



October 2014

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Recommended Citation

Kelsen, Jonathan. "Textual Reasoning as Constructive Conflict: A Reading of Talmud Bavli Hagigah 7a." *Journal of Textual Reasoning* 8, no. 1 (2014): 107-112. <https://scholarworks.wm.edu/jtr/vol8/iss1/7>

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TEXTUAL REASONING AS CONSTRUCTIVE CONFLICT: A READING OF TALMUD BAVLI *HAGIGAH* 7A

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According to rabbinic sources, the 9th of Adar is the day, approximately 2,000 years ago, on which the initially peaceful and constructive conflict (*machloket l'shem shamayim*) between the houses of Hillel and Shammai erupted into a violent and destructive conflict over a vote on 18 legal matters, leading to the tragic death of 3,000 students. The day was later formally declared a fast day (though it was never actually observed as such).¹ The Pardes Center for Judaism and Conflict Resolution (PCJCR)² has therefore chosen this day to be the international Jewish Day of Constructive Conflict (*machloket l'shem shamayim*), dedicated to both the study and practice of Judaism and conflict resolution.

In observance of that day, the *Journal of Scriptural Reasoning*, in conjunction with the PCJCR, called for papers addressing the intersection

¹ See Joseph Karo, *Shulchan Aruch: Orach Chaim*, 580.

² 2. For information on the Center, see <http://pcjr.pardes.org>. For more on the 9Adar project, see <http://pcjr.pardes.org/courses/study-materials-for-global-machloket-leshem-shamayim-day>.

of Jewish textual study and conflict resolution. This paper, written in response to that call, presents and analyzes a text from Babylonian Talmud (henceforth the Bavli) *Hagigah* 7a.³ Read closely, this text represents an approach that can serve as a model for engaging in constructive, principled disagreements within and between communities.

TB Hagigah 7a⁴

A. These things have no prescribed measure: *peah, ra'ayon...* (m. Peah 1:1)...

B. What is the meaning of *ra'ayon*?

C. R. Yohanan says, Appearing in the Temple courtyard (on pilgrimage)

D. Reish Laqish says, Appearing in the Temple while offering a sacrifice....

E. R. Yohanan means, one need not bring a sacrifice every time he comes to the Temple.

F. Reish Laqish means, one does need to bring a sacrifice every time he comes to the Temple.

G. Reish Laqish challenged R. Yohanan: But does not the verse say “do not appear before Me empty-handed” (Ex. 23:15)?! R. Yohanan replied: The verse is speaking of the first day of the festival (while I speak of the latter days).

H. Reish Laqish challenged R. Yohanan again....R. Yohanan replied....And Reish Laqish challenged him (yet a third time) and R. Yonahan replied...

I. R. Yohanan challenged Reish Laqish: [A midrashic reading of the verses teaches that God says:] Just as I see you (humans) without offering anything, you may see Me without offering anything. [Thus, there are at least some times when one may appear in the Temple without offering a sacrifice, contra Reish Laqish!]

J. Rather, everyone [i.e. both R. Yohanan and Reish Laqish] agrees that one does need to bring a sacrifice every time he comes to the Temple.

³ Inter alia, the daf yomi cycle will begin this tractate on September 10, 2014.

⁴ Translation mine.

Their argument is whether in fact one may offer unlimited sacrifices. R. Yohanan says one may not, while Reish Laqish says one may.

K. R. Yohanan challenged Reish Laqish... Yet we may respond on behalf of Reish Laqish...

In this *sugya*, or unit of Talmudic discourse, the Bavli records a debate between the sages R. Yohanan and Reish Laqish regarding the proper interpretation of a term (*ra'ayon*) appearing in m. *Peah* 1:1 (lines A- D). Next, it elaborates on the respective interpretations (lines E-F). After establishing the locus of the debate, the Talmud presents Reish Laqish as challenging R. Yohanan by citing three authoritative texts which, *prima facie*, contradict R. Yohanan's position. R. Yohanan successfully deflects each challenge, demonstrating how he can provide plausible readings of these texts which are yet consonant with his reading of m. *Peah* (lines G-H). R. Yohanan then proceeds to challenge Reish Laqish from a different authoritative text (line I). After recording R. Yohanan's challenge (*sans* response from Reish Laqish), the Talmud continues with "Rather...," proposing a variant iteration of the debate between the two sages, shifting the locus of the debate and the substance of the respective positions (line J). In this second iteration, Reish Laqish is no longer vulnerable to R. Yohanan's challenge from line J. Further challenges can be deflected (line K), and the debate is left unresolved.

This text incorporates several salient features of Talmudic discourse at large. Debates are recorded and canonized; positions are held with commitment, yet arguments from assertion are generally inadmissible and ideas must confront challenging counter-texts; discourse is dialogic by nature, and probing querying makes up a critical component of the woof and wharf of the text.⁵ In this essay, I would like to highlight another

⁵ My thinking here has been influenced in part by the interpretive methodology of my teacher Elisha Ancselovits, as well as by an article by Devora Steinmetz, "Talmud Study as a Religious Praxis," in *Why Study Talmud in the Twenty-First Century*, ed. Paul Socken (Lanham, Maryland: Rowan and Littlefield, 2009), 47-66.

particular feature of this text⁶ which carries significant import for interpersonal dialogue, especially in the context of conflict.⁷

But first, a question: why is the *Bavli* in our *sugya* unsatisfied with the initial presentation of the debate (lines A-I), pushing it to generate the second (lines J-K)? Seemingly, as no deflection of R. Yohanan's challenge (line I) is provided, it would appear to be determinative. The reader would thus expect this discussion to end here, leaving one with the impression that R. Yohanan has won the debate. Yet surprisingly, it does not. Why not?

The answer, I believe, speaks to a fundamental characteristic of the *Bavli's* model of constructive discourse. The *Bavli* attempts to accurately present and deeply understand all sides of a debate and is willing to go to great lengths to ensure the best possible reading of the respective positions, measured by both external and internal coherence. Therefore, if a text seems to be saying something overly obvious, it is the Talmud's task to uncover the contra-positive position (*hava ammina*) which, while rejected, is itself cogent enough that it requires explicit articulation of its opposite. As such, hearing one voice in actuality always involves hearing two voices: itself and its opposite. There are always at least two sides to a debate.

Similarly, in our *sugya*, if Reish Laqish seems to be saying something (in line F) that is exposed (in line I) as being plainly ludicrous, then the text implicitly claims that we must be misunderstanding him. It is thus incumbent on all those engaged in the conversation to (re)produce a more compelling version of his teaching (as in line J). As noted by the Tosafists,⁸

⁶ See Tosafot to Bava Batra 154b s.v. B'ram.

⁷ This method bears resemblance to the "principle of charity," a term coined by Neil Wilson and developed by philosophers of language such as Donald Davidson and Willard V.O. Quine; according to one definition offered by the latter scholar, "[t]he maxim of translation underlying all this is that assertions startlingly false on the face of them are likely to turn on hidden faces of language...one's interlocutor's silliness is, beyond a certain point, less likely than bad translation..." See Quine, *Word and Object* (Cambridge: MIT Press, 2013), 54. For analysis of the extension of this principle to legal interpretation, see Moshe Halbertal, *People of the Book* (Cambridge: Harvard Press, 2009), 27-28.

⁸ See Tosafot to Bava Batra 154b s.v. B'ram.

in this and several other instances, reproduction of the more compelling version is achieved at the cost of maintaining the integrity of the initial formulation. By conceding the inadequacy of its initial formulation of the debate, the Talmud vitiates the integrity of its traditions: it appears that we did not initially understand (nor transmit?) Reish Laqish correctly. The Talmud tolerates this vitiation as the price of a worthwhile gain: a more compelling Reish Laqish. Nevertheless, the new formulation may not be embraced blindly. Even though arriving at a charitable reading of Reish Laqish is desirable, it must remain true to his words and is still open to challenge.

In other words, to understand Reish Laqish is, in part, to construct the best Reish Laqish possible. Only after doing so may one evaluate which of the interlocutors might hold the more correct teaching.

A student of this text who has integrated its lesson would, upon encountering a position of someone with whom s/he disagrees, first ensure that they are 'reading' the other's position in as charitable a light as the actual articulation of the position allows. To do this, the student would try to read the position in a way that renders it as reasonable and plausible as possible while remaining true to the other's actual words and presentation. Only then would our student interrogate the position, allowing for the strong possibility that s/he might eventually reject it.⁹

To be sure, this method of reading could potentially yield problematic results. Overly eager to produce a charitable reading, a reader might become blinded to the reasonableness of prior or surface readings. Charity is unhelpful and potentially damaging when giving it demands blindness on the part of the giver, hence the need for all readings of R. Yohanan and

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Reish Laqish to remain true to their words in lines C-D. Despite the danger, the *sugya* nonetheless remains committed to this method, since the benefits of charitable reading outweigh its risks.

In short, this *sugya* asks that texts be read in the best possible light, not the worst; and this, even in the halls of heated debate and sometimes irresolvable conflict. This approach can and should be extended to 'readings' of people. Just as texts are to be read charitably, so too constructive disagreement must begin with an attempt to understand the viewpoint, actions, and motivations of the other in as charitable and empathetic a manner as possible.¹⁰ Only then may truly constructive disagreement and criticism of the other emerge. Such a method, I would argue, serves the ends of both Talmudic reasoning and social ethics.

¹⁰ For rabbinic sources on charitable readings of others, see for example Sifra Vayikra: Kedoshim 4:4, and m. Avot 1:6 with commentary of Maimonides there.