Eliezer answered with every possible answer (lit. Every answer in the world) but they refused to accept them from him.

This is one of the cases where Rav Hlay's tip about the first line encapsulating the story really comes into its own. The language sets up a dramatic tension, with the sages on one side and R' Eliezer on the other.

It is taught: On that day R' Eliezer answered with every answer on earth, but the Sages did not accept them.

תנא: באותו היום השיב רבי אליעזר כל תשובות שבעולם ולא קיבלו הימנו.

Finally he said to them: “If the Halakhah is in accordance with me, let this carob tree prove it!” The carob tree immediately uprooted itself and moved one hundred cubits—and some say 400 cubits^[4]—from its place. They said, “No proof can be brought from a carob tree.”

אמר להם: אם הלכה כמותי חרוב זה יוכיח. נעקר חרוב ממקומו מאה אמה, ואמרי לה: ארבע מאות אמה: אמרו לו: אין מביאין ראיה מן החרוב.

Again, he said to them “If the Halakhah agrees with me, let the channel of water prove it!” The channel of water flowed backward. They said, “No proof can be brought from a channel of water.”

חזר ואמר להם: אם הלכה כמותי אמת המים יוכיחו. חזרו אמת המים לאחוריהם. אמרו לו: אין מביאין ראיה מאמת המים.

Again he said, “If the Halakhah agrees with me, let the walls of the house of study prove it!” The walls leaned as if to fall. But R' Yehoshua rebuked the walls, saying, “When scholars engage in a halakhic dispute, what is it to you?” They did not fall in deference to R' Yehoshua but in deference to R' Eliezer they did not resume their

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 רבי אליעזר, ועדין מטין

upright position; they are still standing aslant.

Whereas in the Yerushalmi, R' Eliezer seemed to be asking for a sign that his ruling is in line with Heaven, in this version, he asks for a sign as a desperate measure to prove to the other scholars that he is right. He has run out of arguments; his citations of what he learned from his teachers are of no use in arguing with folks like R' Yehoshua, who increasingly use logical reasoning to declare pure or impure, permitted or forbidden.

And so, the man who never said anything that he didn't hear from his teachers now calls upon the ultimate Teacher to back him up. He takes his customary appeal to authority to its logical conclusion and appeals to the ultimate Authority.

And of course, appeals to authority aren't of much use against those who prefer to appeal to human reason. R' Eliezer and the sages are speaking different languages. They are using two different halakhic paradigms. The sages see R' Eliezer's appeal to the ultimate Authority as a kind of *reductio ad absurdum* argument—he has taken his method too far.

We've already spoken of the symbolism of the “uprooted” carob tree. Here we have an additional symbol: a water channel in which the flow of water changes direction. The image of water reversing its flow appears in Tehilim (Psalms). We sing in the Hallel Miztri: “*HaYarden tisov l'Ahor*”—the Jordan reversed its flow—in astonishment at the liberation of Israel from Egypt.

But Torah is also likened to water: Just as water flows from a high place to a low place, Torah naturally flows toward the humble person. Perhaps what R' Eliezer is saying here in asking for a miracle is that only God can reverse the direction of Torah, changing pure to impure or vice versa. By the same token, only God can uproot D'Oraitah law. His symbolic signs seem to be saying to the sages: You are usurping the prerogatives of the Holy One! How can you do such a thing?

Here the word used for the inclining walls of the study hall is from the same root תוטהל as used in the expression “incline after the majority”. In the Yerushalmi's version, the verb as יפפורם—to shake or to become unstable. In both cases, the words were clearly not chosen by accident.

The change in wording may also represent a change in perspective, looking back from the vantage point of the Bavli. If the ostracism of R' Eliezer at the time caused the very pillars of Halakhah to tremble, here we see that the Palace of Halakhah has never recovered from the altercation; the walls remain leaning to this day. We incline after the majority, but that can mean inclining away from God. Sometimes we will have to uproot laws that were given for a specific time but are not applicable for our time (eg. [*shmittat k'safim*](#)), or interpret others out of existence (an eye for an eye, *ben sorer u'moreh*).

The walls will never again be stable; they will always be just on the verge of falling as we navigate the tension between the ideal world of R' Eliezer and the pragmatic world of R' Yehoshua. After all, we call Jewish Law “Halakhah”, which means “walking”, and what is walking if not balancing precariously from one step to the next?

And so we end this part of the story on a note of tension: the walls leaning, neither side of the debate victorious, schism or reconciliation only a word away.

Not in Heaven

But the reconciliation was not to be. R' Eliezer had forced a show-down between two paradigms and only one would carry the day:

Again he said, “If the Halakhah agrees with me, let it be proved from the Heavens” A heavenly voice proclaimed “What do you want with R' Eliezer, with whom the Halakhah accords in every case?” R' Yehoshua sprang to his feet and said “It is not in Heaven!”

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

And here a parenthetical element is introduced by the narrative voice of the Gemara—God's laughter

[In Aramaic to show that this is the narrative voice of the Gemara]: What does it mean: “It is not in Heaven?” R' Yermiya said “Since the Torah was already given at Mount Sinai, we pay no attention to heavenly voices, as long ago at Mount Sinai, You wrote in your Torah, ‘After the majority incline’. (Ex. 23:2)”

מאי [דברים ל'] לא בשמים היא? – אמר רבי ירמיה: שכבר נתנה תורה מהר סיני. אין אנו משגיחין בבת קול, שכבר כתבת בהר סיני בתורה [שמות כ"ג] אחרי רבים להטת.

R' Nathan met [the prophet] Elijah and asked him, “What did the Holy One do at that moment?” Elijah said, “He laughed [with joy], saying, ‘My children have defeated Me, My children have defeated Me.’”

אשכחיה רבי נתן לאליהו, אמר ליה: מאי עביד קודשא בריך הוא בההיא שעתא? – אמר ליה: קא חייך ואמר נצחוני בני, נצחוני בני.

Note that the issue in dispute between R' Eliezer and R' Yehoshua isn't only the priority of the Mesorah vs. majority rule. It is also a question of the relative weight of rule by appeal to authority to that of rule by appeal to rules of inference, powered by human reasoning. The sages have exerted their right to decide halakhah according to the needs of the time. They have taken one more step on the path of human independence from God. And God laughed!

Perhaps the break was inevitable, given the historical background. When the bottom has just dropped out of our world, when all is in ruin and all we face is defeat, the rules of the past are useless; perhaps they even contributed to our defeat. In order not to give up, we reach even further back to find the treasure hidden in the Torah from its beginning—the writing “between the lines” in the crowns and dots on the letters. This is the text that in another famous midrash^[5], the generation of Moshe Rabbenu was unable to read, and which hence could not be passed down via Mesorah to R' Eliezer. But R' Akiva was able to expound every dot and crown into a “mountain of halakhot”. And so it is to this day. Having survived an exile that destroyed every other nation that shared our fate at the time, here we are, still nourished by the white spaces

between the letters, still expounding the crowns on the letters to derive “whole mountains of halakhah”.

R' Eliezer was brilliant. His eidetic memory never lost a drop. But what we needed at the time, and still need, is a way to transcend memory.[\[6\]](#)

But R' Eliezer was having none of it. He saw R' Yehoshua's exegesis as so much logical sleight of hand. The mesorah had always been the default position, and only when there was no mesorah was a question put to a vote. But such cases were rare with R' Eliezer around; he generally had a mesorah that could decide the case.

This was illustrated by another story in the Talmud: The sages held a debate about whether farmers on the other side of the Jordan had to pay the tithe for the poor (a form of social security). They eventually decided the question based on various technical arguments. When R' Eliezer heard about the debate, he was incensed, and sent a sarcastic and bitter message to the sages, telling them to stop playing games with the Torah, and providing a clear-cut answer based on a mesorah that he had from his teachers.

So why did the sages decide to move away from the mesorah-based system? Perhaps, as the passage in Tosefta Eduyot intimates, it was because they foresaw a day when the mesorah would be forgotten, when there would be no one left alive who had received the answers from a living teacher. Unless some alternative way was put in place to allow people to derive answers by going back to the sources, then all would be lost. And so they set up a system that works very well for us to this day. It's not perfect, but it's kept us alive and kicking (and still bringing down the walls of the study house with debate)!

Act 3 – The last word

Act 2 ended with the victory of the scholars over God. R' Yehoshua is “the last man standing” (literally!). His “It is not in heaven!” resounds through the stricken study hall, and continues to echo down the ages.

But the story does not end there. Here is the last tranche of our story:

They said: On that day they burned all the pure things R. Eliezer had declared pure; they voted upon him and excommunicated him.

They asked, “Who will go and inform him?”; R. Akiva said, “I will go, lest an improper person inform him and all the earth be destroyed.” What did R. Akiva do? He dressed in black and sat before him at a distance of four Amot.

R. Eliezer said: “Akiva, what has happened [lit. what is

אמרו אותו היום הביאו כל טהרות שטיהר ר"א
ושרפום באש ונמנו עליו וברכהוואמרו 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

today of all days]?” He said, “My master, it appears to me your friends have distanced themselves from you.” R. Eliezer too tore his clothes, removed his shoes and sat on the ground and his eyes flowed with tears.

The earth was stricken, a third in olives, a third in wheat, a third in barley. Some say: even dough in a woman’s hand spoiled. Great was that day that every place R. Eliezer put his eyes was burned.

And even Rabban Gamliel, who was on a ship, a wave stood above him to drown him. He said: It appears to me this is only because of R. Eliezer b. Hyrkanos. He rose to his feet and said, “Master of the World, it is revealed and known before You that not for my honor did I act, nor for the honor of my father’s house, but for Your honor, that controversies not multiply in Israel.” The sea rested from its anger.

[In Aramaic, signaling that this is in the Talmud’s narrative voice] Ima Shalom, the wife of R’ Eliezer, was Rabban Gamliel’s sister. From then on, she did not allow R’ Eliezer to prostrate himself in prayer. One day she miscalculated the New Moon and mistook a twenty-nine day month for a thirty-day month. Some say: a poor man came and stood at the gate, and she brought out bread to him. She found R’ Eliezer prostrate in prayer and said, “Get up! You have killed my brother.” At that moment, a ram’s horn sounded from Rabban Gamliel’s house [to announce] that he had died. R’ Eliezer asked, “How did you know?” She said, “So I have received a tradition from the house of my father’s father: “All gates are closed but the gates of oppression.”

Note that the last line ties the story in with the sugya under discussion in this part of Bava Metzia: harmful speech and humiliation by words. It is ironic that Ima Shalom’s answer to R’ Eliezer is, “I have a tradition from my father’s father...” It is an argument before which he could only be silent.

The narrator’s voice of the Bavli also puts the incident in historical context: the ostracism of R’ Eliezer was on Rabban Gamliel’s watch (which we could surmise from who else was present in the different scenes).

The Yerushalmi had made it clear that deciding to base the halakhic process on Beit Hillel at the expensive of Beit Shamai “shook” the pillars of Halakhah. A student hearing only that version is likely to come away with a very negative view of Rabban Gamliel: had he just left well enough

אמר לו רבי כמדומה לי שחבירים בדילים ממך
אף הוא קרע בגדיו וחליץ מנעליו ונשמט 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 בן 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 מזעפו

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 אשכחתי
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
משערי אונאה

alone and let both opinions stand, there would have been no ban. Let some choose to follow this view and others that view! Why the need to decide?

The Bavli allows Rabban Gamliel to defend himself against the charges of sowing strife: “I didn’t do it out of ego, or even for the honor of the Patriarchy; everything was for the sake of Heaven, so that we not become two peoples.”

There are some important lessons in this for us today: Rabban Gamliel was fighting a very difficult fight for national unity. Yes, he was at times overbearing and overly authoritarian (there are numerous anecdotes of run-ins of his with pretty much anyone who was anyone at Yavne. At the same time, he took responsibility when it was needed and pushed through some important *takanot* (amendments). It was Rabban Gamliel who ruled that women whose husbands had gone missing (as happened all too often in those difficult days) could be freed from the marriage on the testimony of a single witness—even someone who would not normally be empowered to be a witness.

Here too, in our sugya, he took an unpopular decision for the sake of unity. Evidently, he thought that leaving the situation as it was, with both legislative mechanisms running in parallel, risked eventual civil war. Already, it was getting to where people who espoused one system could not marry those who used the other system.

We see something very similar threatening our society in Israel today: already many Israeli citizens can’t marry other Israeli citizens because the government and the halakhic system are using different legislative mechanisms to determine personal status. We could use a Rabban Gamliel today!

And the story of Ima Shalom? Why is that included? Maybe to allow R’ Eliezer to have the last word. What Rabban Gamliel did may have been for the sake of national unity, but are we allowed to sacrifice the individual even for the good of the nation?

Perhaps one of the most beautiful things about the Bavli is the way it skillfully prevents us from seeing life in simplistic terms. This is something that many people miss when they quote only the first half of this story. They come away with a key lesson of the story: that Beit Hillel carried the day with the full approval of God. But what they miss is that all this played out during one of the most challenging periods in our history. It could just as easily have gone the other way. In fact, had not Rabban Yochanan ben Zakai managed to pull his faction away from the influence of Sadducean politics, it *would* have gone the other way. We would have been left with a legislative system that was entirely dependent upon a memory of prior legislation, with little mechanism for change.

But also, in learning only the first part of the story, we miss the fact that all this is part of an ongoing story. We’re still using both legislative systems, and although we now have a unifying mechanism to help us decide those cases where they give opposite answers, the tension still exists.

The Bavli's skillful editing teaches an important lesson: No decision is ever made without the loss of potential. Free will is a painful gift. Our reaching for the fruit of the Tree of Knowledge leads us ever farther from the paradise of childhood, and we hear the laughter of God at our backs. Not for nothing did Shmuel make the association between Akhnai and the snake.

One of the more beautiful commentaries on the story of the ostracism of R' Eliezer wasn't actually written in response to that story at all (at least, to the best of my knowledge).

The Place Where We Are Right

המקום שבו אנו צודקים

by Yehuda Amichai

יהודה עמיחי

From the place where we are right
Flowers will never grow.
The place where we are right
Is hard and trampled
Like a courtyard.

מן המקום שבו אנו צודקים
לא יצמחו לעולם פרחים.
המקום שבו אנו צודקים
הוא קשה ורמוס כמו חצר.

But doubts and wondering
Dig up the world
Like a mole,
Like a plow.

אבל ...
ספקות
ותהיות
עושים את העולם לתחזה
כמו חפרפרת
כמו חריש.

And a whisper will be heard
In the place where the House once stood
That was destroyed.

ולחישת תשמע
במקום שבו היה בית
אשר נחרב.

Notes:

[1] א ארבעה דברים ר' אליעזר מטהר וחכמים מטמאין מסרק של צרצור ר' אליעזר אומר אין מטמא באויר וחכמים תום שקבעו במסמר או שחיברו במריש או בקורה ר' אליעזר מטהר וחכמים מטמאין. אומרים מטמא באויר. דף של נח מנעל שעל האימים ר' אליעזר מטמא וחכמים מטהרין. חתכו חוליות ונתן חול בין חוליא לחוליא ר' אליעזר מטהר וחכמים מטמאין והיה נקרא תנורו של עכנאי שעליו רבו מחלוקת בישראל.

[2] In Aramaic, אתיבורה (Carob tree) sounds very similar to אתורבה (havruta). R' Eliezer's first words on being told of the ban on him almost reads as Havrutai, Havrutai (my colleagues, my colleagues).

[3] *Tyuvta*: An Aramaic word which indicates a question with no resolution.

[4] “Some say 400 ama” is introduced in Aramaic and is not part of the story.

[5] Bavli Massechet Menachot 29b.

[6] Karla Worrell drew my attention to Rabbi Benay Lappe’s ‘Crash Theory’ expounded at MakomDC 2016 (shorter intro at ELI Talks: https://youtu.be/CBWIEAR_GQY) Rabbi Benay Lappe – An Unrecognizable Jewish Future:...