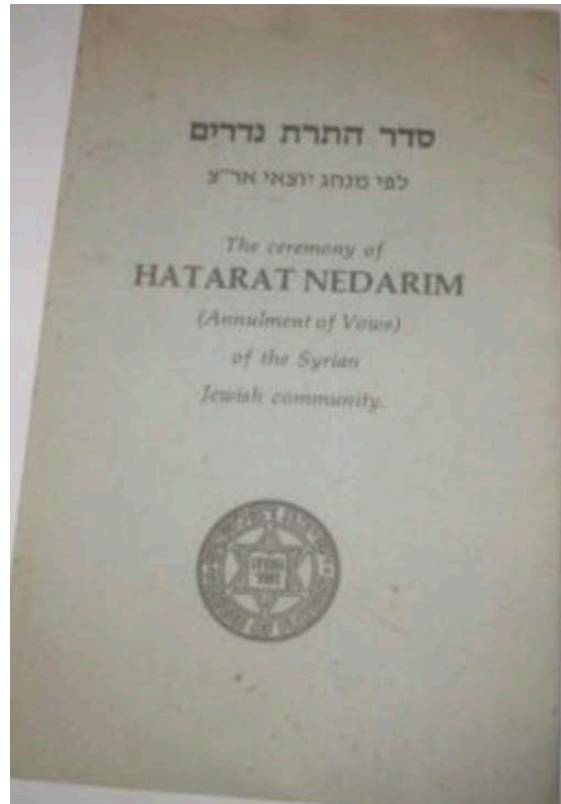


Daf Ditty Nedarim 18: Stam Nedarim



מתני' סתם נדרים להחמיר ופירושם
להקל כיצד אמר הרי עלי כבשר מליח כיון
נסך אם בשל (*שלמים) נדר אמר אם בשל
עבודת כוכבים נדר מותר ואם סתם אמר
הרי עלי כהנים אם כהנים של שמים אמר
ואם כהנים של כהנים מותר ואם סתם אמר
הרי עלי כמעשה אם כמעשה בהמה נדר
אמר ואם של גורן מותר ואם סתם אמר
הרי עלי כתרומה אם כתרומת הלשכה נדר
אמר ואם של גורן מותר ואם סתם אמר
דברי ר' מאיר ר' יהודה אמר סתם תרומה
ביתודה אמרה בגליל מותר שאין אנשי גליל
מכירין את תרומת הלשכה סתם חרשים
ביתודה מותרין בגליל אמרין שאין אנשי
גליל מכירין את דברי הכהנים: גמ' והתנן

מקור

סתם נדרים להחמיר
 מי שנדר ויש לפרש לשונו להחמיר ולהקל
 כל שלא פירש למה נתכוין
 הולכין בסתמא להחמיר
However,
ופירושים להקל
 אם פירש אח"כ ואמר לכך נתכוונתי
 סומכין על דבריו אע"פ שהוא מיקל

If a person states a נדר that has multiple meanings, in which the נדר would be effective with one meaning, and would NOT be effective with the other meaning; as long as he did NOT reveal his intentions we follow the more stringent meaning. We consider the נדר effective, because we assume he meant to make a Neder, for otherwise he would have kept quiet and said nothing.

However,

ופירושים

להקל

אם פירש אח"כ ואמר לכך נתכוונתי

סומכין על דבריו אע"פ שהוא מיקל

If he subsequently revealed his intentions, we accept his explanation even לקולא, in which the נדר is NOT effective.

**מתני' סתם נדרים להחמיר, ופירושים להקל. כיצד? אָמַר "הָרִי עָלַי
 כְּבֶשֶׂר מְלִיחַ" כִּיֵּין נִסְדָּה, אִם בְּשֵׁל שְׁלָמִים נָדַר — אָסוּר.**

MISHNA: Unspecified vows are treated **stringently**, but their **specification** if specification is necessary, is treated **leniently**. **How so?** If one **said: This** item is prohibited to me like **salted meat**, or: This item is prohibited to me like the **wine** used for **libations**, if he **vowed in reference to** meat or libations of a **peace-offering**, i.e., if he claimed that his intention was that the item will be forbidden to him like the salted meat of an offering, or like wine that is used for libations on the altar, it is **forbidden**, as he associated the item of the vow with an item forbidden by means of a vow, i.e., the offering.

1. The Mishnah refers to one who made a *neder* that could be interpreted in different ways: According to one way the *neder* would be valid; according to another it would not take effect. If the vower fails to say which interpretation he intended, the stringent one is adopted and the *neder* is binding (see *Meiri*). The Mishnah proceeds to give examples.

In the absence of an explanation to the contrary, it is assumed that the person intended to make a binding *neder*, because otherwise he would not have bothered to make the declaration (*Rosh*; *Radvaz*, *Hil. Nedarim* 2:7; see *R' Avraham Min HaHar*). According to this explanation, our Mishnah's ruling that "indeterminate *nedarim* are treated stringently" is not based on the general principle of סְפִיקָא דְאִוְרֵייתָא לְחֻמְרָא, *a doubt involving Biblical law is decided stringently*. Rather, the Mishnah means that the *neder* takes effect on a definite basis (as stated in *Tosafos* to 19a ש"ס ור"ש), and one who transgresses it incurs lashes. However, *Mabit* (*Kiryas Sefer*, *Hil. Nedarim* Ch. 2) writes that an indeterminate *neder* is valid only because of the rule סְפִיקָא דְאִוְרֵייתָא לְחֻמְרָא, *a doubt involving Biblical law is decided stringently*. For further discussion, see *Keren Orah* here and to 19a.

2. After making an indeterminate *neder*, the vower is believed to say that he had the lenient meaning in mind (*Ran*; see *Tosafos*; see also 20a note 4).

It emerges that although the vower may explain his words in a lenient manner, nevertheless, until he does so, his words are treated stringently. Such a situation could arise where the vower cannot remember what he meant (*R' Avraham Min HaHar*; see *Meiri*). Alternatively, the vower said that he did not have any particular meaning in mind; rather, he intended the interpretation of his words to be up to the halachic authorities (*Piskei HaRosh*), who then interpret it stringently (see note 1).

4 examples of
סתם נדרים אלהותיים

①

כיצד
אמר הרי עלי
כבשר מליח כיון נסך

*If he was מתפס with
salted meat or wine libations*

◀ אם בשל שמים נדר - אסור
דבר נכדור a ע' e
דבר would be effective, it's

◀ אם בשל עבודת כוכבים נדר - מותר
דבר האסור a ע' e
דבר would NOT be effective, it's

◀ ואם סתם - אסור
סתם נדרים אלהותיים
סתם IS effective, it's

1.
כיצד אמר הרי עלי כבשר מליח
כיון נסך
If he was מתפס with salted meat or with wine libations, it depends;
אם בשל שמים נדר
אסור
The נדר would be effective if he was מפרש that he meant the meat and wine of the מזבח, because it's a דבר הנדור.
However,
אם בשל עבודת כוכבים נדר
מותר
The נדר would NOT be effective if he was מפרש that he meant the meat and wine of זרה עבודה, because it's a דבר האסור.
ואם סתם
אסור
The נדר IS effective, if he was NOT מפרש, because
סתם נדרים אלהותיים

אם בְּשָׁל עֲבוּדָה זָרָה נִדָּר — מוֹתֵר. וְאִם סֵתָם — אָסוּר.

If he claims that **he vowed in reference to** meat or libations **of idol worship**, i.e., that the item will be like the salted meat of an offering for an idol, or like wine that is used for libations as idol worship, it is **permitted**, as the item of the vow was associated with an item forbidden by the Torah. By enabling the one who took the vow to later clarify his intent, the vow is treated leniently. **And if** the vow was **without specification**, i.e., the one who took the vow did not specify whether his intention was to associate the item with an offering for Heaven or to associate the item with idol worship, it is **forbidden**.

②

הרי עלי כחרם

◀ **אם כחרם של שמים - אסור**
 דבר הנדור

◀ **ואם כחרם של כהנים - מותר**
 דבר המותר

◀ **ואם סתם - אסור**
 סתם נדרים להחמיר

2.

הרי עלי כחרם

אם כחרם של שמים

אסור

Because דבר הנדור are given to הקדש, and are a חרמי גבוה

ואם כחרם של כהנים

מותר

Because דבר a Kohanim, and are a חרמי כהנים are given to the

מותר לזרים, because they are המותר

ואם סתם

אסור

Because

סתם נדרים להחמיר

"הרי עלי כחרם", אם כחרם של שמים — אסור, ואם כחרם של
 כהנים — מותר. ואם סתם — אסור.

Similarly, if one said: **This** item is **hereby** forbidden **to me** like an item dedicated to the Temple, **if** his intention was that it would be **like a dedication to Heaven**, which is a form of consecration, **it is forbidden**. **And if** his intention was that it would be **like a dedication to priests**, whereby one pledges his asset as a gift to priests, **it is permitted**, as this type of gift is not forbidden at all. **And if** he said it **without specification**, it is **forbidden**.



3.

הרי עלי כמעשר

אם כמעשר בהמה נדר

אסור

מעשר בהמה is a דבר הנדר, because he designates the עשירי, every tenth animal.

ואם של גורן

מותר

מעשר שני is a דבר המותר, because it's מותר לזרים; and מעשר ראשון is a דבר האסור, not a דבר הנדר.

ואם סתם

אסור

Because

סתם נדרים להחמיר

"הרי עלי כמעשר", אם כמעשר בהמה נדר — אסור. ואם של גורן, — מותר. ואם סתם — אסור.

Likewise, if he said: **This item is hereby forbidden to me like tithes, if he took a vow** with the intention that it would be **like the animal tithe**, it is **forbidden**, as the item of the vow was associated with an item forbidden by a vow. **And if** his intention was that it will be like the tithe **of the granary**, i.e., grain that is given to the Levites and has no sanctity, it is **permitted**. **And if** he said it **without specification**, it is **forbidden**.

④

הרי עלי כתרומה

◀ אם כתרומת הלשכה נדר - אסור
אם תרומת הלשכה נדר - אסור
 דברי קדושים

◀ ואם של גורן - מותר
ואם של גורן - מותר
 דברי האסור

<p>רבי יהודה סתם תרומה</p> <p>בגליל מותר</p> <p>שאין אנשי גליל מכירין את תרומת הלשכה We can't assume that תרומה סתם meant תרומת הלשכה</p>	<p>רבי מאיר ואם סתם אסור</p> <p>ביהודה אסור</p> <p>Since they lived near the המקדש they referred to תרומת הלשכה simply as תרומה. We can assume אסור</p>
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4.

הרי עלי כתרומה

אם כתרומת הלשכה נדר

אסור

Because the תרומת הלשכה שקלים of the תרומה are a נדר, which the people were מקדיש;

ואם של גורן

מותר

Because תרומה is a האסור; as the Ran explained on ב"ד, because the תרומה אסורים are selectively imposed by the Torah

ואם סתם

אסור

דברי רבי מאיר

Because

סתם נדרים להחמיר

"הרי עלי כתרומה", אם כתרומת הלשכה נדר — אסור. ואם של גורן — מותר. ואם סתם — אסור. דברי רבי מאיר.

Similarly, if he said: **This item is hereby forbidden to me like *teruma*, if he took a vow with the intention that it would be like the collection of the Temple treasury chamber [*terumat halishka*], which is a tax for the communal offerings, it is **forbidden**, his vow was associated with an item forbidden by a vow. **And if** his intention was that it would be like *teruma* of the granary that is**

given to the priests, it is **permitted**, as *teruma* is not an item forbidden by a vow. **And if** the vow was taken **without specification**, it is **forbidden**. This is **the statement of Rabbi Meir**.

Statement disagrees with earlier ruling...

סתם חרמים

בגליל <i>אסורין</i>	ביהודה <i>מוותרין</i>
שאין אנשי גליל מכירין את חרמי הכהנים	

The Mishnah concludes with a statement which disagrees with the earlier ruling regarding חרם.

סתם חרמים

ביהודה מותרין בגליל אסורין

שאין אנשי גליל מכירין את חרמי הכהנים

This opinion is explained at the end of the next Daf.

רבי יהודה אומר: סתם תרומה, ביהודה — אסורה, בגליל — מותרת, שאין אנשי גליל מכירין את תרומת הלשכה. סתם חרמים, ביהודה — מותרין, בגליל — אסורין, שאין אנשי גליל מכירין את חרמי הכהנים.

Rabbi Yehuda says: Unspecified *teruma* in Judea is forbidden.

However, **in the Galilee it is permitted**, as the people of the Galilee are unfamiliar with the **collection of the chamber**. When they say *teruma* they are referring to the *teruma* allotted to the priests, which is familiar to them.

Conversely, **unspecified dedications in Judea are permitted**, but **in the Galilee, they are forbidden**, as the people of the Galilee are unfamiliar with dedications allotted to the priests, so when they say dedication, they are referring to dedication to Heaven.

21. The people of Judah, who lived near the Temple in Jerusalem, were familiar with the *terumas halishkah* and would refer to it simply as *terumah*. Therefore, if a Judean made an indeterminate reference to *terumah* in a *neder* (“It is hereby to me like *terumah*”), he could mean either agricultural *terumah* (in which case the *neder* would be invalid) or the *terumas halishkah* (in which case the *neder* would be valid). The *neder* is consequently treated as valid, in accordance with the rule that the stringent interpretation must be adopted. By contrast, the people of the Galilee were not as well acquainted with the *terumas halishkah*, and would refer to it only by its full title, *terumas halishkah*. Hence, if a Galilean said, “It is like *terumah*,” he certainly means agricultural *terumah* and the *neder* is invalid (*Ran*).

Some Rishonim maintain that R’ Meir disagrees with this ruling of R’ Yehudah (*Rashba* to 19b; *Rambam, Commentary to the Mishnah*). [According to this approach, R’ Meir apparently maintains that even in the Galilee the reference could be to the *terumas halishkah*, rendering the *neder* valid.] Others, however, comment that there is no dispute between the Tannaim, and that R’ Yehudah is just explaining the matter further (*Shitah Mekubetzes*; see *Keren Orah* to 19b).

Summary

3) **MISHNAH:** The Mishnah teaches that undefined *nedarim* are treated stringently whereas their interpretations are lenient. After citing four examples of the ruling related to undefined *nedarim* the Mishnah presents two additional opinions related to undefined declarations.

4) Undefined *nedarim*

The Mishnah’s ruling that undefined *nedarim* are treated stringently is challenged from a *Beraisa*’s ruling that undefined *nezirus* are treated leniently.

R’ Zeira resolves the contradiction between the two sources by distinguishing between the positions of R’ Elazer and Rabanan, who disagree whether a person would subject his property to a prohibition in a case of doubt. ■

Mishnah Nedarim 2:4¹

Unspecified vows are treated **stringently**, but their **specification** if specification is necessary, is treated **leniently**. **How so?** If one **said: This item is prohibited to me like salted meat**, or: This item is prohibited to me **like the wine used for libations**, **if he vowed in reference to meat or libations of a peace-offering**, i.e., if he claimed that his intention was that the item will be

¹ <https://www.sefaria.org/Nedarim.18b.1?lang=bi&with=Mishnah%20Nedarim&lang2=en>

forbidden to him like the salted meat of an offering, or like wine that is used for libations on the altar, it is **forbidden**, as he associated the item of the vow with an item forbidden by means of a vow, i.e., the offering.

If he claims that he vowed in reference to meat or libations of idol worship, i.e., that the item will be like the salted meat of an offering for an idol, or like wine that is used for libations as idol worship, it is **permitted**, as the item of the vow was associated with an item forbidden by the Torah. By enabling the one who took the vow to later clarify his intent, the vow is treated leniently. **And if the vow was without specification**, i.e., the one who took the vow did not specify whether his intention was to associate the item with an offering for Heaven or to associate the item with idol worship, it is **forbidden**.

Similarly, if one said: **This item is hereby forbidden to me like an item dedicated to the Temple, if his intention was that it would be like a dedication to Heaven**, which is a form of consecration, **it is forbidden**. **And if his intention was that it would be like a dedication to priests**, whereby one pledges his asset as a gift to priests, **it is permitted**, as this type of gift is not forbidden at all. **And if he said it without specification**, it is **forbidden**.

Likewise, if he said: **This item is hereby forbidden to me like tithes, if he took a vow with the intention that it would be like the animal tithe**, it is **forbidden**, as the item of the vow was associated with an item forbidden by a vow. **And if his intention was that it will be like the tithes of the granary**, i.e., grain that is given to the Levites and has no sanctity, it is **permitted**. **And if he said it without specification**, it is **forbidden**.

Similarly, if he said: **This item is hereby forbidden to me like teruma, if he took a vow with the intention that it would be like the collection of the Temple treasury chamber [terumat halishka]**, which is a tax for the communal offerings, it is **forbidden**, his vow was associated with an item forbidden by a vow. **And if his intention was that it would be like teruma of the granary** that is given to the priests, it is **permitted**, as *teruma* is not an item forbidden by a vow. **And if the vow was taken without specification**, it is **forbidden**.

This is **the statement of Rabbi Meir. Rabbi Yehuda says: Unspecified teruma in Judea is forbidden**. However, **in the Galilee it is permitted, as the people of the Galilee are unfamiliar with the collection of the chamber**. When they say *teruma* they are referring to the *teruma* allotted to the priests, which is familiar to them. Conversely, **unspecified dedications in Judea are permitted, but in the Galilee, they are forbidden, as the people of the Galilee are unfamiliar with dedications allotted to the priests**, so when they say dedication, they are referring to dedication to Heaven.

Introduction²

²https://www.sefaria.org/Nedarim.18b.1?lang=bi&p2=Mishnah_Nedarim.2.4&lang2=bi&w2=English%20Explanation%20of%20Mishnah&lang3=en

This mishnah deals with cases where it is unclear whether the person vowing used something which can be dedicated to the Temple in the vow formula, in which case the vow is binding, or whether he used something else, in which case the vow is not binding.

Unspecified vows are interpreted strictly, but if specified [they are interpreted] leniently. How so?

This is an introductory rule which will guide the entire mishnah. If a person takes a vow and he himself is unclear what his intention was, whether it was to make a valid or invalid vow, we rule strictly and the vow is valid. However, if he states that his intention was to make an invalid vow, the vow is ruled invalid. The mishnah now lists several examples where it is unclear whether he made a valid vow by referring to something that may be donated to the Temple, or whether he referred to something which may not be donated to the Temple.

If one says, “Behold! This is to me as salted meat”; or “As wine of libation” If he vowed by that which is to Heaven, his vow is valid. If by that which is idolatrous, his vow is invalid. And if it was unspecified, his vow is valid.

The first example is where a person says that a certain thing should either be to him like “salted meat” or “wine of libation”. Either could refer to something which could be put onto the altar. “Salted meat” could refer to a sacrifice and wine could refer to one of the libations offered at the Temple altar. Therefore, if his intention was to refer to something which was for “Heaven”, i.e., for the Temple, then his vow is valid. However, if his intention was that the object should be prohibited to him as is meat sacrificed for idols or wine offered to idols, his vow is invalid. As we have learned before, using a prohibited item in the vow formula does not make a vow work. If he didn’t know what his intention was, then the vow is ruled valid.

[If he says], “Behold! This is to me as herem” If as a herem to Heaven, his vow is valid; If as a herem to the priests, his vow is invalid. If it was unspecified, his vow is valid.

A “herem” can either refer to an offering in the Temple, or it can refer to things that are given to the priests (see Numbers 18:14). If his intention was the former, the vow is valid, if the latter his vow is invalid. The reason is that once the “herem” was given to the priest, it is no longer forbidden for general consumption. Again, if he is unsure, the rule is strict.

“Behold! This is to me as a tithe” If he vowed, as tithes of beasts, his vow is valid. If as grain tithes, his vow is invalid. If unspecified, his vow is valid.

There are several kinds of tithes. When a person vows that something should be like “tithe” to him, it could refer to animal tithes. If so, his vow is valid for animal tithes are sacrificed on the altar. However, if he refers to grain tithes, his vow is not valid, for anyone may eat grain tithes and they are not sacrificed but rather given to Levites.

“Behold! This is to me as terumah” If he vowed, as the terumah of the Temple-chamber, his vow is valid. If as the terumah of the threshing-floor, his vow is invalid. If unspecified, his vow is valid. The words of Rabbi Meir.

There are several kinds of “terumah”. If he refers to “terumah of the Temple-chamber” his vow is invalid, for these were donations used to buy sacrifices. However, if he refers to the regular terumah given to priests, his vow is invalid, for this terumah is not offered to the Temple, but rather is for priests and forbidden to non-priests.

Rabbi Judah says: An unspecified reference to terumah in Judea is a valid vow, but not in Galilee, because the Galileans are unfamiliar with the terumah of the Temple-chamber. Unspecified references to haramim in Judea are not binding but in Galilee they are, because the Galileans are unfamiliar with priestly haramim.

The previous section was according to Rabbi Meir. Rabbi Judah says that there are regional differences in our interpretation of vows. If he makes an unspecified vow using “terumah”, in Judea he may be referring to “terumah of the Temple-chamber”, and therefore his vow is valid. However, those of the Galilee, who live further away from the Temple, would not know as much about “terumah of the Temple-chamber” and hence we can assume that they were referring to the terumah given to priests. Similarly, unspecified vows using “herem” are interpreted leniently in Judea because they may refer to the “herem” of the priests, for many priests lived in Judea. In contrast, in the Galilee, “herem” would more typically refer to a sacrifice and therefore the vow is valid. We see here that Rabbi Judah assumes that the interpretation of the vow depends on the commonly used language of the one who vows. Since commonly used language will depend on geographical origin, it too must be taken into account.

Rav Avrohom Adler writes:³

Two Terms of Nezirus Rav Hamnuna asked a question (on Rav Huna) from a braisa. The verse states “nazir l’hazir.” This teaches us that one nezirus can take effect upon another vow of nezirus. One might have thought that being that an oath (shevuah), which is stringent, cannot take effect upon another oath, then a vow of nezirus, which is more lenient, certainly should not take effect upon another vow of nezirus!? This is why the verse states “nazir l’hazir,” to teach us that it does not take effect.

The Gemora asks: What is the case when the braisa refers to a nezirus taking effect upon another nezirus? If it is a case of where a person says, “I am hereby a nazir today, I am hereby a nazir tomorrow,” would a verse be required for this (the second vow obviously takes effect, as he is adding onto his first nezirus, which essentially makes this into two separate oaths)! The case must therefore be when he says, “I am hereby a nazir today, I am hereby a nazir today,” and the braisa teaches us that the second nezirus takes effect upon the first! [This is a question on Rav Huna, who said that it does not take effect.]

The Gemora answers: No, the case referred to by the braisa is when he accepts upon himself two identical periods of nezirus simultaneously (in the same sentence, such as “I am accepting two periods of nezirus today,” and in this case, Rav Huna agrees that both vows are effective). The Gemora asks: What did the braisa mean when it said that oaths are generally more stringent than vows? If it is because an oath is even effective regarding objects that have no substance (as opposed

³ http://dafnotes.com/wp-content/uploads/2015/07/Nedarim_18.pdf

to a vow), a vow is more stringent as it is effective on mitzvos as well (as opposed to an oath which is not effective on mitzvos) just as it is effective on discretionary matters!?! The Gemora answers: It is because the Torah states about an oath the harsh terminology: Hashem will not absolve [anyone who takes His name in vain]. (Even after repentance, one who swears falsely will not be absolved from this transgression without retribution.)

Two Oaths

The Mishna had stated: If he says, “An oath that I will not eat it, an oath that I will not eat it,” and he ate it, he is liable for only one (because one oath cannot take effect upon another oath). Rava said: If the person petitioned a sage for annulment of the first oath, the second one is now effective upon him. How do I know this? This is because our Mishna didn’t teach that “it is only one,” but rather taught that “he is only obligated for one.” This teaches us that while there is no space for the second oath to take effect, if the first one is annulled, the second one takes effect. The Gemora cites another version of this statement. One can imply from the statement that “he is only obligated for one,” that there is liability for only one, but it is indeed an oath (even the second one). What halachic difference would there be? It must be for Rava’s statement, for Rava said: If the person petitioned a sage for annulment of the first oath, the second one is now effective upon him.

The Gemora attempts to bring a proof to this from the following braisa: If one accepted two sets of nezirus, then counted one set, designated his sacrifices for its conclusion, and then petitioned a sage for the annulment of that set, the days he counted apply to his second nezirus. The Gemora rejects this proof, as it is possible that this was a case where the person accepted two periods of nezirus simultaneously. [Nezirus, which is a vow, is not a proof to cases of oaths, as it is possible that the two oaths do not coexist (unlike vows).]

Mishna Vows are interpreted stringently but can be explained leniently. How so? If someone said, “It should be upon me like salted meat,” or “like a wine libation,” if the reference of his vow was to a shelamim offering (where the meat is salted and where libations are required), the object is forbidden. If the reference of his vow was to idolatry, it is permitted (for those are things which are intrinsically prohibited, and not on account of a vow). If he did not specify, it is forbidden. Similarly, if he said, “It should be upon me like a cheirem,” if he said like a cheirem of Heaven, it is forbidden. If he said “like a cheirem that is pledged to Kohanim, it is permitted (for cheirem of Kohanim is merely their property but nonsacred). If he did not specify, it is forbidden. Similarly, if he said, “It should be upon me like ma’aser (tithes),” if the reference of his vow was to tithes of animals, it is forbidden. If the reference of his vow was to tithes from the granary, it is permitted (for many Tannaim hold that ma’aser rishon is nonsacred). If he did not specify, it is forbidden.

Similarly, if he said, “They are upon me like terumah,” if the reference of his vow was to terumah given for the yearly korbanos (called the terumas ha’lishkah), it is forbidden. If the reference of his vow was to terumah given to kohanim, it is permitted. If he did not specify, it is forbidden. These are the words of Rabbi Meir. Rabbi Yehudah says: If one vowed but did not specify the terumah (he was referencing), in Yehudah, they are forbidden, while in the Galil, they are permitted, as people in the Galil are not familiar with the terumas ha’lishkah (as they were far away from Yerushalayim and therefore did not commonly talk about it). Additionally, if one vowed but did not specify the “cheirem” (he was referencing), in Yehudah, they are permitted, and

in the Galil, they are forbidden, as people in the Galil are not familiar with the cheirem given to Kohanim.

Doubtful Nezirus

The Gemora asks: But it was taught in a Mishna that a doubtful nezirus is ruled leniently? Rabbi Zeira answers: This is not difficult, as this Mishna regarding nezirus) is in accordance with Rabbi Eliezer and this (our) Mishna is in accordance with the Rabbis, as this argument was taught in a braisa.

Quick Summary

* Where is it derived from that one *nezirus* may take effect upon another one?

The verse states "*nazir l'hazir.*"

* In what respect is an oath considered more stringent than a vow?

It is because the Torah states about an oath the harsh terminology "he will not be cleansed." (*Even after repentance, one who swears falsely will not be absolved from this transgression.*)

* Is there any validity to an oath upon an oath?

Yes! If the first one is annulled, the second one takes effect.

* What is the meaning that "indeterminate vows are treated stringently"?

If he uses a language that can be interpreted in two different ways. One way, the *neder* will be valid and the other way, it wouldn't. If he doesn't explain his meaning, we assume that he meant to make a *neder*.

* Is that true regarding their interpretations as well?

No! We interpret a vow in the lenient manner.

* What are the two types of "*cheirems*"?

Either to the *Kohanim* or to the Beis Hamikdosh.

* How can a *nezirus* be valid retroactively?

If one vowed to observe two terms of *nezirus* and after the completion of the first *nezirus* designated animals for his conclusion procedure, and then, he annulled the first vow, the second vow of *nezirus* is fulfilled automatically by the observance of the first term of *nezirus*.

* What is the *halacha* if he did not specify which *terumah*?

According to Rabbi Meir, it is forbidden. According to Rabbi Yehudah, it would depend. In Yehudah, it is forbidden, while in the Galil, it is permitted.

* What is the *halacha* if he did not specify which *cheirem*?

In Yehudah, it is permitted; in the Galil, it is forbidden.

* What is the *halacha* by an indeterminate vow for *nezirus*?

Rabbi Zeira says that it is a matter of a Tannaic dispute.

⁴ We use the sefer Dov'vos Yaakov extensively to assist us in preparing these summaries.

The Ra'an Elucidated⁵

One on the other – The Ran cites other commentators who say that when the Mishna says that one neder can take effect within another, it means that one may be liable for two violations for a single act of eating. If one says, “This bread is forbidden to me, this bread is forbidden to me,” and then he eats the bread, he will be guilty of two violations. This would be in contrast to an oath where he would only be liable for one transgression because the second one is not valid.

The Ran himself brings proof that this is incorrect and even by a neder, he will only be liable for one. The Mishna is only referring to the case of a nazir. However, the Ran concludes that nedarim are stronger than oaths in the following manner: A neder may take effect upon an oath, but an oath cannot take effect upon a neder. For example, if one took an oath that he will eat a certain loaf of bread and then he said, “This loaf is forbidden to me,” the neder takes effect. Just as a neder can take effect upon a mitzvah, it can take effect upon an oath. This is because an oath and a mitzvah are both prohibitions on the person and a neder is on the object; it can therefore take effect. And just as a neder can take effect on an oath to nullify it, so too, it can take effect upon an oath to uphold it.

Therefore, if one took an oath that he will not eat a certain loaf of bread and then he said, “This loaf is forbidden to me,” the neder takes effect. If he would eat the bread, he would be liable for transgressing an oath and a neder.

However, an oath cannot take effect upon a neder. This is because of the following reason. Once someone makes a neder and the object becomes forbidden to him, there is now a prohibition on of the person not to desecrate his word and derive benefit from the object. Therefore, it is like any other prohibition in the Torah, and the oath cannot take effect upon it.

Second One Takes Effect

The Gemora states: Although the Mishna had stated that if someone makes two consecutive oaths that he will not eat something and he eats it, he has transgressed one prohibition (for the second one does not take effect), if the person asked for the first oath to be permitted (and it was), the second oath is now valid. There is a discussion if the second oath (before the first one was annulled) is regarded as an oath taken in vain (similar to an oath to nullify a mitzvah). The Ritva writes: If he has the first one annulled, the second one is not regarded as an oath taken in vain, for now, it takes effect. He, therefore, would not incur lashes for the second oath.

The Nimukei Yosef maintains that even while the first oath is intact, the second oath is not regarded as an oath taken in vain. This is because it has potential for being a valid oath, i.e., if the first one is annulled. Others say that it is not considered in vain for the second oath is essentially an oath in order to uphold a mitzvah (fulfilling the first one), and we learned above that this is an admirable thing to do. Rashi in Shavuos explains the reason why the second oath takes effect after the first one is annulled. He says it is because a sage has the power to retroactively revoke the oath in a

⁵ “The Commentary of Rabbenu Nissim on Nedarim” from Rabbi Nathan Bushwick extensively to assist us in preparing the “Elucidation of the Ra”n.” The sefer, written in English is available for sale by writing to: Rabbi Nathan Bushwick 901 Madison Ave. Scranton, Pa 18510-1019.

manner as if the oath was never uttered. Accordingly, the second one is valid, for there is no first one any longer.

The Shach writes that according to this, the second one will only take effect if a sage annulled the oath. However, if the husband annulled the oath of his wife, her second oath would not take effect. This is because a husband does not retroactively revoke her oath; it is only considered void from this moment and on. The first oath is not regarded as if it never existed and therefore, the second one does not take effect.

Reb Akiva Eiger disagrees. He states: The reason why the second oath does not take effect initially is because one prohibition cannot take effect upon another. The second prohibition exists, but it is in a pending state. As soon as the first prohibition is removed, the second one “wakes up” and takes effect. This would be true when the husband annuls the oath of his wife as well.

No More Excuses

As stated in our sugya, the oath of a person who swears to observe a mitzvah has no validity. On the other hand, the Gemora (8a) says, “How do we know that one can swear to observe a mitzvah? We are told: ‘I swore and shall uphold to observe the judgments of your righteousness’. But isn’t he sworn from Mount Sinai? But this tells us that a person is allowed to urge himself.” In other words, a person is permitted to swear to observe a mitzvah of the Torah to urge himself to uphold it. The Stiepler Gaon zt”l offered the following explanation: When lazy about a certain mitzvah, people tend to find an excuse that in certain circumstances they are exempt from observing it. But when a person swears to urge himself to observe it, his oath reminds him: “What’s with you? If you’re exempt from the mitzvah, you’re still bound by your oath to observe it”

Grey Areas⁶

Our daf focuses on my one of my favourite parts of the Talmud: the grey. The in-between, the undefined. Not black and not white. So much of the Talmud is an attempt to create and define clear lines designating the differences between this and that. But what of those things that live in the grey? And what of those of us who strive to live in the grey?

When a vow or an oath is unclear, are we stringent and demand that that promise be kept? Or are we lenient, allowing for error? The rabbis examine this question in a number of ways. One of those involves an animal called a koy. It is unclear what a koy is, exactly. It seems to be considered part wild and part domesticated animal. However, whatever it is, it is 'grey'. And so, if a person makes a vow regarding all of their wild/domesticated animals, what is done about the

⁶ <https://dafyomibeginner.blogspot.com/2015/06/>

koy?

The rabbis even created genders to capture (literally?) the reality of different bodies. If it exists, it was intended by G-d and thus it is our job to understand, to classify, and to create boundaries around it. But the rabbis were brilliant. They must have known at a very deep level that they could not classify everything and everyone. There would always be grey.

The study of vows and oaths and other promises is not particularly engaging. It is repetitive and logical and, to me, boring. But the introduction of this confusion is meaningful to me.

A NEDER ON A PRE-EXISTING NEDER

Rav Mordechai Kornfeld writes:⁷

The Mishnah (17a) states that "a Neder takes effect on another Neder," and it explains that this refers to an oath of Nezirus which takes effect on a pre-existing oath of Nezirus. The **RAN** explains that only *Nezirus* takes effect on another Nezirus, but a Neder cannot take effect on another Neder to make the person liable for two punishments for eating one prohibited object.

The Ran quotes other Rishonim who maintain that two Nedarim *can* take effect to make the person liable for two punishments, but he points out a number of difficulties with that opinion. If a Neder can take effect on another Neder, why does the Mishnah give the example of Nezirus? Moreover, why does the Gemara say that no verse is necessary to teach that two oaths of Nezirus take effect (consecutively) when a person says, "Hareini Nazir ha'Yom, Hareini Nazir l'Machar" ("I am a Nazir today, I am a Nazir tomorrow")? If two Nedarim can take effect on one object at the same time, the verse *is* necessary to teach that the two sets of Nezirus take effect *simultaneously*, such that one will be liable *twice* if he drinks wine during the first thirty days of his Nezirus, since both oaths of Nezirus take effect at the same time.

How do the other Rishonim answer these questions?

When the **RAN** cites the other opinion, he apparently refers to the opinion of the **RASHBA**. The Rashba explains that although a Neder takes effect on a Neder and a person will be liable twice for transgressing the "double" Neder, in the case of Nezirus the second Nezirus cannot take effect on the first. The first Nezirus must end before the second one can take effect. (See also **SEFER HA'CHINUCH**, Mitzvah 30.)

The reason for this is that when a person makes a Neder he creates an Isur; it is as though there is a new Lo Ta'aseh in the Torah which prohibits this object to him. Just as it is possible for the Torah

⁷ dafyomi.co.il/nedarim/insites/nd-dt-018.htm

to apply multiple prohibitions to a single act (such as five prohibitions for one who eats an ant; see Makos 16b), a person -- by repeating his Neder -- can create multiple prohibitions on one object. A Shevu'ah, in contrast, does not create a prohibition on the item, but it prohibits the *person* from doing the act of eating the item. Once the person is already prohibited from doing the act, he cannot become prohibited again.

His second Shevu'ah in which he says that he will not do something does not take effect, because he is already obligated not to do the act. Nezirus is like a Shevu'ah in that it is a change in the status of the *person* (see **MAHARIT** #53-54, and as cited by the Shalmei Nedarim to 2b); once he is obligated to observe the laws of a Nazir, he cannot accept upon himself a second obligation to observe those laws. If, however, the duration of the second Nezirus extends beyond the first, then it takes effect (since "Ein Nezirus Pachos mi'Sheloshim Yom"; see previous Insight). According to Shmuel, even when the second Nezirus does not cover any more days than the first, the second Nezirus takes effect because it remains suspended until it finds a time at which it can take effect (which occurs the moment at which the first Nezirus ends).

The Rashba himself later retracts this view and explains, like the Ran, that a Neder cannot take effect on a pre-existing Neder.

A SHEVU'AH ON A PRE-EXISTING SHEVU'AH

The **RAN** writes that although a Shevu'ah cannot take effect on a pre-existing Shevu'ah, and, similarly, a Shevu'ah cannot take effect to prohibit something which the Torah already prohibits, a *Neder* can prohibit something which the Torah already prohibits. A Neder takes effect because a Neder is an Isur Cheftza, a prohibition on the *object* (besides the Isur Gavra of "Lo Yachel Devaro"), while the Torah's prohibition is an Isur Gavra, a prohibition on the *person*.

The Gemara in a number of places (Shevuos 22b, Makos 22a) explains that a Shevu'ah cannot take effect on something that is already prohibited by the Torah because the person is "Mushba v'Omed me'Har Sinai Hu, v'Ein Shevu'ah Chal Al Shevu'ah" -- the person is already bound by the Shevu'ah that he took at Har Sinai to observe the Torah, and a Shevu'ah cannot take effect on another Shevu'ah.

Why does the Gemara give the reason of "Ein Shevu'ah Chal Al Shevu'ah" and ignore the more general principle of "Ein Isur Chal Al Isur" (an Isur cannot take effect on a pre-existing Isur)? (**NODA B'YEHUDAH OC** 1:36)

(a) The **NODA B'YEHUDAH** suggests that the principle of "Ein Isur Chal Al Isur" applies only to an Isur which the Torah itself teaches. It does not apply to an Isur which a person creates himself through a Shevu'ah.

The Noda b'Yehudah does not explain the logic for this distinction between an Isur of the Torah and an Isur a person makes through a Shevu'ah. What is the difference between a Shevu'ah and any other Isur in the Torah? Perhaps his logic is that an Isur Torah does not address a particular person and a particular situation. It does not *need* to take effect when another Isur already prohibits the act or the object (and, in fact, the Torah does not intend for the second Isur to apply when a first Isur already prohibits the act).

A Shevu'ah, however, is created with the explicit intent that it applies to a particular person and a particular situation. Since the person who made the Shevu'ah did not intend that it be limited to an act which was not previously prohibited to him, perhaps it should apply even where a prohibition of the Torah (or another Shevu'ah) is already in force.

The Gemara therefore explains that a Torah prohibition is also a form of Shevu'ah, and therefore a second Shevu'ah cannot take effect and reinforce it.

(This logic may not apply to a Neder since the prohibition created by a Neder is based on the Torah's prohibition of Korban. As such, it does not depend on the person's specific intent just as the Isur of Korban does not depend on his intent. That is why Tosfos in Shevuos (20b, DH d'Chi) applies the rule of "Ein Isur Chal Al Isur" to a Neder.)

(b) The **KOVETZ HE'OROS** in Shevuos (#33) suggests that a Shevu'ah does not create an actual prohibition per se. Rather, when a person makes a Shevu'ah to do a particular act, he asserts that such an act will certainly take place. If that act does not take place (that is, if he does not fulfill his Shevu'ah), he has lied. Accordingly, he is obligated to fulfill his Shevu'ah to avoid a retroactive lie.

In this respect, the Isur of a Shevu'ah is not similar to any other Isur of the Torah since it takes effect neither on a particular object nor on a particular act. Rather, it forces the person to act in a certain way to prevent his words from becoming a lie retroactively. The reason an Isur cannot take effect when a pre-existing Isur is already in effect is that the second Isur adds nothing new to the Isur that already exists. A Shevu'ah, however, *does* add a new element to the Isur and does not merely reinforce the pre-existing Isur.

Both the approach of the Noda b'Yehudah and the approach of the Kovetz He'oros, however, are not consistent with the words of the Rishonim who explicitly refer to the principle of "Ein Isur Chal Al Isur" when they discuss a Shevu'ah. (*See, for example, the BA'AL HA'ME'OR in Shevuos, end of third Perek.*)

(c) The **AVNEI MILU'IM** (#12) suggests that the principle of "Ein Isur Chal Al Isur" *does* apply to a Shevu'ah. However, the principle of "Ein Isur Chal Al Isur" normally means that the second Isur cannot obligate the transgressor to receive a second set of Malkus or be obligated to bring a second Korban, but it *does* increase the strength and severity of the prohibition. The Gemara in Yevamos (33b) explains that because the prohibition becomes stronger, the transgressor is considered a more wicked Rasha, and when he dies, he is buried among Resha'im of a similar degree of wickedness.

The Gemara teaches that when a Shevu'ah is made to prohibit something that is already prohibited by the Torah, not only does the Shevu'ah not make the person who transgresses the Isur liable for a second set of Malkus or a second Korban, it does not even strengthen the pre-existing prohibition. That is, the logic of "Mushba v'Omed me'Har Sinai" is more effective in preventing the Shevu'ah from taking effect than the logic of "Ein Isur Chal Al Isur."

(The basis for this distinction may be as follows. An ordinary Isur (for example, the Isur of "Eshes Ish") of the Torah is binding because the Torah mandates it. In contrast, a Shevu'ah is binding because a person makes a declaration, which the Torah empowers to create a prohibition. However, the Torah allows the declaration of a Shevu'ah to create a prohibition only under certain circumstances.

When the act is already prohibited, the Torah does not allow the Shevu'ah to create an additional prohibition. "Ein Isur Chal Al Isur" means that the second Isur *exists* but it does not create liability for an additional punishment; the second Isur *does* make the act more severe, though. In the case of a Shevu'ah, however, the second Isur does not exist whatsoever (because the Torah does not allow for the creation of a prohibition under those circumstances), and therefore the principle of "Ein Isur Chal Al Isur" is not applicable.)

Why, though, according to the Avnei Milu'im, does Rava state that if a person makes two Shevu'os and then he annuls the first (through "She'eilah"), the second Shevu'ah takes effect? If the second Shevu'ah does not create even an Isur, it should be entirely ineffectual even after the person annuls the first Shevu'ah (as the Ran indeed suggests at the beginning of the Daf).

The answer is that "She'eilah," the annulment of a Shevu'ah, removes the first Shevu'ah *retroactively* ("I'Mafrei'a"). Accordingly, when the first Shevu'ah is annulled, it transpires that the second Shevu'ah was pronounced on an item that had no Shevu'ah on it, and the second Shevu'ah takes effect immediately from that time. In contrast, when a woman makes two Shevu'os and her husband annuls the first one with *Hafarah*, the second Shevu'ah does *not* take effect because a husband's *Hafarah* works only from now on ("mi'Kan ul'Haba") and not retroactively. Consequently, since at the time the second Shevu'ah was pronounced it created no Isur, it cannot take effect later when the first Shevu'ah is removed.

*(See **HAGAHOS REBBI AKIVA EIGER** to YD 238, who cites the **MAHARAM MINTZ** who reaches a similar conclusion based on Rashi in Shevuos 27a. However, Rabbi Akiva Eiger argues that even after the husband's *Hafarah*, the second Shevu'ah does take effect with regard to Malkus for "Lo Yachel Devaro," but not with regard to obligating her to bring a Korban for violating the Shevu'ah.)*

(The Avnei Milu'im's explanation addresses why the Gemara does not say "Ein Isur [Chal Al Isur]" but rather "Ein Shevu'ah." However, it does not explain why the Gemara refers to the pre-existing Isur as a "Shevu'ah" ("Ein Shevu'ah Chal Al Shevu'ah") and not as an "Isur." If the Gemara's intent is to emphasize that a second Shevu'ah's inability to take effect on a pre-existing Isur is weaker than a second Isur's ability, it should say "Ein Shevu'ah Chal Al Isur" and not "Ein Shevu'ah Chal Al Shevu'ah."

The Avnei Milu'im points out a number of practical consequences of the fact that the Shevu'ah does not even strengthen the pre-existing Isur:

1. The obvious consequence is that the person who transgresses such a Shevu'ah is not buried among the more wicked Resha'im when he dies.

2. If a person is so ill that that the doctors have determined that he will die unless he eats Neveilah, he is permitted to eat Neveilah. What is the Halachah in a case in which the sick person had previously prohibited himself with a Shevu'ah from eating Neveilah? The law of Piku'ach Nefesh does *not* permit a person to violate his Shevu'ah, because he is able to repeal his Shevu'ah (through "She'eilah") instead. If the normal rule of "Ein Isur Chal Al Isur" would apply, the person would be required to have his Shevu'ah repealed before he eats the Neveilah (in order to minimize the severity of the transgression). The principle of "Mushba v'Omed," however, teaches that the Shevu'ah does not take effect at all and there is no need to repeal the Shevu'ah.

3. The Gemara (24a) states that according to Reish Lakish, the principle of "Isur Kollel" -- which normally enables a second Isur (which applies to more objects than the first Isur) to take effect on a pre-existing Isur -- does *not* apply to a self-imposed Isur like a Shevu'ah. The Avnei Milu'im asserts that this is because the principle of "Mushba v'Omed" is more limiting than the principle of "Ein Isur Chal Al Isur." An "Isur Kollel" takes effect only because the second Isur would be present even if it could not make the transgressor liable for a second set of Malkus for sinning with the object which is already prohibited by the first Isur. Since the second Isur *does* make him liable for Malkus with regard to other objects, the rule of "Isur Kollel" makes him liable for Malkus for sinning with the object which is already prohibited by the pre-existing Isur. A Shevu'ah, however, does not create an Isur at all on what was previously prohibited, and thus the principle of Isur Kollel does not apply.

4. The Avnei Milu'im suggests further that the reason why the Gemara mentions the principle of "Mushba v'Omed me'Har Sinai" ("Ein Shevu'ah Chal Al Shevu'ah") is to show that even if the Isur of the Torah and the person's Shevu'ah come into effect at the same time ("b'Vas Achas"), the Shevu'ah still does not take effect (even though, normally, when two Isurim come into effect at the same time they *do* take effect). For example, if he makes a Shevu'ah to prohibit himself from eating Neveilah, and afterwards his animal dies, even though the animal becomes forbidden to him because of the Isur Torah of Neveilah and because of his Shevu'ah at the same moment, the Shevu'ah does *not* take effect.

The logic for this distinction is similar to the logic for why the rule of "Isur Kollel" does not apply to a Shevu'ah. The reason why two ordinary Isurim take effect "b'Vas Achas" is that even if they would create no liability for Malkus (because of "Ein Isur Chal Al Isur"), nevertheless the Isurim co-exist and add severity to the act. In contrast, the principle of "Mushba v'Omed me'Har Sinai" prevents a Shevu'ah from taking effect when there is a pre-existing Isur. Therefore, even if the Shevu'ah and the cause for the other Isur occur simultaneously, only the Isur takes effect and not the Shevu'ah. (This may be true even according to those who disagree with Reish Lakish and maintain that a Shevu'ah *does* take effect when it is an "Isur Kollel.")

However, the Acharonim point out that the Gemara in Makos (22a) implies that even before the animal dies and becomes Neveilah, the Isur d'Oraisa of Neveilah was already in effect. Consequently, the Isur of Shevu'ah does not take effect at the same time as the Isur Torah even when the animal dies after the Shevu'ah was made. (**MISHNAS REBBI AHARON**, Yevamos 19; **SHI'UREI REBBI SHMUEL**, Yevamos 32:270)

(The Acharonim point out that the approach of the Avnei Milu'im is not consistent with the **RAMBAM** (Hilchos Shevu'os 4:10), who implies that the second Shevu'ah does take effect to make a more severe Isur.)

(d) Another answer may be suggested as follows. The rule that a Shevu'ah cannot take effect on a pre-existing Isur applies not only to a Mitzvas Lo Ta'aseh, but also to a Mitzvas Aseh. Just as a person cannot make a Shevu'ah to prohibit himself from doing an act which the Torah already prohibits him from doing, he cannot make a Shevu'ah to do an act which the Torah already obligates him to do. Perhaps the Gemara indeed could have said that the reason why one cannot make a Shevu'ah to prohibit himself from doing an act which a Mitzvas Lo Ta'aseh already prohibits is the principle of "Ein Isur Chal Al Isur" (indeed, the Rishonim here use this wording). However, this reason does not suffice to explain why one cannot make a Shevu'ah to do an act which a Mitzvas Aseh already obligates him to do. In such a case, the principle of "Ein Isur Chal Al Isur" does not apply since there is no *Isur* in the first place. The Gemara therefore must give the reason of "Mushba v'Omed... v'Ein Shevu'ah Chal Al Shevu'ah" to explain why one's Shevu'ah does not take effect. (Indeed, the Gemara earlier (8a) and in Shevuos (25a) refers to a case in which one makes a Shevu'ah to fulfill a Mitzvas Aseh when it says the reason of "Ein Shevu'ah Chal Al Shevu'ah.") Since the Gemara must use that reason in reference to a Shevu'ah made to fulfill a Mitzvas Aseh, it also uses that phrase in reference to a Shevu'ah made to fulfill a Lo Ta'aseh. Alternatively, it could be that a Neder can take effect to reinforce a negative Mitzvah because -- like the Ran says -- a Mitzvas Lo Ta'aseh is an Isur on the person, an Isur Gavra, while a Neder is an Isur Cheftza.

One might have thought that a Shevu'ah takes effect to reinforce an Isur d'Oraisa which is an *Isur Cheftza*, just as a Neder takes effect to reinforce an Isur d'Oraisa which is an *Isur Gavra*. As the Ran explains, a Neder is able to take effect to reinforce an Isur d'Oraisa because a Neder is an Isur Cheftza (an Isur on the object) while a Lo Ta'aseh is an Isur Gavra (an Isur on the person). The Gemara teaches that this is not true -- a Shevu'ah cannot take effect at all on an Isur d'Oraisa, because every Mitzvah in the Torah (even an Isur Cheftza, such as Neveilah) is also an Isur Gavra, as the Ran explains.

Perhaps this is the intention of the Gemara when it says "Mushba v'Omed me'Har Sinai" with regard to all of the prohibitions of the Torah. The Gemara means that even an Isur Cheftza, like Neveilah, is also an Isur on the Gavra ("*Mushba v'Omed*") and therefore a Shevu'ah cannot take effect on it. (See a similar answer in **MALBUSHEI YOM TOV**, volume II, Kuntrus Kal v'Chomer #7.)

When In Doubt

Steinsaltz (OBM) writes:⁸

When discussing *nedarim*, how clear does a statement need to be in order for a person to become obligated in it? What if the statement that is made can be interpreted in more than one way?

Although our Mishna rules that *stam nedarim le-hahmir* – that we will be stringent with regard to the interpretation of vows – the Gemara quotes a Mishna that states *sfeik nezirut le-hakel*, seemingly indicating that regarding the laws of a *nazir* we will tend towards leniency. Since we have learned that *nezirut* is a type of *neder*, how are we to understand this contradiction?

Rabbi Zeira responds by presenting a baraita that shows a disagreement between *tannaim* in situations of doubt and argues that our Mishna and the Mishna about the *nazir* have two different authors. What if a person sanctifies all of his domestic and wild animals – does this include a *koy* or not? The *Tanna Kamma* rules that it does (i.e., he interprets the statement to include unclear situations), but Rabbi Eliezer rules that it does not.

Identifying the *koy* is a difficult task. Even though it is mentioned many times in the Mishna and Talmudic literature, that is not because it is a common animal, rather because its status between a wild and domesticated animal allows it to be a test case for many *halakhot*. The disagreement as to its identification began in the time of the Mishna, when some of the Sages argued that it is the offspring of a deer or similar animal with a goat. Others claim that it is a unique type of animal – an *Ayal HaBar*.

⁸ <https://steinsaltz.org/daf/nedarim18/>



Mouflon

The *Ayal HaBar* can be identified with the mouflon sheep, which, according to many, is the forerunner of domesticated sheep. It is distinguished by its short hair and grey color; a nimble climber, it lives in mountainous regions, today mainly in uninhabited areas in Europe. It is likely that the clear similarities between a *koy* and a sheep, together with its being a wild animal, led to the Sages' confusion about its classification.

Its name –*koy*– and even the pronunciation of the name, are themselves the subject of disagreement.

Specifying a leniency of a neder

סתם נדרים להחמיר ופירושם להקל

The Rosh explains that the reason why a typical oath is interpreted strictly is that the mind set of a person making such a statement is to prohibit and restrict the item from himself. If he meant for his words to be understood leniently and for the item to be permitted, he would have just been silent in the first place. The Mishnah teaches us that although an oath will be interpreted stringently if it is left without clarification, if the speaker does explain what he meant, we can accept his explanation as being truthful.

Some Rishonim write that the clarification provided by the speaker must be at the moment the oath is originally uttered. Tosafos questions this approach, and he cites Rabbeinu Tam who says that we are dealing with a case where the person simply said “כבשר מליח—this should be as salted meat,” and he did not specify at that time what he meant. Later, we ask the person if he meant meat of an offering for Hashem, and his neder is valid, or if he meant meat of an idolatrous offering, and the neder is not valid. רבינו אברהם מן ההר adds that as long as the person either does not explain his words in a lenient manner, or if he says that he does not remember what his intentions were when he spoke, we treat the situation stringently.

The Shitta Mikubetzes writes in the name of רא"ם that the lesson of the Mishnah is that this one statement of the person began with a reference to “salted meat,” which we would have assumed to refer to the meat of a קרבן, and the neder would be binding. However, the person then continued and added a clarification, saying, “of idolatry.” We might have thought that the initial words he uttered indicated that the neder refers to a קרבן, and the neder is valid. The חידוש is that we nevertheless consider the clarifying words as overriding, and the entire statement as lenient. We do not worry that the person’s words will now be meaningless, resulting in the neder’s being null.

Keren Orah presents an inquiry regarding how to understand the stringency we apply to an oath when it is unspecified. Is this due to a doubt, and the result of the rule that any ספק דאורייתא is treated לחומרא, or is this a certainty, that the rules of neder are that it is to be interpreted stringently unless specified otherwise? Rosh, as we stated earlier, seems to suggest that the rule is a result of a certainty, as we determine that if the person wished for the item to be permitted, he would have been silent in the first place. This also seems to be the opinion of Rambam (Nedarim 9:4), who rules that the only case of a doubt where no lashes are administered is where one of two items was declared prohibited, but we do not know which it was. However, it seems that there would be lashes in a case of an unspecified neder. ■

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⁹ <https://dafdigest.org/masechtos/Nedarim%20018.pdf>

Vague vows are treated stringently

Based on our Mishnah, Shulchan Aruch (1) rules that vague vows are treated stringently.

Thus, if a person declares, “These fruits are like salted meat or like a wine libation,” his declaration is treated stringently. In other words, although his declaration could be understood as referring to idolatry, which would not produce a valid vow since idolatry is a prohibited item (דבר האסור) or it could be understood as a reference to korbanos, which would produce a valid vow since korbanos are vowed items (דבר הנדור) we will rule stringently and assume that he associated the fruit with korbanos since that will produce a valid vow.

If, however, the person clarified that he intended to associate the fruit with idolatry his explanation is accepted and would not be bound by a vow. Aruch Hashulchan (2) explains that even if his clarification seems somewhat distant, nevertheless, if this is how he interprets his words we rely on his explanation. Accordingly, Aruch Hashulchan (3) inquires where the principle that “vague vows are treated stringently,” will apply. If he doesn’t ask for guidance and observes the restrictions of the vow then obviously his intent was to make a binding vow and if he does not observe his vow then obviously his intention was for the prohibited item and there is no binding vow to observe.

If he does make an inquiry whether he is bound by the restrictions of his vow we will obviously ask him about his intent and will rule according to his intent. What then are the circumstances in which this principle will be invoked?

Shach (4) writes that the principle applies when the vower does not, for whatever reason, clarify his intent and we are forced to interpret his words for him. Aruch Hashulchan (5) suggests that the principle applies when the vower comes to Beis Din for guidance and Beis Din does not ask him his intent; rather it is assumed that he intended to make a binding vow. If, however, he protests and claims that he intended something else his claim will be accepted.

Aruch Hashulchan (6) further explains that this principle applies only when the question is whether he made a binding vow or not but if it is clear that he made a binding vow and the uncertainty relates to another detail of the vow it will not automatically be treated stringently.

1. שו"ע יו"ד סי' ר"ח
2. ערוה"ש שם סע' ב'
3. ערוה"ש שם
4. ש"ף שם סק"א
5. ערוה"ש שם
6. ערוה"ש שם סע' ה'

Rosh Hashanah regrets

סתם נדרים להחמיר

A certain man was feeling a bit sick. Although he was certainly in no danger, he was unable to go to shul. Since it was Rosh Hashanah, this was quite disappointing to him. Nevertheless, he was very determined to at least daven as nicely as he could and to wait to eat until after he finished his prayer and תקיעות.

His family was worried for his health and felt that he should eat immediately.

He refused, but they kept begging him to hear the תקיעות and eat immediately. Finally, he couldn't stand their badgering any longer and he made a neder that he would not eat until the time when the tzibbur exits the beis medrash. When the appointed time arrived, this man suffered a significant disappointment.

A Chacham had come to deliver a drashah. It was so spellbinding that virtually no one left the shul where he usually davened. The man was quite weak and very hungry. Did he have to wait until the end of the speech? This question was asked of Rav Yaakov Reisher, zt"l, who responded, "The situation of a tzibbur having decided to leave but actually wound up staying is similar to the Gemara in Rosh Hashanah 30b.

There, the discussion revolves around a Beis Din that decided to adjourn but was delayed. Did their decision constitute adjournment or not? The Gemara concludes with a תיקו , a split decision.

Our case is similar. Rav Reisher continued, "In Nedarim 18 we find that although we are lenient regarding an unclear neder when the one who made the neder explains his meaning, when he himself is unsure his oath constitutes an unspecified neder regarding which we are stringent.

However, don't allow the poor man to wait. He can surely be released by a Chacham even though it's Yom Tov since the annulment is for the sake of a mitzvah—eating his Yom Tov meal!"

Rabbi Seth Goren writes:¹⁰

In a legal context, two sentences that run consecutively are served one after the other while two that run concurrently overlap. So for example, if you're sentenced for two crimes, each with a sentence of three years, you might be in for six years if the sentences are consecutive. But if they run concurrently — or if you receive a pardon for just one of them — you might be in for only three.

Our daf concerns not double sentences, but double oaths and vows. Why might a person make the same oath or vow twice? Perhaps by error? Perhaps for emphasis? The text doesn't say. But one thing is clear: Doubling your oath or vow has real implications — which today's page aims to explain.

¹⁰ www.mytalmudiclearning.com

Let's start with the mishnah from yesterday that generates today's discussion:

There is a vow within a vow. But there is no oath within an oath.

How so? If one said: "I am hereby a nazirite if I eat. I am hereby a nazirite if I eat," and then he ate, he is obligated for each and every one.

However, if he said: "I take an oath that I will not eat, I take an oath that I will not eat," and then he ate, he is liable to bring an offering for only one violation.

One might suppose from this language that a doubly stated vow means that one has effectively made two vows, while this is not the case for a doubly stated oath, which is why one only needs to bring one offering for the latter violation. But the Gemara interprets it differently. On today's daf, we find this teaching from Rava:

Rava said: If he requested (dissolution) for the first, the other oath takes effect on him. From where (is this derived)? From the fact that it is not taught that there is only one. Rather, it is taught that he is liable for only one. It does not have a span (of time). When he requests (dissolution) of the other, it takes effect.

Rava focuses on the exact language of the mishnah, which specifies that someone who makes a double oath and then violates it has to bring only one offering. This implies that the person is only liable for a single violation — but not necessarily that there was only one effective oath. According to Rava, there are still, in effect, two oaths that are both valid and queued up. If someone dissolves the first, the second one slides into its place. Oaths are basically consecutive: Only one is in place at any given time.

There's a lot more discussion and fine print. As we explore further on the page, we find that vows might actually run concurrently *or* consecutively. But in either case, if one of the vows is dissolved you're still responsible for what remains.

The details are challenging, but the overall point is clear: Saying an oath or a vow twice — even if it was a mere rhetorical flourish for emphasis or an outright mistake — has real consequences. The mishnah left open the possibility that this was not always the case, but the Gemara shut that door. One way or another, the rabbis are going to hold you to both utterances.

Rabbi Johnny Solomon writes:¹¹

The Mishna (Nedarim 2:4) in *our daf* (Nedarim 18b) draws two parallel distinctions between those residing in Judea and those living in the Galilee.

Firstly, according to Rabbi Yehuda, a non-specific vow referencing 'terumah' (סתם תרומה) made by those in Judea is binding, while it is not binding if made by someone in the Galilee. This is

¹¹ www.rabbijohnnysolomon.com

because those in Judea would refer to donations to the Temple treasury with the term 'terumah'. However, since agricultural terumah cannot be prohibited by a vow, and given the possibility that this is what the Galileans might have been referring to, their vow is invalid.

Secondly, we are taught that a non-specific vow referencing 'cherem' (סתם הרמים) made by those in Judea does not render the object forbidden, whereas if someone in the Galilee made such a vow, the object would be forbidden. This is because those in Judea would refer to gifts to the Kohanim with the term 'charamim' - in which case their vow would not be valid. However, given the possibility that Galileans may have used this term to refer to gifts to the Temple, in which case the vow would be valid, then the object is forbidden to them.

As should be clear, in both cases a presumption is made that those living in Judea – who lived nearer to the centres of Jewish learning - were more knowledgeable and thus more nuanced in the words they used while making vows, while those living in the Galilee – living further away from those centres of learning - were less knowledgeable. Consequently, we must consider broader possibilities in terms of the intention of what they said.

Admittedly, this is not the only time when such comparisons have been made between those in Judea and the Galilee. Instead, as I have previously explained in my commentary to Chagigah 25a (see <https://rabbijohnnysolomon.com/chagigah-25/>), this distinction is made repeatedly in the Mishna - which is an important fact in helping us understand why the Sages were dismissive of those from the Galilee who claimed to have alternative interpretations of Jewish Law.

At the same time, as I explain in my commentary to Ketubot 52b¹² we find instances when those in Judea adopted a less benevolent attitude towards those in the Galilee. Meaning, during the same period of time that those in Judea were considered to be more knowledgeable than those in the Galilee, those in the Galilee were considered to be more sensitive to the needs of the vulnerable (in this case, widows), than those in Judea. But what does this mean? I believe the simple lesson that we can draw from here is that greater Torah knowledge, and greater halachic nuance, does not always automatically lead people to greater human sensitivity.

Of course, this does not mean that we should not learn more or be more particular with our practice. But what it does mean is that learning and practice are not equivalent to benevolence and sensitivity - and that we need to work on both.

¹² see <https://rabbijohnnysolomon.com/ketubot-52/>

DOES A NEDER OR SHEVU'AH TO TRANSGRESS OR TO FULFILL A MITZVAH TAKE EFFECT?¹³

		(A) SHEVU'AH	(B) NEDER
TO TRANSGRESS A MITZVAH			
1a	PASSIVELY (SHEV V'AL TA'ASEH)	No	Yes ⁽¹⁾
1b	ACTIVELY (KUM V'ASEH)	No	--- ⁽²⁾
TO FULFILL A MITZVAH			
2a	PASSIVELY (SHEV V'AL TA'ASEH)	No (RABANAN) ⁽⁸⁾ Yes (RYB'B, according to Rashi) ⁽⁶⁾ No (RYB'B according to Tosfos) ⁽⁷⁾	No (Ba'al ha'Me'or) ⁽⁴⁾ Yes (Rashi, Ramban) ⁽⁵⁾
2b	ACTIVELY (KUM V'ASEH)	No (RABANAN, according to the Ramban) ⁽⁸⁾ Yes (RABANAN, according to Ba'al ha'Me'or) ⁽⁹⁾ Yes (RYB'B)	--- ⁽³⁾

(1) The Gemara (16b) derives this from the word, "*la'Shem.*" The Gemara explains, based on logical grounds, that this word was only written with regard to a Neder, which is an Isur Cheftza and can therefore take effect on an Isur Gavra. (See Insights to 16:1.) There appears to be disagreement among the Rishonim as to whether, when all is said and done, this Halachah is learned from the Pasuk in conjunction with the above-mentioned logic, or whether it is learned purely through logic and not from the Pasuk (see footnote #9).

(2) No Neder can obligate a person to actively do something, as the Ran explains (8a, DH v'ha'Lo). (Even if Nidrei Mitzvah, just like Nidrei Hekdesh, *can* obligate a person to actively do something, as the RITVA and those who disagree with the Ran there write, they certainly cannot obligate a person to *transgress* a Mitzvah.)

¹³ <https://dafyomi.co.il/nedarim/charts/nd-ct-018.htm>

(3) See previous footnote. However, the Ba'al ha'Me'or (Shevuos, end of Perek 3), says that both a "Neder" and a Shevu'ah take effect to obligate him to actively fulfill a Mitzvah. The Ba'al ha'Me'or is learning the Gemara on 8a, "Neder Gadol Nadar," to be referring literally to a Neder, like the RITVA there, because Nidrei *Mitzvah* can obligate a person to actively do something; see previous footnote.

(4) Ba'al ha'Me'or in Shevuos, end of Perek 3, at the very end of his comments. This is also the opinion of the TOSFOS (in Shevuos 20b, DH d'Chi) and the Rashba (Nedarim 18a) before he changed his mind. Their reasoning is that "Ein Isur Chal Al Isur," an Isur cannot take effect on another Isur, applies even for an Isur Cheftza taking effect on an Isur Torah (such as the Isur of eating on Yom Kipur). The Rashba, though, raises the possibility that perhaps an Isur Neder does take effect on *another Isur Neder* (to make him obligated twice). He learns this from the Gezeiras ha'Kasuv of "Nazir l'Hazir," which, he maintains, teaches that a Neder can take effect on top of *any* Isur that comes as a result of a person, such as Nezirus or Neder. (This is diametrically opposed to the opinion of the Ran, see footnote 5 below, which the Rashba eventually adopted as well, that a Neder *cannot* take effect on another Neder, but it *does* take effect on an any other Isur Torah.)

(5) Rashi in Shevuos (20b, DH Hachi Garsinan), the Ramban in Milchamos (Shevuos, end of Perek 3) and the Ran (Nedarim 18a). This is also the conclusion of the Rashba (as cited from his TESHUVOS (1:615) and from the SHITAH MEKUBETZES in the "Hashmatos" of the Rashba, Nedarim 18a). Their reasoning is that all Isurim of the Torah are Isurei Gavra, and a Neder -- which is an Isur Cheftza -- can take effect on them, just like it can take effect to *override* a Mitzvah for this reason. Hence, "Ein Isur Chal Al Isur" is not applicable. However, if an object is already Asur because of a Neder, a second Neder cannot take effect on it since the object is already Asur with an Isur Cheftza. This is why a Neder cannot take effect on a pre-existing Neder (except for an oath of Nezirus, like the Mishnah on 17a says). The MILCHAMOS (ibid.), though, maintains that a Neder can even take effect on an object that was already prohibited through another *Neder*.

Rebbi Akiva Eiger, in his notes on the Shulchan Aruch (YD 238), suggests that all of this applies only to an Isur Torah which has nothing to do with an Isur Cheftza, such as one who makes a Neder prohibiting himself from food on Yom Kipur (where the Isur Torah not to eat is solely an Isur Gavra), which is the case that Rashi discusses in Shevuos (loc. cit.). However, if one makes a Neder to prohibit Neveilos and Treifos, then everyone will agree that the Neder does not take effect, because the *Cheftza* is already prohibited by the Torah. A very strong proof for Rebbi Akiva Eiger's words can be adduced from the Gemara in Kerisus that says that an Isur Hekdesh cannot take effect on an Isur Chelev, except through the mechanics of "Isur Kolel" or "Isur Mosif." We know that an Isur Hekdesh is a type of Isur Neder (i.e., it is a Davar ha'Nadur and an Isur Cheftza, since an object Hekdesh may be used for Hatfasah for Nidrei Isur). If so, why does it not take effect on an Isur Chelev (as the Avnei Milu'im indeed asks in Teshuvah #12)? According to Rebbi Akiva Eiger, it is clear -- Chelev is an Isur *Cheftza* and thus even a Neder cannot take effect on it.

However, Rav Yisrael Ze'ev Gustman zt'l points out (in Kuntresei Shiurim, Nedarim #9) that according to this, the Isur of Neveilah should take effect if an animal dies on Yom Kipur, since the Isur of Neveilah has an added element of an Isur Cheftza just like a Neder. Yet the Gemara in Kerisus says that it does not take effect on top of another Isur without "Kolel" or "Mosif!" (Rav Gustman, Zatzal, leaves this question on Rebbi Akiva Eiger unanswered.) Perhaps we might suggest that a prohibited object is not considered an Isur Cheftza unless it was Asur from its very

inception, such as Chelev, Gid, and non-kosher animals. An animal that became a Neveilah, though, was not a Neveilah until it died (M. Kornfeld).

(6) The opinion of Rabbi Yehudah ben Beseirah, that a Shevu'ah does not have to have the option of being made through both "Lav v'Hen," is recorded in the Mishnah in Shevuos (27a, and Rashi there), and Rashi appears to have understood that to mean that an Isur Shevu'ah can even take effect on an object that is already Asur mid'Oraisa (see Tosfos there). Tosfos in Shevuos (20b, DH d'Chi) also writes that a Shevu'ah may take effect on an Isur Torah according to Rabbi Yehudah ben Beseirah.

(7) Tosfos in Shevuos (27a, DH l'Kayem), in the name of the RIVA. His reasoning is that even Rabbi Yehudah ben Beseirah agrees that "Ein Isur Chal Al Isur" and therefore no special verse is needed to teach that a Shevu'ah cannot take effect on what is prohibited by the Torah. In Yevamos (33b) it is clear that even though "Ein Isur Chal Al Isur" applies with regard to Malkus, the second Isur *does* take effect insofar as creating an additional Isur, such that the person who transgresses will be transgressing an additional Isur. (The practical ramification of this is that one who transgresses the double Isur "will be buried among Resha'im Gemurim," the truly evil.) If so, a Shevu'ah too should take effect on an Isur Torah with regard to creating an additional Isur (but not with regard to Malkus), as the Ketzos ha'Choshen indeed writes (73:5). The Ketzos' conclusion is also supported by the Rambam (Hilchos Shevu'os 4:10 and 6:14) who implies that a Shevu'ah takes effect on another Shevu'ah insofar as creating an additional Isur. (This is in contrast to what the Ketzos himself writes in Teshuvos Avnei Milu'im #12; see Insights; see also the notes of Rav Aharon Yaffan zt'l on the Ritva, Perek 1 footnote 171, and in his appendix 10:1, for a lengthier discussion of this matter.)

(Referring to the words of the Rishonim, it would seem that this question depends on the Machlokes between the Ramban and Ba'al ha'Me'or whether a Shevu'ah to fulfill a Mitzvah takes effect for Malkus or not (see Chart, 2b:A). According to the Ramban who says that it does *not* take effect at all, a Shevu'ah cannot take effect on something for which the person is already "Mushba" even where "Ein Isur Chal Al Isur" is not applicable (such as to fulfill a Mitzvah through Kum v'Aseh). If so, the same applies when one makes a Shevu'ah to observe a Mitzvah of Shev v'Al Ta'aseh -- the Shevu'ah does not take effect even with regard to adding an extra degree of Isur. According to the Ba'al ha'Me'or, on the other hand, a Shevu'ah *would* take effect on another Shevu'ah if not for the principle of "Ein Isur Chal Al Isur." Therefore, the second Shevu'ah *does* take effect with regard to adding an extra degree of Isur, like the Gemara in Yevamos says regarding every case of a second Isur taking effect on a previous Isur. However, the Avnei Milu'im (ibid.) proposes that according to those who hold like the Ba'al ha'Me'or, a Shevu'ah is entirely null and void when it cannot create a Chiyuv Malkus, unlike an Isur Torah.)

(8) The Rabanan's opinion also appears in the Mishnah in Shevuos (27a). The logic of the Rabanan is that a Shevu'ah cannot take effect unless it is able to be made both with "Lav v'Hen," (roughly, "in the positive and in the negative") and a Shevu'ah cannot be made to *transgress* a Mitzvah (see 1a:A in the chart).

According to the Ramban (Milchamos, Shevuos 27a and on the Torah, beginning of Matos) and the Rosh, Tosfos, Ritva, and Rambam (Hilchos Shevu'os 5:16), the Rabanan hold that a Shevu'ah to fulfill a Mitzvah b'Kum v'Aseh (i.e., actively) does not take effect at all -- neither for the Chiyuv

Korban nor for Malkus. (This is also the implication of Tosfos in Shevuos 23b implies, as REBBI AKIVA EIGER points out in a Teshuvah.) They explain the Gemara in Nedarim (8a) that says that a person may make such a Shevu'ah to motivate himself, "l'Zaruzei Nafshei," to mean that a person is not deemed to be Motzi Shem Shamayim l'Vatalah, or swearing a Shevu'as Shav, in such a case. Regarding a Shevu'ah to observe a Mitzvah through Shev v'Al Ta'aseh, all of the Rishonim agree that the Shevu'ah does not take effect even with regard to Malkus (and certainly not for Korban). Their proof is from the Gemara in Makos (22a), which does not enumerate a ninth set of Malkus (see the Mishnah there) if a person made a Shevu'ah not to plow on Shabbos. The reason such a Shevu'ah does not take effect at all (i.e., even for Malkus) is because of Ein Isur Chal Al Isur. (Regarding whether the Shevu'ah takes effect at least with regard to adding an extra degree of Isur, see what we wrote in footnote #7.)

(9) The Ba'al ha'Me'or in Shevuos (end of Perek 3) writes that even though such a Shevu'ah does not take effect with regard to a Chiyuv Korban, nevertheless it does take effect with regard to Malkus. He learns this from the Gemara (Nedarim top of 17a, Shevu'os 25a) that explains that every Shevu'ah that cannot be made both "b'Lav v'Hen" (see footnote #8) is excluded from bringing a Korban but not from Malkus. This is also the view of the Ran in Nedarim (8a).

It seems that the Me'or and the other Rishonim (see above, #8) differ over the reading of the Gemara in Nedarim 16b. According to the Me'or and Ran, Shevu'os to override a Mitzvah do not take effect on logical grounds (i.e., because an Isur Gavra cannot override a Mitzvah of the Torah). According to the Milchamos and others, though, the Torah excludes Shevu'os from taking effect on Mitzvos by saying "Devaro," implying that they do not take effect on "Cheftzei Shamayim" (i.e., Mitzvos) even as far as Malkus is concerned. Since the Torah excludes Shevu'os from taking effect on Mitzvos, they are not punishable with Malkus whether the Shevu'ah was to override a Mitzvah or to uphold it (see Milchamos ibid.).



Minyan Ha-raui

Rav Yair Kahn writes:¹⁴

¹⁴ <https://etzion.org.il/en/talmud/seder-nezikin/massekhet-bava-metzia/daf-6b-minyan-ha-raui>

Questions:

1. What is the explanation for Rava's halakha "minyán ha-raui poter?"
2. Why, according to Rava, is the tenth animal considered as ma'aser automatically?
3. Based upon what factor is an animal categorized as ma'aser beheima?
4. Does this correspond to the method through which the status of ma'aser dagan is attained?
5. Why is ma'aser beheima considered "davar ha-nadur?"

1. Ma'aser Dagan and Ma'aser Beheima

The laws of ma'aser beheima obligate one to set aside one of ten animals born to his flock in any given year and to offer it as a sacrifice. After sprinkling the blood and burning certain select portions on the altar, the rest of the meat is eaten in Yerushalayim by the owner of the flock. At first glance, this seems a close parallel to ma'aser sheni, which is a tenth taken from agricultural produce and eaten by the owner in Yerushalayim. In the same vein, we might suggest that bikkurim (the first fruits – which are brought to the altar and given to kohanim) are the agricultural counterpart to bechor beheima (the first born animal – which is given to kohanim to bring as a sacrifice). In this shiur, we will examine the extent of the relationship between these two types of ma'aser; one which relates to farmers, the other to owners of livestock.

2. Counting to Nine

We will begin by contrasting the method of designating the ma'aser. Regarding ma'aser beheima, the specific animals designated as ma'aser beheima must be chosen via a process of counting. As one enumerates the flock one marks every tenth animal, thus awarding it the status of ma'aser beheima. This process reflects at least a technical difference between this ma'aser and the ma'aser sheni taken from crops. Regarding the latter, there is no act of counting, rather it is the direct designation of the ma'aser itself, which defines the remainder as non-ma'aser, thereby permitting it. Counting on the other hand, begins with the first nine objects, which are not ma'aser.

Perhaps, this is only a technicality. On the other hand, this distinction may reflect a basic difference between the two. Regarding ma'aser from crops, there is no independent act capable of defining part of the produce as non-ma'aser. However, regarding ma'aser beheima designated through "minyán" - the counting process, the non-ma'aser animals are separated first, while the status of ma'aser is awarded only upon reaching the tenth animal.

The possibility that the counting process of ma'aser beheima actually designates the non-ma'aser animals, hinges upon how we define the halakha of Rava "minyán ha-raui poter" - the process of counting itself exempts from the obligation of ma'aser beheima. This halakha is limited to a situation in which the initial counting had the potential of reaching ma'aser. For instance, the gemara in Bekhorot (59b) quotes the following beraita: If one had ten lambs and counted five and one of the remaining lambs subsequently died, the lambs that were counted at the time that all ten animals were alive are exempt, while those not yet counted must be included with another flock that is still obligated in ma'aser beheima. The most obvious explanation is that the counting itself, and not the designation of the ma'aser is the factor which defines the non-ma'aser

animals. Therefore, it is possible to have certain animals established as non-ma'aser, even though ma'aser itself was never actually designated. According to this understanding, ma'aser beheima regarding this point is radically different than its agricultural counterpart. Regarding the latter, only the ma'aser is designated, while the remainder automatically, by process of elimination is considered non ma'aser.

There is an argument between the Tana Kama and R. Yossi be-R. Yehuda in the mishna in Bekhorot (58b). According to R. Yossi be-R. Yehuda, if one has a hundred animals, he can take ten and confer the status of ma'aser beheima on them, without counting. The Tana Kama disagrees. Based on the above, the relationship between agricultural ma'aser and ma'aser beheima may lie at the root of their argument. (See the ensuing gemara - Bava Metzia 59a).

This distinction between ma'aser dagan (ma'aser from crops) and ma'aser beheima may be rooted in an additional distinction. The pre-ma'aser dagan state is known as "tevel," during which everything is prohibited. Therefore, the act of selecting ma'aser dagan is critical in order to permit the non-ma'aser components. Regarding ma'aser beheima, there is no tevel state (see Rambam Hilkhos Bekhorot 7:7). Hence, the act of removing ma'aser beheima is not necessary to permit the non-ma'aser animals. Therefore, counting alone is a sufficient method to establish certain animals as non-ma'aser.

However, the problem raised by Tosafot in our sugya (s.v. Le-petro) suggests a different understanding of minyan ha-raui. Our sugya applies minyan ha-raui to a situation where one of the animals already enumerated as non-ma'aser became mixed up with the part of the flock not yet counted. Since an animal that was counted cannot be recounted, the mishna in Bekhorot (58b) rules that the entire flock is exempt from counting. Our sugya raises the option of continuing to count the flock. Since there are enough animals to reach ma'aser, the animals counted as non-ma'aser will become exempt through the halakha of minyan ha-raui. Even if the ineligible animal (the one that was already counted) was selected as ma'aser, at the time of the counting, the potential of selecting a bona fide ma'aser beheima existed.

Tosafot questioned this application of minyan ha-raui claiming that counting only exempts under circumstances where there is no longer any possibility whatsoever to separate ma'aser (like the case mentioned in the beraita where the tenth animal died). In our case, on the other hand, the possibility remains to continue counting and to designate both the tenth and eleventh animals as ma'aser, thereby covering all the possibilities.

What do Tosafot mean by the assertion that the exemption of minyan ha-raui can't be applied here? If the status of non-ma'aser is conferred independently upon the animals via the counting, prior to the designation of the ma'aser, as long as the count has the potential to culminate in ma'aser beheima, this can easily be applied to the case in our sugya as well. After all, when the first nine animals were counted, there was high probability that an eligible animal would be counted tenth. Apparently, Tosafot reject this notion and maintain that the entire counting process is an integrative system. The first nine animals do not achieve a non-ma'aser status independent of the tenth. Rather, the counting is the method through which the ma'aser is selected. It is only via the designation of the ma'aser that the other nine animals are defined as non-ma'aser.

According to this approach, the halakha of minyan ha-raui is not because the animals properly counted are non-ma'aser. Rather, it is an independent exemption specific to a situation where there is no possibility to complete the count. Although the animals not yet counted must be combined with a flock from which ma'aser was not removed, those animals already counted, which can never be counted again - cannot. The exemption is not because they are considered non-ma'aser, but because they are ineligible to be recounted, based on the pasuk "whichever shall pass under the staff" (Vayikra 27:32), which excludes those that already passed (see Rashi s.v. kulam peturim). Therefore, Tosafot are perplexed by the application of this halakha to our sugya, where there is an option of continuing the count to ensure the proper selection of ma'aser.

If we adopt this approach, despite the variant techniques of determining the ma'aser, there is no basic distinction between ma'aser beheima and ma'aser dagan. In it is the designation of the ma'aser which in turn defines the remainder as non-ma'aser.

This understanding is supported by the preceding section of the sugya, which discusses whether a kohen has any monetary rights in a safek bekhor. Rav Chananya attempted to clarify this issue based upon the halakha that the original owner includes a safek bekhor as part of his flock from which ma'aser beheima is separated. He argued that if a kohen has a monetary claim on a safek bekhor, this scenario could lead to the unacceptable possibility that the owner is utilizing the kohen's property to exempt his flock from the obligation of ma'aser. This argument seems cogent only if the flock of the owner is defined as non-ma'aser at the point that the safek bekhor is designated as ma'aser. If, on the other hand, the counting itself, which is performed independently defines the flock as non-ma'aser, the owner is not actually using the kohen's property to exempt his flock.

3. Sanctification of the Tenth

We have dealt at length with the manner through which the status of non-ma'aser is awarded. At this point, we will shift to the method of designating ma'aser beheima. Regarding ma'aser dagan the method used is proclamation - kria shem. The owner actively confers the status of ma'aser on the produce. The mishna in Bekhorot (58b) refers to a declaratory act with respect to ma'aser beheima as well. As one counts his flock, he verbally announces the tenth animal. However, the mishna notes that this act is required only as a mitzva but is not absolutely necessary. Nevertheless, we can view the counting process as an effective substitute since the owner implicitly designates the tenth animal as ma'aser by counting the first nine.

Alternately, the method necessary to confer the status of ma'aser beheima may not correspond to that of ma'aser dagan whatsoever. Perhaps, the status of ma'aser beheima is assumed automatically as long as the animal is the tenth. This possibility is suggested by Rava's halakha that the tenth animal assumes the status of ma'aser automatically (Bekhorot 59a).

Tosafot, as we mentioned above, question the application of minyan ha-raui to the case where an already counted animal gets mixed up with the section of the flock that has yet to be counted. They argue that one should declare both the tenth and eleventh animal as ma'aser, thus covering all the possibilities. This question implies that unless the eleventh animal is explicitly

designated as ma'aser, it does not attain that status. The requirement of a declaration is parallel to the "kriat shem" used to establish ma'aser dagan.

The Ritva (s.v. Hadar) asks a similar but different question based on a mishna in Bekhorot (60a), which leads us to a different conclusion. The mishna says that if one mistakenly counts the ninth animal as the tenth and the tenth as the ninth and the eleventh as the tenth, he has consecrated all of them. Therefore, claims the Ritva, if the previously counted animal was illegitimately recounted among the first nine, the tenth animal is in actuality the ninth. Thus, both this animal as well as the next (the actual tenth that was counted as eleven, which attains the status of ma'aser automatically) should be considered ma'aser, even without a specific declaration.

The Ritva quotes two answers to this question. The second answer which is attributed to Rabeinu Yona claims that in our case, only the animal actually counted as tenth would be considered ma'aser. The eleventh animal which is actually the tenth cannot achieve the status of ma'aser since this status is awarded through the process of minyan (counting). However, in our case where an animal ineligible for minyan has mixed in, the entire minyan process collapses.

Perhaps this opinion maintains that there are two alternatives for designating ma'aser. The first is the standard proclamation. Based on this, the ninth animal (which was inadvertently declared the tenth) is verbally declared as ma'aser. This applies even in our case where an ineligible animal has joined the flock. The second method is not a status awarded explicitly or implicitly by the owner. Rather, it is an automatic result of the minyan process via which the animal that follows the first nine is the actual tenth. This is a reality, not a formal declaration. However, this method is only applicable when a proper minyan procedure can be performed. However, when an ineligible animal is hidden somewhere among the flock, this disrupts the entire minyan process, since we have no definitive first second or third etc.

Within this context, it is worthwhile to recall the position of R. Yossi be-R. Yehuda. According to him, if one has a hundred animals, he can take ten and confer the status of ma'aser beheima on them directly, without counting. We already suggested that this opinion is based on a comparison between ma'aser beheima and ma'aser dagan.

This question, whether we view the status of ma'aser beheima as actively created by the owner, similar to ma'aser dagan, or as automatically attained, will have ramifications regarding the categorization of ma'aser beheima as a "davar ha-nadur" - an object whose status is artificially created via nedarim. One can make a neder through "hatfasa" hinging the neder upon another object which is prohibited. Hatfasa is effective only where the status of the second object was created itself through a neder process. Can one hinge a neder on ma'aser beheima?

The mishna (Nedarim 18b) refers to ma'aser as a davar ha-nadur. Tosafot (s.v. Ve-im shel ma'aser) questions this categorization based upon the aforementioned gemara in Bekhorot (58b) that the tenth becomes ma'aser automatically. Tosafot counter - since a process of minyan is required it can be considered davar ha-nadur. This coincides with our suggestion, that the counting process is an implicit designation of the ma'aser beheima.

If, on the other hand, we consider the status of ma'aser as an automatic result of the minyan process, it is difficult to categorize ma'aser beheima as *davar ha-nadur*. However, since the Ritva agrees that both alternatives exist, *hatfasa* may be effective since the term ma'aser beheima refers also to a status that was verbally awarded by the owner's proclamation. This is all the more so since a verbal declaration is the primary form for the selection of ma'aser beheima (see Ran s.v. *Im kema'aser beheima*).

At the beginning shiur we noted that the relationship between ma'aser beheima and ma'aser sheni, is analogous to the relationship between *bekhor beheima* and *bikkurim*. It is interesting that *bekhor beheima* achieves its status automatically because it is factually the firstborn. Nevertheless, there is an obligation to consecrate it as a *bekhor* verbally (See Rambam hil. *Bekhorot* 1:4).

Summary

We raised two basic approaches to ma'aser beheima. According to one approach, the selection of ma'aser beheima corresponds to that of ma'aser dagan, while the second distinguishes between the two. We dealt with this issue regarding two independent applications:

1. How are animals defined as non-ma'aser? If we compare ma'aser beheima to ma'aser dagan, it is only via the selection of the ma'aser that the non-ma'aser is determined. On the other hand, if there is no comparison, it is possible that regarding ma'aser beheima there is a method of defining the non-ma'aser animals independent of the selection of the ma'aser. These two approaches found expression in the variant explanations of Rava's halakha "*minyan ha-raui poter*."
2. How is the status of ma'aser beheima conferred? Conforming with ma'aser dagan would mean that the owner actively creates ma'aser beheima. However, if we are not tied to ma'aser dagan categories, perhaps the status of ma'aser beheima is an automatic result of the fact that a certain beheima has been defined as the tenth. This question determined our interpretation of another halakha of Rava; "*asiri kadosh me-eilav*" the tenth achieves automatic sanctification.

Sources:

1. Gemara 6b "*Amar lei Rav Chananya ... ve-hen shelo*."
2. Tosafot s.v. *Le-potro*, Ritva s.v. *Hadar*.
3. Mishna *Bekhorot* 58b, Rashi (*mi-ktav yad*) s.v. *Kafatz*.
4. *Bekhorot* 59a "*amar Rava ... minyan harau potter*"
5. Mishna *Nedarim* 18b, Tosafot s.v. *Ve-im shel ma'aser*.



A "Great Man" Said That? the Representation and Significance of Scholastic Failure in the Babylonian Talmud

Lynn Kaye writes:¹⁵

¹⁵ AJS Review, Vol. 40, No. 2 (NOVEMBER 2016), pp. 305-334

Abstract: *Academic achievement was prized in Babylonian rabbinic culture (fourth to sixth centuries CE). Yet alongside examples of scholarly ingenuity, the Babylonian Talmud records intellectual setbacks. How academic failure is constituted and the reactions to it within the talmudic text are key to understanding dynamics between sages and the cultural values of Babylonian rabbinic Judaism. Academic failure depends more on the social rank of the man than on the nature of his mistake. The modes of failure for sages in teaching positions differ from those for sages in lower-ranked social positions. Higher-status sages are treated more sympathetically, while lower-rank sages encounter derision within brief narratives and critique from the later editors. These exchanges demonstrate the high degree of expertise expected of participants in the scholastic culture, while normalizing scholastic failure (to a certain extent) as part of academic innovation. Analyzing brief narratives depicting scholastic failure in talmudic legal dialectic necessitates literary analysis of legal passages as a whole, emphasizing the continued importance of literary theory in the study of rabbinics.*

INTRODUCTION

Members of scholarly communities can feel keenly the narrow boundary between success and failure, the approbation of their peers and collegial disparagement. As members of such a community, Babylonian Amoraim and the anonymous editors of their traditions faced dramatic success and failure in the judgment of their colleagues. While some recognized wisdom as beneficence from above, failure was firmly planted in the human domain.¹ Babylonian rabbinic texts describe sages falling short in a culture that valorized intellectual virtuosity and success, as well as a variety of responses to failure presented by sages' actions and the narratorial² choices of the text.

1. B. Bava Batra 12a suggests that two "great men" could have the same idea because they are born under the same star, and B. Shabbat 156b notes that one who is born on Wednesday will be wise, because the sun and moon and stars were created on that day. In the same context, Rabbi Ḥanina states that *mazal* governs wisdom, but this is resisted in the succeeding passage that asserts that Jews are not subject to *mazal*. Rabbi Ḥanina is also cited in B. Berakhot 33b, B. Megillah 25a, and B. Niddah 16b saying "everything is in the hands of Heaven except fear of Heaven."

2. Meaning "related to the narrator," a term from the field of narratology.

The social significance of scholastic achievement and failure comes to the fore in a story of Rav Papa in B. Niddah 27a. This short exchange shows that the sages themselves recognized the hazards of staying silent in academic settings or speaking up and risking disparagement. Rav Papa forcefully articulates the need to risk scholastic failure and withstand its social consequences. He rebukes those who laugh at his error.

B. Niddah 27a:

יתיב רב פפ' אחורי דרב ביבי קמי' דרב (ה)מנונ' ויתיב וקא' מאי טע' דר' [שמעון] קסבר כל שטומאתו נתערב' ממין אחר בטל' א' להו רב פפ' ר' יהוד' ור' יוסי נמי היינו טעמיהו ואחיוכו עלי' מאי שני [פשיטא] א' רב פפ' אפי' כל האי מילת' נימ' איניש קמי' רביה ולא נישתוק משו' שני אם נבלת בהתנש' ואם זמות יד לפה³

Rav Papa sat behind Rav Bibi before Rav Hamnuna, who was sitting and saying, “What is the reason behind Rabbi Shimon’s opinion? He thinks any impurity into which another impurity is mixed is annulled.” Rav Papa said to them, “That is likewise the reasoning of Rabbi Yehudah and Rabbi Yose,” and they laughed at him. [They said,] “What’s the difference? This is obvious!” Rav Papa said, “Even about a matter like this a person should speak before his master and not be silent, because it says, ‘If you have done foolishly in lifting yourself up and if you have plotted, hand to mouth’ (Proverbs 30:32).”

Rav Papa’s failure was an ill-received comment, resulting in ridicule. His response was to argue. Avoiding intellectual risks to maintain one’s colleagues’ high opinions limits a scholar’s ability to become wise. The verse from Proverbs associates acquiring high status (“lifting yourself up”) with foolishness. Rav Papa says it is better to contribute an observation and risk being ridiculed.⁴ However, not all such narratives of scholastic blunders display such defiance. The social consequences of academic defeat could be painful. Babylonian rabbinic culture was characterized by an increasingly violent idiom, emphasizing the personal costs of failure:

3. Unless otherwise noted, talmudic quotations are from MS Munich 95, from the Sol and Evelyn Henkind Talmud Text Database of the Saul Lieberman Institute (<http://www.lieberman-institute.com>). Translations are my own. There are very few relevant variations among the witnesses to this particular passage. Munich 95 has Rabbi Ishmael instead of Shimon, but Vatican 111, 113, and the Soncino print edition have Shimon, and I have amended the Hebrew text accordingly. The conjugation of נישתוק in Vatican 111 and 113. Soncino adds the word ‘פשיט’ (it is obvious) after the question “what is the difference?”; Vatican 111 and 113 do not have anything there; Munich 95 has what appears to be an error, פנימי, for which I have substituted פשיטא.

4. This verse in Proverbs is applied elsewhere to the behavior of Torah scholars, and it reinforces his argument. It is cited in Y. Yevamot 12:7 (13a) to mean that a person “makes himself foolish” with words of Torah by trying to raise himself on a pedestal with them: מי גרם לך להתגבל בדברי תורה על שנישאת'. עצמך בהן. This verse is also cited in B. Berakhot 63b, where Rabbi Shmuel bar Nahmani interprets the verse to mean “one who makes himself foolish for words of Torah, he will end up exalted, and if he plotted, [he will end up] hand to mouth” (המגבל עצמו על דברי תורה-סופו להתנשא, ואם זמם-יד לפה). This is more like Rav Papa’s teaching above.

shame and loss of status.⁵ The rabbinic prayer upon entering the study hall includes the wishes that “I not err in a matter of law and may my colleagues rejoice in me.”⁶ Rather than read these as independent desires, Rashi, the eleventh-century commentator, connects the two clauses. The prayer expresses fear that colleagues will delight in one’s error.⁷ Peppering legal dialectic with stories of sages’ distress at their own failures reinforces the stakes of entering debate.

This paper examines various types of scholastic missteps, how missteps become failures, and the varying social and editorial responses to them, from sympathetic to antagonistic. It shows that failure hurt lower-status sages more than higher-status sages. Failures may have helped to advance intellectual discovery, but not the failing sages themselves. Finally, the narrative construction of failure includes plot events as well as the way such events are portrayed by the talmudic narrators. While Jeffrey Rubenstein has highlighted the fear of shame as a distinct part of the Babylonian talmudic (Bavli) culture, there has yet to be an analysis of the kinds of failures that are stigmatized versus those that are acceptable, as well as a consideration of how the editors use such vignettes to promote their cultural values.

LITERARY ANALYSIS FOR CULTURAL PERSPECTIVES

The Babylonian Talmud contains some spectacular stories of the individual and communal costs of sages’ engaging in scholarship as blood sport.⁸ Scholars analyzing these lengthy narratives have produced important insights about the fear of shame and prevalence of competition within Babylonian talmudic culture.⁹ However, there is another category of narratives describing scholastic

5. Jeffrey L. Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore: Johns Hopkins University Press, 2004), 54–79. Rubenstein based his argument for the distinctively Babylonian rabbinic quality of these concerns on comparisons between parallel narrative sources in Palestinian and Babylonian rabbinic literature. The ways that Babylonian versions of narratives diverge from parallel Palestinian sources highlights certain priorities of Babylonian sages.

6. B. Berakhot 28b (Munich 95):

תנו רבנן בכניסתו מהו אוי יהי רצון מלפניך יי אלהי שלא אכשל בדבר הלכה ולא אומר על טמא טהור ולא על טהור טמא ולא על מותר אסור ולא על אסור מותר [ולא על זכאי חייב ולא על חייב זכאי] ואל יכשלו חבריי בדבר הלכה והם ישמחו בי ואני אשמח עמהם

The reciprocal version in Florence II-I-7 lends itself more clearly to Rashi’s interpretation:

ושלא אכשל בדבר הלכה וישמחו בי חבריי ולא יכשלו חבריי בדבר הלכה ואשמח בהם

MS Oxford Opp. Add. fol. 23 includes only the second clause in the above sentence (underlined) about the speaker rejoicing.

7. Rashi, ad loc.

8. As the talmudic adage (B. Bava Mezi’a 58b), “It was taught before Rav Nahman bar Yizhak, ‘One who shames his fellow in public is like a murderer’ [lit. a ‘shedder of blood’]. ‘You spoke well,’ he said to him, ‘for I see that [one looks] red and then goes white.’”

9. For example B. Horayot 13b–14a, which has been discussed by Devora Steinmetz, “Must the Patriarch Know ‘Uqztin? The Nasi as Scholar in Babylonian Aggadah,” *AJS Review* 23, no. 2 (1998): 163–89, Jeffrey Rubenstein, *Talmudic Stories: Narrative Art, Composition, and Culture* (Baltimore: Johns Hopkins University Press, 1999), 176–211, and Richard Hidary, *Dispute for the Sake of Heaven: Legal Pluralism in the Talmud* (Providence: Brown University Judaic Studies, 2010), 269–72.

failures that has received less attention. These are brief dialogues and narration interspersed within legal dialectic, which describe the social contexts of the opinions presented in a pericope (*sugya*). The longer narratives are concerned with the notable, unusual circumstances surrounding challenges to and changes of the central authority of a scholarly community. The inclusion of these shorter interstitial narratives within the flow of legal debate provides different insights into the psychology and social place of failure within the ordinary life of rabbinic scholasticism.¹⁰

Analysis of these interstitial narratives necessitates literary analysis of the *sugya*.¹¹ Literary analysis of legal passages is appropriate to talmudic literature, since the legal dialectical passages are carefully structured and the narratives have normative weight. As Jonah Fraenkel observed, “the editors of the Talmudim did not make a full differentiation between *aggadah* (narrative) and *halakhah* (law) even though they distinguished clearly between “*halakhot*” (rules) and “*haggadot*” (stories/exegesis).”¹² Such a literary approach entails analyzing legal dialectic like a narrative,¹³ emphasizing the role of the editor as narrator, and highlighting the effects of a passage’s narrative techniques. Granted, these *sugyot* focus on multiplying interpretive possibilities and crystallizing conceptual

10. Reference will be made throughout this article to relevant sources in Palestinian rabbinic literature. However, the short narrative exchanges discussed in this article do not, to my knowledge, have direct parallels in Palestinian rabbinic literature that can be thought of as building blocks or points of direct comparison for the Bavli versions of the same stories. This appears to be true even for exchanges that are described between Palestinian sages. Therefore, this article builds on Rubenstein’s demonstrated Bavli phenomenon of scholarly criticism and resultant shame by focusing on shorter narratives and the effects of editorial presentation of sources, highlighting inter-sage dynamics and the relevance of literary criticism. Palestinian rabbinic literature includes reports of sages’ concerns about how they measure up to one another and comments about speaking in the presence of “lions,” a term often used in the Palestinian Talmud for “great men” of Torah. There are some brief accounts of disparagement, though not placed as prevalently in study or legal debate contexts. Presenting the language and portrayals of scholarly missteps in Palestinian rabbinic literature will be undertaken in a separate essay, and a fuller comparison to the Babylonian narratives will be presented there.

11. A fruitful approach exemplified in the past few years by scholars such as Chaya Halberstam, *Law and Truth in Biblical and Rabbinic Literature* (Bloomington: Indiana University Press, 2010), Moshe Simon-Shoshan, *Stories of the Law: Narrative Discourse and the Construction of Authority in the Mishnah* (New York: Oxford University Press, 2012), and Barry Wimpfheimer, *Narrating the Law: A Poetics of Talmudic Legal Stories* (Philadelphia: University of Pennsylvania Press, 2011), builds on the work of scholars such as Jonah Fraenkel, *Iyyunim be-’olamo ha-ruhani shel sippur ha-aggadah* (Tel Aviv: Ha-kibbutz Ha-me’uhad, 1981), who was among the first to produce literary readings of rabbinic stories, as well as the subsequent work of Daniel Boyarin, Galit Hasan-Rokem, Richard Kalmin, Joshua Levinson, Ofra Meir, Jeffrey L. Rubenstein, and David Stern, who produced literary-critical analyses of rabbinic stories in the Talmuds and midrashic compilations.

12. Jonah Fraenkel, “Ha-’aggadah she-ba-mishnah,” in *Mehkerei Talmud*, vol. 3, *Studies in Memory of Professor Efraim E. Urbach*, ed. Yaakov Sussman and David Rosenthal (Jerusalem: Magnes, 2005), 656.

13. The method is to analyze a text that is not a story, but which, like a story, has a sequence that produces certain effects, in which word choice and other compositional features merit examination, and in which the narrator’s voice or perspective is differentiated from the presumed authors as well as from the characters portrayed.

distinctions. However, literary analysis of the legal debates together with the (sparse) narrative details provides new insights into rabbinic Babylonian society.

Narrator sympathy, use of dialogue, interior discourse, and narrative post-scripts, as well as choices made about where a tale begins and ends, reveal the role of social status in whether a scholarly lapse is deemed a failure or not, and the ways that sages and talmudic editors judge the quality of argumentation. Of particular interest is what happens after a sage fails, what resources he might have had to regain dignity, the role of colleagues in this rehabilitation, and the apparent role of the editors in deciding what remains a story of failure and what becomes a story of resilience. Studying these elements illuminates inter-sage relationships and exposes how preserving stories of failure contributes to propagating talmudic scholastic culture.

Stories of how an academically competitive environment heightens the risks of collegial criticism as well as the value of solidarity have resonance in academic communities through time. Furthermore, studying the responses to academic failures in this context may offer a point of comparison for other contemporary scholarly communities, such as Zoroastrian sages and Eastern Christian scholastics.¹⁴

IDENTIFYING SCHOLASTIC FAILURE AND VARIABLES IN FAILURE SCENARIOS

Responses to failure (by both characters and narrators) in academic exchanges can be categorized by dividing the narrative action into two stages. The first stage is the failure. This has two aspects: the sage's scholastic lapse and his or others' reactions that confirm that he has indeed failed. For example, a legal discussion may include a sage's answer to a question, followed by his colleagues teasing him for the weakness of his answer. These two aspects taken together constitute the failure. The response to failure may be the sage's own reaction to his failure, for example, his subsequent reluctance to teach publically. Responses also include other sages defending him or suggesting a possible answer to the confounding question. Sometimes the most interesting responses to failure are displayed in the editorial choices that depict the failure, specifically, changing the subject immediately following the description of a sage's failure.

When using peer or narratorial reactions to gauge whether an academic blunder is a failure, it would seem important to control for the type and severity of mistake. However, sages of different social positions do not have many overlapping categories of mistakes (for instance: silence, poor question, poor answer), since they play different roles in legal discussions. The more important variable in how failure unfolds is the person's social status (whether he is a teacher, student, or respected elder sage), not the mistake he made. If he has

14. The exciting new research about the comparative intellectual contexts of Babylonian rabbis, Manicheans, Zoroastrians, and Eastern Christians in Mesopotamia suggests such potential parallels. See for example, Adam Becker, "The Comparative Study of 'Scholasticism' in Late Antique Mesopotamia: Rabbis and East Syrians," *AJS Review* 34, no. 1 (2010): 91–113, and publications by Michal Bar-Asher Siegal, Daniel Boyarin, David Brodsky, Yaakov Elman, Geoffrey Herman, Richard Hidary, Richard Kalmin, Yishai Kiel, Maria Macuch, Jason Mokhtarian, Jeffrey Rubenstein, and Shai Secunda, whose recent works have highlighted the overlapping Hellenistic, Zoroastrian, Christian, Manichean, and Jewish cultures in Sasanian Babylonia.

achieved a certain reputation, a sage may be cushioned from the social stigma of a mistake, while another, less well-regarded sage might lose the respect of his colleagues. Lastly, personality is an important variable in these stories. One sage might withdraw from teaching after a failure, while another might reprimand his colleagues for disparaging him.

Failure is articulated in these stories on several narrative levels,¹⁵ or layers of action within a story. Narratology distinguishes, for example, between a first narrative level in which characters participate in plot action, and a different level at which the narrator presents plot action. All the stories have a first narrative level, the plot action (e.g. a sage speaks and others laugh). Some have a second narrative level, in which a character comments on the events at a temporal/geographical remove. (Rav said, “they were right to laugh.”) Finally, all have a third narrative level, in which the narrator either comments or conveys perspective through his presentation of the events.

These narrative levels may correlate with distinct strata of the Babylonian Talmud, since the third narrative level is always the editorial contribution. However, distinguishing the first and second narrative levels is a necessary tool to supplement source-critical analysis, because there can be different perspectives within a single stratum of the talmudic text. Since plot action and character commentary can be amoraic sources, literary analysis provides the descriptive language to delineate multiple perspectives within a single source.

This article begins with descriptions of the types of failures experienced by lower-ranking sages, and reactions to them by characters and narrators. There follows a discussion of mistakes made by higher-ranking sages and the reactions of characters and narrators, as well as modes of social rehabilitation deployed by sages, their colleagues, and the talmudic editors. Finally, conclusions are presented about the importance of social hierarchy for whether a sage’s mistakes become failures, as well as a consideration of the importance of failure for understanding the editors’ culture of scholastic achievement.

FAILURES OF SAGES WITH UNKNOWN OR LOWER SOCIAL RANK

Failures of sages who are not yet authorities or “great men” are colorful tales. These exchanges include insults, jeering, “the silent treatment,” narratorial descriptions of inner fears, and occasionally, snappy retorts. Sages of lower or unknown rank fail when they participate actively in the scholarly exchange, either by posing a question, or offering a rebuttal or an answer that is deemed unacceptable to a group of peers or the teaching authority in the story. By contrast,

15. Gérard Genette’s “diegetic levels.” Narratology, as explained by Gérard Genette and Mieke Bal, among others, distinguishes narrative levels and the temporality of these different levels, using these distinctions to analyze how elements like perspective are constructed within narration. See Gérard Genette, *Narrative Discourse: An Essay in Method* (1972; repr., Oxford: Blackwell, 1980) and Mieke Bal, *Narratology: Introduction to the Theory of Narrative* (1985; repr., Toronto: University of Toronto Press, 1997). While these theories are no longer at the center of contemporary literary criticism, the notion of narrative levels is helpful in describing the complexity of where failure resides in talmudic narratives. The concepts are simplified and the terminology developed by Genette, such as “heterodiegetic” and “homodiegetic,” is omitted to maximize its efficacy in this context.

higher-rank sages' failures tend to be an inability to answer, as will be examined in the second part of the article.

EXAMPLES OF FAILURES BY LOWER-RANK SAGES

i. Comments or Questions Met with Laughter: Peer Response and the Sage's Possible Reactions

A sage who is not the recognized teacher is in a precarious position. Not having an answer is a weakness, but offering a half-baked argument is also negative; both his colleagues and his teacher are ready to disparage a flawed idea. In several exchanges, a sage's comment or question is met with laughter. Such a response comes not from a teacher to a student, but rather from colleagues within the study context who are relatively close to that sage in rank. Laughter is a clear gesture that the performance of the sage does not pass muster. It implies that one's contribution has been judged and found lacking, so much so that it does not merit a substantive reply.¹⁶ In the following examples, sages who are students in a scholarly discussion are derided for their failed ideas.¹⁷

A story is told about the pain of being a newcomer to an established academic context. Rabbi Abba travels to Palestine, attempts to participate in the halakhic discussion, and is jeered twice.

B. Beṣah 38a–b:

כי סליק ר' אבא אמ' יהא רעוא דאימ' מילתא ותיקביל מיני¹⁸ כי סליק להת' אשכחיה לר' אבהו ולר' חנינא בר פפי ולר' יצחק נפחא ואמרי לה לר' אבהו ולר' חנינ' בר פפי ולר' זירא ואמרי לה לר' אבהו ולר' שמעון בן פזי ולר' יצחק נפחא דיתבי וקאמרי תיבטל מים ומלח לגבי עיסה אמ'

16. Scholarship in psychology and sociology have identified laughter or ridicule as a means of social control. See Michael Billig, *Laughter and Ridicule: Towards a Social Critique of Humor* (London: Sage, 2005), Nancy Bell's review of Billig, *Discourse Society* 18, no. 4 (July 2007): 508–10, and Neal R. Norrick, *Conversational Joking: Humor in Everyday Talk* (Bloomington: University of Indiana Press, 1993), 78, who states that “joking and laughter help enforce group norms.” Thomas E. Ford and Mark A. Ferguson, “Social Consequences of Disparagement Humor: A Prejudiced Norm Theory,” *Personality and Social Psychology Review* 8, no. 1 (2004): 79, argue that not only does disparaging humor reflect social norms, it helps to construct them. In late antique Jewish literature, Philo of Alexandria describes how a Jewish legation to the Roman emperor was ridiculed with laughter. Gaius asks the Jews why they do not eat pork and “a violent laughter was raised by our adversaries, partly because they were really delighted, and partly as they wished to court the emperor out of flattery, and therefore wished to make it appear that this question was dictated by wit and uttered with grace ...” Philo, *On the Embassy to Gaius* 361 (C. D. Yonge, trans., *The Works of Philo Complete and Unabridged* [Peabody, MA: Hendrickson, 1993], 789). This emphasizes the use of laughter in public contexts to denigrate people in a politically weaker position while simultaneously raising the laughers' own social standing. My thanks to the anonymous reviewer of this article for this reference.

17. In these legal discussions, both the sage who offers the failing idea and his hecklers are “sitting before” a particular sage, indicating that sage's authority.

18. The extant textual witnesses are split between those that have some form of “that will be accepted from me” and those that simply have “that will be accepted.” Goettingen 3, Oxford Opp Add. fol 23, Vatican 109, Soncino print edition (1484), have “that will be accepted,” while London - BL Harl. 5508 (400), Munich 95, Vatican 134, Oxford - Bodl. heb. e. 52 (2678) have “from me.”

להו ר' אבא הרי שנתערב לו קב חיטין בעשרת קבין חיטין של חבירו יאכל הלה וחדי אחיכו עליה
אמי' להו גולתיכו שקל הדור אחיכו עליה אמי' רב הושעיי שפיר עבידו דאחיכו עליה.¹⁹

When Rabbi Abba went up [to Palestine] he said, “May it be the will [of God] that I say something and it be accepted from me.”²⁰ When he went up he found Rabbi Abbahu, Rabbi Ḥanina bar Papi, and Rabbi Yizḥak Napḥa, but some say Rabbi Abbahu, Rabbi Ḥanina bar Papi, and Rabbi Zeira, but some say Rabbi Abbahu, Rabbi Shimon ben Pazi, and Rabbi Yizḥak Napḥa, who were sitting and saying, “But why? Let the water and salt be negated by the dough.” Rabbi Abba said to them, “If a *kab* of wheat of his were mixed up on ten *kabs* of wheat belonging to his neighbor, should [the neighbor] consume it all [including the single *kab*] and rejoice?” They laughed at him. He said to them, “Did I take your coats?” They laughed at him again. Rav Hoshayah said, “They did well to laugh at him.”

The point of law is whether borrowed objects are considered to be associated with the owner or the borrower for the purposes of Sabbath transport.²¹ The particular mishnaic clause relates to dough made by one woman with her own flour and borrowed salt, water, or spices. The mishnah says that dough is subject to the Sabbath travel restrictions of both women, that is, the dough may only be transported as far as both women are allowed to travel. Rabbi Abba suggests that even though salt and water are a minority of the dough's volume, they still belong to the woman from whom they were borrowed. His analogy is not accepted, despite his prayer. Starting the story with Rabbi Abba's wish to say something acceptable directs the reader's²² attention to his performance and reception as much as to the point of law. In fact, as Yonatan Feintuch observed, Rabbi Abba's final word, “and rejoice” is directly followed by his colleagues' laughter as they apparently rejoice in his shame, which may be irony or humor on the part of the redactors.²³

The storytelling invites the reader's sympathy with Rabbi Abba, since we are privy to a private moment, and particularly one that demonstrates the character's vulnerability. Moreover, while the identity of protagonist, Rabbi Abba, is clear, the identities of those who make fun of him are uncertain (with three different versions of who was there that day). This further distances the reader from their perspective. Theirs is a collective identity of the scholastic antagonist. Therefore, when Rabbi Abba's analogy is met with laughter, he has the reader's sympathy, allowing the reader to identify with the feelings that might be associated with failure and exclusion from a scholar circle.²⁴

19. The most notable textual variants are alternative lists of sages. This has implications for the reliability of attributions, but not the talmudic editors' presentation of inter-sage dynamics and derision.

20. Reminiscent of the prayer cited in B. Berakhot 28b.

21. M. Bezaḥ 5:4.

22. Since these texts were orally transmitted, “reader” in this context means listener/reader, but “listener/reader” is clumsy, and contemporary reception of this text is through reading.

23. Personal communication.

24. Following David Goodblatt, *Rabbinic Instruction in Sasanian Babylonia* (Leiden: Brill, 1975), and Jeffrey L. Rubenstein, “The Rise of the Babylonian Rabbinic Academy: A Reexamination

Unusual among stories of sages being jeered, Rabbi Abba consciously and directly responds to the laughter of his peers.²⁵ Asking “Did I take your coats?,” Rabbi Abba refuses to silently accept the disparagement of his new colleagues. The meaning of “Did I take your coats?” could possibly be, “Did I cause an affront to your dignity, that you should tease me?”²⁶ Such a reading heightens the injury of Rabbi Abba, since he is not simply querying the laughter but is actually protesting unjust treatment. This interpretation is indicated by the removal of a coat as a literary motif for lowering of status in both the Mishnah and the Hebrew Bible. In M. Bava Kamma 8:6, העביר טליתו ממנו “he removed his garment from him” is an example of a tort in the category of shame. The tearing of King Saul’s cloak in 1 Samuel 15:27–29, as well as the removal of Joseph’s special garment in Genesis 37:23, indicates a loss of status. Whether Rabbi Abba’s protest was general or specifically related to the shame involved, he does not shrink from their taunts, but instead demands they explain their reaction.

Ironically, Rabbi Abba’s protest may compound the narrative portrayal of his denigration, since it fails to stop the laughter. Moreover, while the scene ends with the sages’ laughter, the legal discussion continues with Rav Hoshayah confirming the sages’ mockery of Rabbi Abba. Based on the existence of other stories in which sages’ contributions are jeered, it seems laughter was an accepted form of intimidation, and that Rabbi Hoshayah approves its use in this case. After Rabbi Hoshayah’s statement, the Talmud’s anonymous editorial layer discusses the merits of Rabbi Abba’s analogy, dignifying his contribution (to some extent). From sympathy in the narrative portrayal of Rabbi Abba’s fears, to criticism of Rabbi Abba at the second narrative level (direct discourse by a character outside of the plot), to seriously addressing Rabbi Abba’s suggestion at the editorial (third narrative) level, the passage’s multifaceted response reflects the Bavli’s variegated portrayals of scholastic failure. However, in all cases of a sage being mocked, the laughter takes place within the plot action, and it comes from a sage’s colleagues of comparable rank, as opposed to from a teacher.

of the Talmudic Evidence,” *Jewish Studies, an Internet Journal* 1 (2002): 55–68, which argues that the Babylonian amoraic study context was scholar circles, while later editors may have studied in larger “academies.” The narrative’s Aramaic suggests it should be treated as a Babylonian source, despite its narrative context in Palestine. Y. Bezaḥ 5:4 (63b) records a comment by Rabbi Abba on this same mishnah, but not this story.

25. For contrast see Rav Shizvi in B. Gittin 55b and Rav Papa in B. Niddah 27a.

26. This is the only occurrence of this phrase in the Bavli. The word גולתא, cloak, occurs a handful of times in the Bavli (B. Shabbat 77b, B. Bava Batra 111a, B. Bava Mezi’a 85a, and here) as well as in the Yerushalmi (e.g. Y. Ta’anit 1:3 [64b]). There are Yerushalmi instances of cloaks “slipping off” but the concern does not seem to be lost dignity, cf. Y. Berakhot 5:1 (9a). See Michael Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods* (Ramat Gan: Bar-Ilan University Press, 2002), 269, for the Babylonian instances of the term. There is no etymological connection between the word גולתא and טלית used in the Mishnah, nor with the words for cloak or coats used in the Hebrew Bible. Therefore, the interpretive suggestion remains provisional.

ii. *Gestures and Facial Expressions in Response to Comments: Teacher Rebukes and Sages' Reactions*

There are also nonverbal social reactions that confirm scholastic failure of a lower-ranking sage. Sages in a higher-ranking social position use this technique and not outright laughter. For example, Rav Sheshet demonstrates his disapproval of Rav Ḥisda with a gesture—

B. Berakhot 49a:

א"ל ר זירא²⁷ לרב חסדא [תא] ניתי²⁸ מר וליתני א"ל ברכת מזונא [לא] גמירנא תנני קא מתנינא א"ל מאי כולי האי א"ל דאיכל>..< לבי ריש גלותא וכרוכי ריפתא ובריכי ברכת מזונא ומתחיה²⁹ רב ששת לצוארי עליה כחוייא מאי טעמי [דלא אמרי לא ברית ולא תורה ולא מלכות

Rabbi [Zeira] said to Rav Ḥisda, "Let the master come and teach!" He replied to him, "I have not learned the grace after meals, yet I should teach a tradition?" He said, "What do you mean?" He replied, "When I was at the home of the exilarch, [I ate a meal]³⁰ and I performed the grace after meals, and Rav Sheshet stretched out his neck at me like a snake." And why? Because he mentioned neither the covenant nor Torah nor kingship.

According to the editorial comment, Rav Sheshet disapproved of Rav Ḥisda's faulty liturgy. While this story does not take place in the context of legal dialectic, ritual performances like Rav Ḥisda's indicate practitioners' scholarly opinions. Rav Ḥisda's experience is presented as a story within a story, as he recounts Rav Sheshet's reaction to explain his own unwillingness to teach.

This passage demonstrates the power of disapproval conveyed without words. Rav Sheshet may have chosen not to verbalize his disapproval if he thought it improper to speak in the presence of the exilarch.³¹ In the wake of

27. All extant textual witnesses except for Munich 95 have Rabbi Zeira, and Rabbi Zeira was a student of Rav Ḥisda. Munich 95 has Ze'iri.

28. MS Munich 95 has נתב but other texts have ניתי, a standard word for "come."

29. The most variation among the manuscripts / early editions is in the description of Rav Sheshet's gesture. First, the majority of the witnesses have a form of the above verb (מתח, מתחיה, מתחל) in that order: Oxford Opp. Add. fol. 23, Munich 95, and the last both Florence II-I-7 and Paris 671), which means to extend or stretch; in Genesis Rabbah it is used in connection with rendering judgment, like stretching an arrow in a bow (cf. Marcus Jastrow, *A Dictionary of the Targumim, Talmud Babli and Yerushalmi and the Midrashic Literature* [New York: Judaica Press, 1992], 861), but the Soncino print edition (1484) has another verb for standing upright, זקפיה. Paris 671 adds a few other descriptors of Rav Sheshet's behavior that do not appear elsewhere, וקפיה בחוטמי וכמס עלי, "and he struck my nose and was angry(?) at me." The root כמס (to wither, used for fruit) does not make sense here, and is never used with the preposition על, while כעס is used with על and is contextually appropriate. While the report of Rav Sheshet's "anger" would be notable, because this appears in only one manuscript and the reading of that word is questionable, it is omitted.

30. Munich 95 is the only source that has this extra phrase, and it is possible that as a stock phrase it crept in.

31. For the history and social dynamics between the exilarch and rabbis in Sasanian and Islamic Mesopotamia see Geoffrey Herman, *A Prince without a Kingdom: The Exilarch in the Sasanian Era*

this judgment by Rav Sheshet, Rav Ḥisda hesitated to teach (and it is not clear how long ago this happened to him). The sage's failure is reflected in judgment by his superior. However, Rav Sheshet's "neck stretching" is an unusual example, so it is difficult to generalize broadly from this story.

The editors present the story in the midst of a discussion about the proper procedure for reciting grace. While this immediate context implies that Rav Ḥisda felt unable to teach about grace after meals, independent of its immediate legal context the story is not explicit about the topic upon which Rav Ḥisda was invited to teach. In other words, independent of its context, the story raises the possibility of a sage who lost his confidence to expound on any scholarly matter, not just the topic in which he previously failed. The narrator of the story might have envisioned greater consequences for Rav Ḥisda than the editors who placed the story in its current context. The personal stakes of participating in talmudic debate are dramatized in the ways the sages' failures are portrayed to affect them. The story of Rav Ḥisda's reaction might suggest to a subsequent sage that academic failure will result in pain that persists long after the event. This story highlights the personal emotional consequences of a sage being publically critiqued by a higher-status sage.

HIGHER-RANK SAGES' FAILURES

When the sage who fails is one who is respected as a teacher, the rabbis surrounding him within the plot action (first narrative level), the sages depicted hearing the story (at the second narrative level), as well as the editorial layer of the Talmud (third narrative level) tend to treat the matter differently from the examples of failures by lesser-status sages. The first difference, though, is the type of ineptitude that constitutes a failure. When the sage is a teacher, his silence may indicate that he has no substantive contribution, which is an academic failure.³² A teacher-scholar's silence is also sometimes understood as an indicator of disapproval of a lesser sage's input. The Talmud's editorial layer will sometimes query

(Tübingen: Mohr Siebeck, 2012) as well as Catherine Hezser, "The Slave of a Scholar Is Like a Scholar": Stories about Rabbis and Their Slaves in the Babylonian Talmud," in *Creation and Composition: The Contribution of the Bavli Redactors (Stammaim) to the Aggadah*, ed. Jeffrey L. Rubenstein (Tübingen: Mohr Siebeck, 2005), 181–200, which focuses on talmudic narratives.

32. While there are traditions in earlier rabbinic texts that silence is a sign of wisdom (e.g. M. Avot 3:13), this does not hold true within talmudic dialectic. Jeffrey L. Rubenstein, *Talmudic Stories*, 276, gives examples of scholars' shame when they are unable to answer. As he later notes in *Culture of the Babylonian Talmud*, 75, "On the one hand, to propound questions and objections is the goal of academic life and an important measure of status. On the other, questions and objections should be propounded with great caution, even avoided in certain circumstances, because they may embarrass a scholar who cannot provide the requisite answer." David Goodblatt, *Rabbinic Instruction*, 161–62, cites a mid-tenth-century source about rabbinical instruction, which emphasizes that a teacher would listen in silence while students offered explanations, and then the teacher would read and expound. This seems to resonate with the talmudic portrayals of students "sitting" before a teacher and debating, while the teacher has an opportunity to interject. The passage also reports that if a student's "learning is deficient, he is harsh towards him, diminishes his stipend and rebukes him." *Ibid.*, 162.

the meaning of a silence: does the teacher not know the answer, disapprove of a question, or perhaps he silently agrees?³³ The following stories present teachers' silences that constitute scholarly failure. On the whole, the reactions of characters within the story as well as the editors of the Talmud are more sympathetic to higher-ranking sages who falter than they are to lower-ranking sages.

FAILURES OF HIGHER-RANK SAGES: MISTAKES AND REACTIONS

The phrase, "he was silent and did not answer him anything" occurs seven times in the Bavli.³⁴ In the six examples where silence indicates an inability to answer, the narrative describes no social reaction. Instead, possible answers are offered or explanations given for the sage's behavior. The seventh occurrence is not a part of a lively scholarly debate context, but is rather a conversation between a sage and the Persian king Shapur, and this context contributes to the difference in reception, to be discussed below. A sage's inability to answer is perceived by later sages and the editors as having the potential to become a scholarly failure and a source of shame, but he can recover from it, as the narratives will show.

i. Editorial Covering of Failure

One editorial response to a teaching sage's inability to respond is to offer no further comment on his lapse and to continue the legal discussion. These silences are at least potential failures, because in other contexts being stumped is a source of shame. When the editorial layer focuses on the legal matter and not the sage's silence, it protects the dignity of the sage. Talmudic editors significantly reworked inherited narrative and rule-based materials, while producing some of their own compositions.³⁵ Part of their editorial discretion were decisions about which

33. As in the legal principle, "silence is like agreement." Tosafot, B. Bava Batra 62a, s.v. *u-modeh rav* lists types of silence in halakhic dialogues. B. Nedarim 77a–b even asks whether a sage was silent because he was drinking.

34. B. Berakhot 27a, B. Shabbat 37b–38a, B. Eruvin 37b, B. Sanhedrin 36b, B. Temurah 34a, B. Yevamot 57a, and B. Shabbat 95b. *הוא שתיק* itself, "he was silent" occurs sixty-nine times (six times without the first *yod*) in the Bavli, and include silences that indicate assent, ignorance, displeasure, or which are indeterminate. In five of these cases, silence demonstrates that the sage cannot provide a response. In the remaining two examples, the silence is (initially) interpreted as an expression of anger or a snub, though B. Yevamot 57a eventually decides that Rabbi Oshaiah was silent because he was asked a question with no answer.

35. The talmudic editors' contributions to legal passages has become an accepted fact in talmudic scholarship, see David Weiss Halivni, *The Formation of the Babylonian Talmud*, ed. and trans. Jeffrey L. Rubenstein (Oxford: Oxford University Press, 2013); Shamma Y. Friedman, *Perek ha-'isha' rabbah ba-bavli, be-zeruf mavo' kelali 'al derekh heker ha-sugya*," in *Mehkarim u-mesorot: Ma'asaf le-mada'e ha-yehadut*, vol. 1, ed. Haim Z. Dimitrovsky (New York: Jewish Theological Seminary of America, 1978), 275–442; and Moulie Vidas, *Tradition and the Formation of the Talmud* (Princeton: Princeton University Press, 2014). The contributions of the editors to the narrative passages have been established more recently, see Louis Jacobs, *Structure and Form in the Babylonian Talmud* (Cambridge: Cambridge University Press, 1991), 105, and the overview of scholarship in Jeffrey L. Rubenstein's introduction to *Creation and Composition*, 1–20.

narratives to omit and to include.³⁶ Moreover, many of the stories analyzed here display form-critical indications of being stammitic compositions, especially in language.³⁷ While the editors do not appear to have enjoyed total freedom to revise the materials they inherited,³⁸ juxtaposition, inclusion, and presentation of scholastic failure narratives within the heavily edited legal sugyot reflect editorial decisions as much, or perhaps more than earlier amoraic choices about which material to transmit. Preserving stories of failure conveys social stigma to later generations, and this is avoided by changing the subject.³⁹ Since an inability to answer is generally a failure by a higher-status sage in a teaching position, this narrative strategy protects sages who rank higher in the scholarly ladder. For example, in B. Eruvin 74a, Shmuel is shown to have promulgated two contradictory statements, and when asked about it, he is silent.

B. Eruvin 74a:

יְתִיב רַב בְּרוּנָא וְקָאָם לְהָאֵי שְׁמַעְתָּא א"ל ר' אֶלְעָזָר אָמַי שְׁמוּאֵל הֲכִי א"ל אֵין אַחֵי לִי אוֹשְׁפִיזִיָּה אַחֵי לִי אַתָּא לְקַמִּיָּה דְשְׁמוּאֵל א"ל אָמַי מַר הֲכִי א"ל אֵין וְהָאֵמַר הוּא דָאָמַי אֵין לָנוּ בְעִירֵי רֹבִין אֵלָא כְּלָשׁוֹן מִשְׁנַתִּינוּ שֶׁהַמְבֹי לְחִצְרוֹת כּוֹחֲצֵר לְבַתִּים אִישְׁתִּיק קְבֵלָה מִיְנִיהָ אוּ לָא קְבֵלָה מִיְנִיהָ⁴⁰

Rav Bruna sat and recited this tradition, and Rabbi Elazar said to him, “Did Shmuel say that?” He said, “Yes.” “Show me his dwelling,” and he showed him. He came before Shmuel and asked him, “Did the master say this?” He said, “Yes.” “But the master is he who said, ‘We only hold what the language of our Mishnah says in regards to joining domains, which is that an alleyway to a courtyard is treated like the courtyard to houses.’” He was silent. Did he [Shmuel] accept this from him or not?⁴¹

The Talmud’s editors then ask whether Shmuel might have agreed that one of his statements was incorrect, offering proofs and counterproofs. The editors fill Shmuel’s role where he could not. The addition of a substantive question about Shmuel’s view at the end of the narrative reflects the editors’ interest in the legal point, as well as the likely paucity of other connected amoraic materials. However, it is also the case that the editorial question directs the discussion away

36. Yaakov Elman, “Righteousness as Its Own Reward: An Inquiry into the Theologies of the Stam,” *Proceedings of the American Academy for Jewish Research* 57 (1990–91): 38 and Jeffrey L. Rubenstein, “Criteria of Stammitic Intervention in Aggada,” in Rubenstein, *Creation and Composition*, 417–18.

37. For a list of such indicators in Bavli narratives, based on Shamma Friedman’s criteria for recognizing editorial interventions in legal discussions, see Rubenstein, “Criteria,” 419–20 and for language specifically, 424–27.

38. Rubenstein, *Talmudic Stories*, 244.

39. This stammitic protection of the dignity of an earlier sage could be seen as the continuation of a phenomenon noted by Richard Kalmin, that later generations look more kindly on sages’ statements than their contemporaries; see Kalmin, “Talmudic Portrayals of Relationships between Rabbis: Amoraic or Pseudepigraphic?,” *AJS Review* 17, no. 2 (1992): 175, 179–80, and 193–94.

40. This text is quoted from MS Oxford Opp. Add. fol. 23 because Munich 95 is incomplete in this passage.

41. This question is not part of the narrative, but rather an editorial reaction to it.

from querying Shmuel's scholarly status. Similarly, a dialogue in B. Rosh Ha-shanah 15b, in which a higher-status sage fails to answer, is immediately followed by editorial expansions on the problem at hand.⁴² While this reflects the Bavli's interest in exploring all possible perspectives and potential solutions, it has the effect of minimizing a sage's lapse by focusing on the difficulty of the question. It also may reflect a difference between amoraic and editorial interests, where Amoraim found the silence's meaning unimportant, while editors considered it worthy of study.

ii. A Senior Scholar's Failure That Wasn't: Revising Mistaken Teachings without Social Repercussions

Not every scholarly mistake or lapse amounts to a failure. Some mistakes are generally not treated as a failure by the sages in the narratives, nor by the narrator. For example, when a sage who is treated as an authority is shown by a student or colleague that his tradition is contradicted or mistaken, stories portray sages revising their teachings publically and promulgating a new version. The phrase, דברים שאמרתי לפניכם טעות הם בידי ברם כך אמרו, "the words I said before you were a mistake in my hands, in fact, thus they said" signals this type of lapse, which is not treated as a failure.⁴³ Amoraim declare themselves to have been mistaken in their teaching when they are presented with a contradictory or preferable tannaitic or amoraic tradition, or in one case, a report of a practice contrary to their stated tradition.⁴⁴ The tradition requiring revision may be the sage's own, a tannaitic statement, or a statement from an earlier Amora.⁴⁵ Such a mistake and retraction is never portrayed as

42. Rabbi Shimon ben Lakish apparently stumps his mentor, Rabbi Yoḥanan, in a dialogue about Sabbatical year observances and when to leave uncultivated a plant with an atypical growing cycle. The passage appends a short amoraic comment suggesting an answer to the question, which is itself followed by two anonymous suggestions of possible answers that Rabbi Yoḥanan could have given and reasons why they would have been flawed. The editorial voice questions whether Rabbi Yoḥanan's silence was a way of conveying that the question was so obvious so as not to require an answer. The discussion then emphasizes the difficulty of the problem, justifying Rabbi Yoḥanan's silence, and eventually presents an interpretation of Rabbi Yoḥanan's behavior that affirms his superior status.

43. Forms of the phrase occurs seven times in the Bavli: B. Shabbat 63b; B. Eruvin 16b, B. Eruvin 104a, B. Bava Batra 127a, B. Zevaḥim 94b, B. Ḥullin 56a, and B. Niddah 68a. Rava is credited with this statement four times and the other Amoraim are Rav Dimi, Zeiri, and Rav Naḥman. In five of these cases, the revised statement is introduced with the verb דרש, "expounded": B. Eruvin 16b (Rav Naḥman), B. Eruvin 104a, B. Bava Batra 127a, B. Zevaḥim 94b, and B. Niddah 68a (all Rava), and the other two (B. Shabbat 63b and B. Ḥullin 56a) are conventional apodictic amoraic statements that are introduced simply with the verb "he said," אמר (memrot).

44. It is a tannaitic tradition in B. Eruvin 104a and in B. Bava Batra 127a, while in B. Eruvin 16b, B. Zevaḥim 94b, B. Ḥullin 56a, and B. Niddah 68a the objection is raised from a competing amoraic tradition. A differing practice (from the temple worship) is observed in B. Shabbat 63b. In three cases the new tradition is a citation of a sage who is not present at the debate (B. Shabbat 63b, B. Bava Batra 127a, B. Ḥullin 56a), while in four cases a sage who is present raises the objection (B. Eruvin 16b and 104a, B. Zevaḥim 94b, B. Niddah 68a).

45. B. Zevaḥim 94b and B. Ḥullin 56a are revisions of the Amora's own statement, and in B. Niddah 68a, the Amora replaces his own statement with that of another Amora. B. Eruvin 104a and B.

a scholastic failure. For instance, in B. Shabbat 63b, Rav Dimi revises his teaching in light of a tradition previously unknown to him.

B. Shabbat 63b:

כי אתא רב דימי א"ר יוחנן מניין לאריג כל שהו שהוא טמא מצי [ץ] א"ל אביי וציץ אריג הוא והתניא ציץ דומה כמין טס של זהב ורחב שתי אצבעות ומוקף מאזן לאזן וכתוב עליו בשני שיטין יו"ד ה"א מלמעלה וקדש למ"ד מלמטה ואמ"ר אלעזר ב"ר יוסי אני ראיתיו ברומי וכתוב עליו קדש ליי בשטה אחת כי סליק לנהרדעא שלח להו דברים שאמרתי לפניכם טעות הוא בידי [ברם] כך אמרו משום ר' [יוחנן] מניין לתכשיט כל שהוא טמא מציץ כי אתא רבין א"ר יוחנן מניין לאריג כל שהו שהוא טמא מאו בגד

When Rav Dimi came, he said in Rabbi Yoḥanan's name: "Whence that woven matter of any size is susceptible to impurity? From the [high priest's] head plate." Abaye said to him, "And is the head plate woven? Behold it is taught, 'The head plate is like a sort of golden foil, two fingers wide, encircling from ear to ear, and in two rows is written upon it *yod heh* [i.e. the tetragrammaton] above and *kodesh lamed* below.'" And Rabbi Elazer son of Rabbi Yose said, "I saw it in the city of Rome and *qodesh lyh* ... was written in one row." When he went up to Nehardea, he sent to them, "The things I said to you were a mistake in my hands. In fact, thus they said in the name of Rabbi Yoḥanan: 'Whence that an adornment of any size is susceptible to impurity? From the head plate.'" When Ravin came, he said in Rabbi Yoḥanan's name, "Whence that something woven of any size is susceptible to impurity? From 'or garment.'"

In all uses of this phrase, the narrative presents the reaction of the mistaken sage directly after the presentation of the problem, giving a quick resolution.⁴⁶ This may be due to the fact that the mistake is revealed not by scholastic interrogation, but by comparison with another recited statement. In the eyes of some talmudic editors, shameful scholastic failure might be reserved for collapsed argumentation and reasoning, not mistakes due to ignorance of recited rabbinic traditions.⁴⁷ Oral traditions from one sage or location are frequently put forward in another location to the interest of the presiding sage. Perhaps ignorance of an oral tradition was seen as unfortunate but remediable. In several of these narratives the sage appoints a speaker to expound, to make clear that the new version is official. From a narrative perspective, the power to appoint a speaker highlights the sage's authoritative status.

Bava Batra 127a revise tannaitic traditions and B. Shabbat 63b and B. Eruvin 16b are revisions of another Amora's memra (statement formulated for transmission).

46. See likewise B. Zevahim 94b, where Rava's teaching is challenged by a report of Rav's Sabbath practice, combined with a logical deduction from this report. He accepts that his statement was too broad, and revises it. And see B. Niddah 68a, where Rava revises his statement in light of an opposing opinion in Ravin's letter.

47. See Vidas, *Tradition*, 115–49.

iii. Students' Reactions to High-Ranking Sages When They Fail

When a higher-ranking sage fails, the narratives stress that students ought not react and augment his discomfort. The following story exemplifies the acceptable social reactions to teachers' failures by sages of lower rank. If a student jeers a teacher, there are serious repercussions for the student. In B. Bava Batra 9a, for instance, a student's smirk leads to divine punishment.

B. Bava Batra 9b:⁴⁸

(A) דבע' מיני' רב אחדבוי מרב שש' מניין למצור' שמטמ' אד' בימי ספירו א"ל הואיל ומטמ' בגדי מטמ' אד' [...]
(B) הוה קמהי⁴⁹ לי בבדיחות' חלש דעתי⁵⁰ אשתתק [רב אחדבוי ואיעקר תלמודיה מיניה]⁵¹
(C) אתאי אימי' צוח' וזוח' ולא אשג' בה⁵² אמר' לי חזי' להני חדיי⁵³ דמצלי מיניהו בע' רחמי עלי' ואיתסי⁵⁴

48. The Munich 95 version is spare in its description of the interaction between Rav Sheshet and Rav Aḥadboi. Quotations are taken from MS Munich 95 and additions from MS Hamburg 165 are added in parentheses. Many of the textual variations differ between most manuscripts and Vatican 115, which often has something different. Escorial G-I-3 and Munich 95 overlap and both differ from the other manuscripts within the larger group. Yair Barkai's critical version of the parts of this narrative ("La-mahutah shel shetikah," *Mayim mi-dalyo* 1 [1990]: 211) opts to use shorter manuscript versions of this narrative, in which, for example, the "distressed" person is not named and additional lines about the interaction between Rav Sheshet and Rav Aḥadboi are omitted. Shraga Abramson, *Masekhet bava batra, Talmud bavli 'im targum 'ivri u-ferush ḥadash*, ed. Jacob N. Epstein (Jerusalem: Dvir, 1958), 14, includes more narrative details in his critical version.

49. So five other witnesses (Escorial G-I-3, Florence II-I-9, Hamburg 165, Paris 1337, and Pesaro print edition [1511]), all of which have a variation of the verb הדר, "to come back" or "respond," but Vatican 115 alone has חזא ביה, "he looked at him" with a smirk.

50. Hamburg 165, Paris 1337, and the Pesaro print edition (1511) name Rav Sheshet as "distressed" while Escorial G-I-3, Florence II-I-9, Vatican 115, and the above Munich 95 do not specify who was distressed. Contextually it makes sense for it to be Rav Sheshet, but that does not mean it is required in the text; I added "Rav Sheshet" in parentheses in the translation as an explanation, not a textual emendation.

51. Escorial and Munich do not name Rav Aḥadboi, but the other witnesses all say Rav Aḥadboi became silent, and some add some version of תלמודיה מיניה ואיעקר רב אחדבוי (Paris 1337, see also Vatican 115, Hamburg 165, Florence II-I-9 and Pesaro print edition [1511]). Munich and Escorial do not have it.

52. There is some variation in the description of his mother; the most common reading among the versions is צוחא וזוחא ולא אשג' בה (Escorial G-I-3, Florence II-I-9 [though only one צוחא], Hamburg 165, Munich 95, Paris 1337, Pesaro print edition [1511] [adds בוחא לקמיה]), while Vatican 115 again has something different from the others, וקבלת ליה, in place of this entire phrase.

53. Escorial G-I-3, Hamburg 165, and Paris 1337 all have דדי for breasts, while Munich 95, Florence II-I-9, Pesaro print edition (1511) and probably Vatican 115 (which has הרי) have the plural of the word חדיא for breast.

54. Some manuscripts add ואהדר תלמודיה, "and his learning returned" (Florence II-I-9, Paris 1337, Vatican 115) while Escorial G-I-3, Hamburg 165, and Munich 95 (above) do not have it. Generally, the versions that have "and his learning was uprooted from him" add this extra phrase in the end, but Hamburg 165 and the Pesaro print edition (1511) have the earlier phrase "his learning was

A) As Rav Aḥadboi bar Ami asked Rav Sheshet, “Whence do we know that a leper contaminates another person in the days counted before immersion?” He said to him, “Since he contaminates clothing, he contaminates a person.”

[...]

B) He responded in a jocular manner⁵⁵ and he [Rav Sheshet] became distressed.⁵⁶

[Rav Aḥadboi] was quiet [and his learning was uprooted from him].

C) His mother came and screamed and screamed and he did not pay attention to her. She said to him, “Look at these breasts from which you suckled!” He [Rav Sheshet] asked for mercy for him and he was healed.

In this story, Rav Aḥadboi bar Ami refutes Rav Sheshet, and the narrative includes two further answers and rebuttals. Then Rav Aḥadboi, apparently pleased with his own performance, “responded to [Rav Sheshet] in a jocular fashion.”⁵⁷ This distresses Rav Sheshet, rendering Rav Aḥadboi mute, an apparent cosmic response to Rav Sheshet’s discomfort. The student’s impudence is punished, reaffirming the academic hierarchy. Taunting peers is acceptable study-hall behavior, but a student does not gain by showing his teacher to be incapable.

A single narrative can present several responses to scholastic failure. The narrative itself may side with one character, but present other competing ideas through narrating emotional states or using a character’s direct speech. The story of Rav Aḥadboi and Rav Sheshet describes a character’s reaction to his own failure. It also presents two different editorial responses: disapproval of a lower-status sage whose behavior contributed to a teacher experiencing shame, and an implicit criticism of the social hierarchy that produces such distress. These three responses will now be examined.

First, the character’s response to his own failure: חלש דעתיה “He was distressed” occurs twenty times in the Babylonian Talmud, all in narrative contexts. In roughly three-quarters of those stories, it is a reaction to not measuring up to someone with whom the man compares himself, or a response to demotion in

uprooted,” but not this postscript, “his learning returned.” Abramson does not include this postscript in his text.

55. The word הדר is often a verbal response, and while there is no verbal content, perhaps this jocularity was audible, like a laugh. Either way, the editors chose not to fill in any verbal content of this “response” and the effect is to focus on its mode of expression, as “jocular.” The alternative word חזא in Vatican 115 leaves the response as a gesture or facial expression. Even if the response was inaudible, M. Bava Kamma 8:1 rules that one is liable for damages if he shames a blind person, indicating that shame exists even if the ashamed cannot see it, and Rav Sheshet was blind.

56. Rubenstein, *Talmudic Stories*, 276, notes that חלש דעתיה includes aspects of shame, embarrassment, and distress.

57. אהדר ליה בבדיחותא. Barkai translates “he looked at him with a smirk” responding to the use of חזא (Vatican 115). There are further examples of the seriousness with which the Bavli treats facial disparagement, including B. Bava Kamma 117a–b, where Rabbi Yoḥanan thought Rav Kahana was smirking at him because he had a cleft lip. Jeffrey Rubenstein discusses that narrative and its relation to the Bavli’s culture of shame in *Talmudic Stories*, 276.

social position within a study context.⁵⁸ Sometimes, this distress is externalized and projected onto the perceived instigator as physical symptoms.⁵⁹ The narrative's displacement of the experience of failure onto the sage's opponent shifts responsibility away from the failing scholar. The student or colleague who asked too many questions or provided too many refutations did not abide by expected conventions and therefore brought this suffering on himself. Here the narrative sympathizes with the experience of the high-status scholar who fails.

Next is the editorial perspective that is critical of the student's disruption of scholarly hierarchy. The story lays out the perils of treating the master lightly. Likewise, in B. Ta'anit 9b, Rav Papa addresses God in the midst of a debate as an indirect way to tell a sage to stop objecting. He says "may Heaven save me from the shame of Shim'i." Where a person of higher status feels wronged by one of lower status, explicit appeals to heaven and implicit divine intervention direct the reader away from the teacher's failings. Being justified by heaven

.58. The six remaining cases are not unrelated to this theme but do not match it entirely. These fourteen cases (three-quarters of the total besides B. Bava Batra 9b) are: B. Shabbat 51a, when Rabbah bar Huna is distressed because another sage's donkey went before his; B. Ta'anit 9a, when Rav Papa is upset following Rava's death because while Rava's students attended his lesson, they gestured to one another when they disagreed with him; B. Ta'anit 23a, when a folk figure/rabbi goes to a study house but is not treated with the respect he expected; B. Hagigah 5b, which tells of a rabbi who would attend the study house once every three months and was teased for it by the other students, and was distressed; B. Ketubbot 67b, which describes when Mar Ukba discovered that his wife was more righteous in the sight of heaven than he; B. Sotah 40a, when Rabbi Hiyya bar Abba is distressed because all the students studied with his rival (the story continues with his rival trying to show him honor and compensate him); B. Bava Kamma 117a, when a sage thought he was being smirked at in the study house, was distressed and died; B. Bava Mezi'a 33a, when a misunderstanding between Rav Hisda and Rav Huna resulted in Rav Huna thinking he had been insulted; B. Bava Mezi'a 84a, which describes a fight between Reish Lakish and Rabbi Yoḥanan, in which insults are traded, and which results in Rabbi Yoḥanan being distressed and Reish Lakish becoming "weak" or ill (שלח, the first word of the term "he became distressed"); two instances in the same story in B. Bava Mezi'a 84b in which two students showing promise are elevated from sitting on the ground to sitting on a bench, only to be demoted; B. Bava Mezi'a 85b, in which Reish Lakish compares himself to sages whose graves he visits, and is distressed to find out that he does not equal one particular sage; B. Sanhedrin 93b, which is an exegetical midrash in which the biblical king Saul listens to a description of David, his usurper, and is distressed at the mention of a quality that neither he nor his heir possess. The remaining six cases are: two cases in B. Ta'anit 24a and one on the following page (24b), in which a stock narrative set-up leaves a sage distressed that he could not bring rain. These three instances may relate to the previous category, because the sages are distressed at being ineffective or not "measuring up"; B. Bava Batra 16b, in which Rabbi Shimon son of Rabbi is distressed for having a daughter not a son; B. Mo'ed Katan 25b, when Rav Ashi is distressed and presumably disappointed with what two potential eulogizers offered him (his distress translated into physical punishment for the eulogizers, much like this story of Rav Sheshet and Rav Aḥadboi); and B. Ketubbot 62b, in which a sage is distressed when he sees a bright young student and thinks about his missed chances to educate his son the same way. These final three examples are all related to posterity, which is somewhat associated with concerns about reputation and status.

59. Supernatural reactions to the shame and distress of sages is a well-known motif in Bavli stories. Jeffrey Rubenstein, *Culture*, 73–78, notes other examples of "punishments" that could be seen as projected experiences of internal disquiet.

reestablishes the social hierarchy. In Rav Aḥadboi's case, the cosmos punishes him for not abiding by expected rules of scholarly engagement and upsetting Rav Sheshet.

Lastly comes the implicit editorial criticism of the social hierarchy that produces painful experiences of failure. It is significant that a mother figure disrupts this dynamic of shame and retaliation. Medieval interpreters were divided about whose mother intervenes, but as a woman and a mother she is not a part of the scholastic hierarchy and power relationships.⁶⁰ This story dramatizes what may have been a familiar dictum, since in several Palestinian amoraic midrashim, men are insulted or praised with, "Blessed/cursed are the breasts from which you suckled."⁶¹ Perhaps the mother calls forth the man's vulnerability of having been a child to replace Rav Sheshet's shame at being slighted in order to stop Rav Sheshet's self-righteous anger and Rav Aḥadboi bar Ami's impairment.⁶² Alternatively, her plea for mercy invokes the commonplace of maternal kindness as a model for Rav Sheshet to follow, and thereupon relent. Admiel Kosman cites parallels in Greek tragedy where women try to stop men from going to war by baring breasts and crying, demonstrating the reach of this dynamic beyond rabbinic literature.⁶³ In this talmudic narrative, the mother character intervenes in a feud using her emotion, body, and voice to disrupt the retributive attention of Rav Sheshet. Including her suggests editorial criticism of destructive social dynamics.⁶⁴

60. Rabbenu Gershom thought it was Rav Aḥadboi's mother who cried before Rav Sheshet for mercy, though Rashi thought it was Rav Sheshet's mother. Tosafot, B. Bava Batra 9b, s.v. 'atia' gives a possible explanation: One could easily understand the intervention of Rav Aḥadboi's own mother to save him from Rav Sheshet's wrath, though her pleas would seem to be a more powerful motivator if she was Rav Sheshet's mother. The above translation does not decide this ambiguity. Admiel Kosman "The Female Breast and the Male Mouth Opened in Prayer in a Talmudic Vignette (BT Bava Batra 9a–b)," *Jewish Studies Quarterly* 11, no. 4 (2004): 297 n. 15–16, reads it as Rav Aḥadboi's mother. See also Shulamit Valler, *Nashim ve-nashiyut be-sipure ha-talmud* (Tel Aviv: Ha-kibbutz Ha-me'uhad, 1993), 106–7. This narrative is reminiscent of other female rabbinic family members' interventions in scholarly disputes involving shame, for instance, B. Bava Mezi'a 84a. Jeffrey L. Rubenstein, *Talmudic Stories*, 45–48, discusses Imma Shalom's efforts in B. Bava Mezi'a 59a–b and Jennifer Nadler, "Mar Ukba in the Fiery Furnace: A Meditation on the Tragedy of the Norm," *Law and Literature* 19, no. 1 (2007): 1–13, discusses B. Ketubbot 67b.

61. For instance, Bereshit Rabbah, *Va-yehi*, par. 98:25 (ed. Theodor-Albeck, 3:1270).

62. The entire discussion is an etymology of the term a "confuser of the way of his mother," or as Jastrow has it, "caused the deterioration of the way" of his mother. Jastrow, *Dictionary*, 1523. Michael Sokoloff, *Dictionary*, 1109, cites a Syriac saying "deviating from the road," which seems to make sense here.

63. Tikvah Frymer-Kensky, *Reading the Women of the Bible: A New Interpretation of Their Stories* (New York: Schocken, 2002), 19, describes how in some ancient literatures, including the Hebrew Bible, women wielded different forms of power from male characters. For example, women and other socially subordinate characters in the Hebrew Bible use trickery as opposed to aggression to gain advantage. The phenomenon of crying and breast baring could be part of this.

64. Dina Stein, *Textual Mirrors: Reflexivity, Midrash and the Rabbinic Self* (Philadelphia: University of Pennsylvania Press, 2012), 117, argues that women and other "others" serve as mirrors for the rabbis' construction of their own identity in storytelling.

The narrative responses to failure in this story are complex. However, Kosman's characterization of the competition between the two sages as "an intrusion of the external world into what should have remained beyond the bounds of the realm of the holy" (i.e. competition in the study hall) idealizes rabbinic scholarly interchange.⁶⁵ In light of Rubenstein's description of power play, violent language, and dynamics of shame characterizing the Babylonian study hall and the talmudic editors' culture, such stories reflect what it means to be a part of the scholastic culture, not a social aberration.

iv. A Scholar's Silence as Failure outside the Study Hall

Academic failures are disruptive to both students and teachers within a study context. But the following narrative in which a sage cannot provide a satisfactory answer takes place outside the study hall.

B. Sanhedrin 46b:

א"ר יוחנן משו' ר' שמע' בן יוחי מניין למלין את מתו שעוב' בלא תעש' שני' כי קבר תקבר' א"ל שבו' מלכ' לרב חמי' קבור' מן התור' מני' לכו אשתיק ולא א"ל ולא מידי א' רב אחי' בר יעק' אימס' עלמי' ביד' דטפשיאי איבעי למימי' כי קבר⁶⁶

Rabbi Yoḥanan said in Rabbi Shimon bar Yoḥai's name, "Whence that leaving a dead body unburied is a biblical transgression? As it says, 'You shall surely bury him' (Deuteronomy 21:23)." King Shapur said to Rav Ḥama, "From where in the Torah do you derive that you should bury the dead?" He was silent and did not answer him at all. Rav Aḥa bar Yaakov said, "The world is given into the hands of idiots. For he could have said, 'You shall bury' (Deuteronomy 21:23)."

Rav Ḥama participates in a debate with King Shapur, defending Jewish burial practices from Zoroastrian criticism. Zoroastrians did not bury dead bodies, to avoid ritual contamination of the earth, while rabbinic texts, though sensitive to death impurity, required burial for corpses.⁶⁷ Appended to this exchange is a comment by Rav Aḥa bar Yaakov (at a remove from the plot dialogue, in the "second narrative level"), who disparages Rav Ḥama's inability to answer. The editorial layer also assists in implicit criticism of Rav Ḥama by recording the discussion in the middle of two sources giving an answer to the question.

65. Kosman, "Female Breast," 299.

66. There is some variation in the presentation of the first tradition of Rabbi Shimon bar Yoḥai by way of Rabbi Yoḥanan, though none affects interpretation. In the four other witnesses (Florence II-I-9, Jerusalem - Yad Harav Herzog 1, Karlsruhe - Reuchlin 2, and Barko print edition [1498]) there is some form of "there are those who say" and a second version is introduced. Sometimes the difference is the use of the word רמז "hint" in the question, and in some the midrash has two stages, emphasizing the use of the infinitive absolute form as the source of the biblical liability for not burying a body. MS Munich 95 allows closer focus on the failure at the end of the story. The form of the question, מנא לכו, is the same in Munich 95, and all other witnesses except the Barko edition, which has מניין.

67. For Zoroastrian care of corpses in the Sasanian period, see James R. Russell, "Burial iii. In Zoroastrianism," *Encyclopædia Iranica*, vol. 4, fasc. 6, pp. 561–63, accessed June 14, 2015, <http://www.iranicaonline.org/articles/burial-iii>.

Rav Aḥa bar Yaakov's criticism of another sage's silence is unusual. The other narratives describing reactions to silent sages do not include insults, though they may have questions such as "why did he not say x?" This unusual critique may have arisen because the narrative is partly archetypal, with King Shapur standing in for a Zoroastrian perspective.⁶⁸ The fact that this silence takes place outside of a rabbinic social context appears to make Rav Ḥama more subject to criticism, or perhaps it lowers the costs of secondary characters, and implicitly, the editors, criticizing him openly. Rav Ḥama's inability to cite a biblical source is compounded because the story directly follows a Palestinian tradition that provides his missing answer. This juxtaposition heightens the seriousness of Rav Ḥama's lapse, since the reader knows the answer that Rav Ḥama does not. Despite the *stam*'s subsequent suggestions about why Rav Ḥama did not offer Rav Aḥa bar Yaakov's answer, Rav Aḥa bar Yaakov's word "idiot" rings in the reader's ears.

In B. Gittin 55b, as part of a lengthy narrative describing the Roman siege and destruction of Jerusalem, there is a brief exchange between Rabbi Yoḥanan ben Zakkai and Vespasian, in which Yoḥanan ben Zakkai does not know how to respond to the Roman general.⁶⁹ The Babylonian Talmud interrupts the narrative at that juncture to report that Rav Yosef (or possibly Rabbi Akiva) applied to Rabbi Yoḥanan ben Zakkai the verse, "he makes wise men turn backward and their wisdom foolish" (Isaiah 44:25). Rav Yosef then suggests a rebuttal to Vespasian that Rabbi Yoḥanan ben Zakkai had failed to give. Jeffrey Rubenstein compares this Bavli narrative with its Palestinian parallels and comments that "the Babylonian Talmud criticizes the sage whereas the Palestinian stories . . . do not."⁷⁰ There may be greater willingness in Bavli sources to overtly criticize the performance of higher-status rabbis when they are described outside of the context of a study hall and in dialogue with imperial figures.

SAGES RECOVERING FROM FAILURE

As important as the descriptions of sages missing the mark are descriptions of how sages recover their standing afterwards. This differs between lower- and higher-ranking sages. Sages who are students or whose status is unknown in narratives are occasionally portrayed rebutting their critical colleagues. Rav Papa (B.

68. Shai Secunda, *The Iranian Talmud: Reading the Bavli in Its Sasanian Context* (Philadelphia: University of Pennsylvania Press, 2014), 104–6, discusses the Bavli's portrayal of King Shapur as a legal interlocutor with rabbis. He highlights passages in which the talmudic editors and later commentators such as Rashi display awareness that these stories were not necessarily about the actual King Shapur I (who reigned 240–270 CE). For a discussion of narratives portraying sages in conversation with Persian kings, see also Jason Sion Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests: The Culture of the Talmud in Ancient Iran* (Berkeley: University of California Press, 2015), 74–93 and Alyssa Gray, "The Power Conferred by Distance from Power: Redaction and Meaning In B. AZ 10a–11a," in Rubenstein, *Creation and Composition*, 23–69.

69. The Munich 95 text of this story includes the word "he was silent," referring to Rabbi Yoḥanan ben Zakkai, while the other manuscripts and editions simply report no response in the dialogue.

70. Rubenstein, *Talmudic Stories*, 172.

Niddah 27a) quotes a verse underscoring the importance of taking risks to gain wisdom, and Rabbi Abba (B. Bezah 38a–b) interrogates his antagonists. However, high-rank sages have more frequent, successful social recoveries, meaning that the impression of the sage at the end of the narrative is favorable. Higher-rank sages can recover from silence by affirming another sage’s answer to an initially confounding question, or by offering their own answer after an initial silence. In the following passages, sages accept a colleague’s help or use their own ingenuity to resolve an academic challenge.

In B. Shabbat 72a, Rav Dimi presents a tradition, to which Abaye offers an objection, followed by a possible solution for Rav Dimi’s approval.⁷¹

B. Shabbat 72a:

כי אתא רב דימי אמ' למאן דאמ' אשם ודאי בעי ידיעה בתחלה בעל חמש בעילות בשפחה חרופה
 חייב על כל אחת ואחת א"ל אביי והרי חטאת דקא בעינן ידיעה בתחילה ופליגי ר' יוחנן וריש
 לקיש [אשתיק אמ' ליה] דילמא במעשה דלאחר הפרשה קאמ' וכדרב המנונא א"ל אין

When Rav Dimi came he said, “One who claims that a guilt offering brought on account of the certainty [of having committed a particular sin] requires foreknowledge, if someone who had forbidden intercourse five times with a betrothed slave, he is liable on each and every act.” Abaye said to him, “Consider the sin offering, for which we require foreknowledge, and Rabbi Yohanan and Rabbi Shimon ben Lakish disagree!” [He was silent. He said to him,] “Perhaps you were referring to the act after he designates [the sacrifice] and you were [teaching] according to Rav Hamnuna?” He said to him, “Yes.”

Recording Abaye’s suggestion furthers the Talmud’s agenda to examine problems thoroughly. Yet from a narrative perspective, it helps Rav Dimi regain authority by judging the merits of another’s idea. In two of the early textual witnesses, the narrative also includes Rav Dimi “being silent,” and Abaye’s possible solution as a response to that. Even in the texts that do not have “he was silent,” the narrative presumes Rav Dimi’s silence or inability to answer, since he could have refuted Abaye but did not. Because Abaye’s detailed suggestion is met with a monosyllabic answer, “Yes” (*in*), Abaye appears to be a more adept sage than Rav Dimi. He is erudite in his rebuttal as well as attuned to Rav Dimi needing help to regain his intellectual footing in the discussion. From a narrative perspective, it is beneficial to be a helpful colleague.

In two other narratives, when a sage in a teaching position “is silent” because he cannot answer a question, he asks the questioner if he has “heard anything [about this].” In both cases, the sage receives an answer, continuing the discussion. This appears to mitigate the negative reception of the teacher’s lapse. In B. Temurah 34a, for example, Rav Nahman cannot provide an answer to Tavi’s

71. In MS Oxford Opp. Add. fol. 23 and in the Soncino print family edition (1480), the text includes “he was silent. He [Abaye] said to him ...” These phrases are absent in MS Munich 95 and Vatican 108. In all textual witnesses, the passage concludes with Rav Dimi confirming Abaye’s correctness, “he said to him: ‘Yes.’”

question, but invites Tavi to share what he has heard. The narrative treats this as an acceptable solution, and there is no commentary on Rav Naḥman's inability to answer, such as comments by later sages.⁷² In another passage, Rabbi Ḥiyya bar Avin cannot answer a question, but the following day he returns with a solution.

B. Shabbat 37b–38a:

בעו מיניה מר' חייא בר אבין⁷³ שכח קדירה על גבי כירה ובשלה בשבת מהו אשתיק⁷⁴ למחר נפק ודרש להו המבשל בשבת בשוגג יאכל במזיד לא יאכל ולא שנא מאי ולא שנא רבה ורב יוסף דאמרי תרוייהו להתירא

They asked Rabbi Ḥiyya bar Avin, “If someone forgot a pot on top of the stove and it cooked on Shabbat, what is the law?” He was silent. The next day he went out and taught them: “One who cooks on Shabbat accidentally, may eat it, but on purpose, may not eat it, and there is no difference.” What does “there is no difference” mean? Rabbah and Rav Yosef said it means it is permitted.

Rabbi Ḥiyya bar Avin appears to have come to this answer without the guidance of fellow sages, and the narrative does not dwell on his delay. The narrative concludes only after Rabbi Ḥiyya has a chance to answer the question.

All of these passages depict sages who initially fail to provide an answer, but are subsequently successful through finding or affirming an answer. The sugyot cite no negative judgment of the sages who are silent, indicating that silence becomes failure only if it is not remedied. The sages in these stories all act as teachers, a higher-status position where the risk of shame is significant. However, students and fellow sages, as well as the editors of the talmudic passages, seek to portray these sages in a positive light while furthering knowledge of a legal point. By contrast, sages who are in student positions or in the middle or

72. Similarly, in B. Shabbat 80b, the question, “have you heard anything about this?” prompts the citation of a tradition from Rav Sheshet defining a confusing term. While in B. Temurah 34a the higher-status sage asks for a tradition from the questioner and receives it, the exchange in B. Shabbat 80b, perhaps because of transmission problems, appears to present either a son as silent before the father (socially unlikely), or two successive responses by the same sage (also indicating textual problems). The early textual witnesses all present this difficulty. It seems an interesting coincidence that in both of these passages, the similar formula of בהא שמיע לך ברהא provokes the response “thus said Rav Sheshet.”

73. While Munich 95 has Ḥiyya bar Avin, Oxford Opp. Add. fol. 23 and the Soncino print family edition (1490) both have Ḥiyya Bar Abba, as does the Vilna edition. Rabbi Ḥiyya bar Avin is the well-known Rabbi Ḥiyya, who lived in Palestine in the early third century at the transitional time from tannaitic to amoraic identities for sages. Rabbi Ḥiyya bar Abba was a third-generation Palestinian Amora. Rabbah and Rav Yosef (both third-generation Babylonian Amoraim) are depicted reacting to hearing this oral tradition, and it seems possible for either of the sages named Rabbi Ḥiyya to have responded to this question and for the answer to have filtered to the Babylonian sages.

74. Oxford Opp. Add. fol. 23 does not have the word “he was silent,” but Munich 95, the Soncino print family edition (1490) and the Vilna edition do. The Soncino edition has a fuller phrase, commonly associated with אשתיק, which is: אישתיק ולא אמר ליה ולא מדי. I think it is more likely that that may have been added by rote, as opposed to it being accidentally omitted.

lower rungs in scholastic hierarchies tend to appear in stories where their colleagues or teachers highlight their scholastic failures, and the editorial layer preserves and even magnifies their failings.

HIGHER-RANKING SAGES' PROBLEMATIC TRADITIONS AND PROTECTION BY PEERS

While the previous group of examples portray failing sages actively participating in their own social rehabilitation, the following narratives depict third parties burnishing a sage's reputation. This occurs mainly as characters at the second narrative level comment on received traditions, as opposed to within the immediate plot context (the first narrative level). Asserting that the sage is a [גברא רבה] רבה, a "great man," is a way that sages can shield their senior colleagues from the consequences of a specific scholastic failure in articulating a problematic tradition.⁷⁵ Eight times in the Bavli, an Amora (either Babylonian or Palestinian) who is called a "great man" appears to have stated (or in one case behaved in accordance with) a flawed teaching.⁷⁶ This occurs both within the plot action, in a subsequent discussion of the tradition by a sage who is removed from the plot action, and also in the editorial layer. In three cases, another sage responds by showing the potential strength of the statement, twice in the presence of this sage himself, and once during a discussion of his tradition.⁷⁷ In a further three passages that discuss a memra in the Amora's absence, the editorial layer provides possible explanations that cast the sage's comment in a positive light.⁷⁸

In the following example Rava insists that the form of Rav Yosef's objection must be incorrect, since Rav Yosef is a "great man," and his objection was easily deflected by Rabba bar Ulla.

B. Ketubbot 43a:

אמ' רבא גברא רבה כרב יוסף לא ידע דאיכא העדפה דקמותיב תיובתאי אלי
אמ' רבא רב יוסף מתניתין גופא⁷⁹ קא קשיא ליה

75. The term גברא רבה "great man," occurs fifty times in the Bavli (five spelled רבא), the majority (28 times) used simply as an honorific, or in discussions of whether a particular person is a "great man." The second largest plurality (10 times) uses the term as an anonymous type in a story, either an exegetical midrash or a sage narrative.

76. These are: B. Berakhot 19b, B. Mo'ed Katan 11b, B. Eruvin 66a, B. Ketubbot 43a, B. Zevahim 44a, B. Zevahim 100b, B. Niddah 50b, and B. Niddah 70a.

77. B. Niddah 50b, B. Berakhot 19b, and B. Ketubbot 43a.

78. B. Mo'ed Katan 11b, B. Eruvin 66a, and B. Niddah 70a. In the remaining two examples, B. Zevahim 44a–b and B. Zevahim 100b, it is the same Amora who remarks that he is surprised that such a "great man" would say or do such a thing, the criticism stands, and neither the *stam* nor another Amora rebuts the criticism.

79. Munich 95 and St. Petersburg - RNL Evr. I 187 have this, while Vatican 113 and Vatican 130 have a slight variation that does not refer explicitly to the mishnah posing a problem for Rav Yosef, and uses the demonstrative הכי or הא "this is what was challenging for him." Vatican 130 also has what may be a mistaken reposition: it reads ... אמר רבא לרב יוסף הא ...

Rava said, “A great man like Rav Yosef did not know that there can be surplus and offered this rebuttal?”⁸⁰ Rather, Rava said, “Rav Yosef found the mishnah itself difficult ...”

According to Rava, the objection attributed to Rav Yosef is not worthy of him. The editorial layer continues Rava’s point, recontextualizing Rav Yosef’s comment. The legal question is whether a woman who is supported by her brothers following the death of their father retains ownership over the proceeds of her labor, or whether the brothers have claim to that money. Rava argues that Rav Yosef must have believed that the sister would keep any proceeds of her work above what her brothers paid to support her, and offers an alternative context for Rav Yosef’s objection, saving it from easy dismissal. Positions are refuted frequently in talmudic debate, but the problem was that Rav Yosef did not anticipate that his rebuttal, which was his intellectual contribution, would be ineffective. In order to avoid casting aspersions on Rav Yosef’s scholastic ability, the Talmud, citing Rava, reinterprets Rav Yosef’s comment to indicate that he was occupied with a more fundamental textual problem, reflecting a higher degree of intellectual ability.

Rava’s intervention on behalf of a “great man” occurs outside the presence of Rav Yosef, in reaction to a recited tradition (the second narrative level). This shows that the reception of a sage’s official dicta leaves the sage open to possible failure in successive generations, but also potential defense by later sages. Rava’s reaction indicates the importance apparently attached to maintaining the scholarly reputation of great sages by giving sympathetic interpretations to their apparently erroneous ideas.⁸¹ Being a “great man” is also part of Rav Kahana’s defense of Rav bar Sheva in B. Berakhot 19b. B. Berakhot 19b:⁸²

ת' ש' גדול כבוד הבריות שדוחה את לא תעשה שבתורה⁸³ תירגמא רב בר שבא קמיה דרב כהנא בלאו דלא תסור⁸⁴ אחיכו עליה⁸⁵ לא תסור דאורייתא היא א' להו רב כהנא גברא רבה אמ' מלתא לא תחי[כ]ן עליה כל אסמכתא דרב' על לאו דלא תסור אסמכינהו ומשום כבודו שרו רבנן⁸⁶

80. Rashi explains that the mishnah teaches that the sister keeps any surplus beyond what the brothers pay to support her.

81. The story of Rav Ḥama and King Shapur (B. Sanhedrin 46b) is a reported dialogue to which a *critical* comment by an Amora who was not present in the original context is appended. Rava’s sympathetic reception of Rav Yosef’s tradition contrasts with Rav Aḥa bar Yaakov’s treatment of Rav Ḥama’s silence. Perhaps offering an erroneous tradition is seen as a more worthy sort of mistake than silence, or perhaps articulating a tradition, even if it is mistaken, gives subsequent sages more material with which to justify it, but there are fewer ways to justify an inability to answer a question.

82. MS Florence II-I-7. In this passage there is some variation in how the story is told, and this version has all the elements that allow the story to make sense.

83. Munich 95 and the Soncino print edition (1484) add “Why? Say, ‘There is no wisdom and no understanding and no counsel before the Lord!’ (Proverbs 21:30).”

84. Paris 671 explains, אלמא מרבנן הוא, “therefore it is a rabbinic commandment.”

85. Paris 671 adds the phrase מאי שנא מכולהו דלאו “how is it different from the other negative commandments?” before לאו דלא תסור דאורייתא הוא, and Oxford Opp. Add. fol. 23 adds מאי טעמא לאו דלא תסור דאורייתא, “why did they laugh?” before לא תסור דאורייתא.

86. Paris 671 again has a fuller explanatory version of the final sentence: לאו דלא תסור (מ)דאורייתא: הוא וכל אסמכתא דרבנן אלאו דלא תסור אסמכינהו והכא. משום כבוד הבריות לא גזור רבנן.

Come and learn: Human dignity is so great that it can override a biblical prohibition. Rav bar Sheva explained it before Rav Kahana at the prohibition of “Do not stray” (Deuteronomy 17:11). They laughed at him. “The prohibition of ‘do not stray’ is a biblical prohibition!” [If he thinks that the principle of human dignity overriding commandments itself comes from a biblical commandment of “Do not stray” why should it override others?] Rav Kahana said to them, “A great man has said something, do not laugh at him.” All of the rabbinic prohibitions are based on “Do not stray” and because of his [that is, human] dignity they permitted [contravening biblical prohibitions].

The pivotal elements of the plot action are the same in all textual versions: “they laughed at him” and Rav Kahana’s direct speech, “a great man has said a statement, do not laugh at him.” Rav bar Sheva is mentioned only ten times in the Bavli.⁸⁷ While he is not often quoted, this passage suggests he achieved a status of “great,” at least according to Rav Kahana, and was defended accordingly. Rav Kahana insists that the listeners take his comment seriously and showed how it could be interpreted charitably. In a similar social situation (B. Gittin 55b), Rava calls Rav Shizvi a “great man” when scholars laugh at him. Once again, the defense, “a great man has said something, do not laugh at him,” not only defends the man, but also indicates that there is wisdom in the apparently laughable statement. Abaye uses this same phrase, “a great man has made a statement, do not laugh at him” to defend Rabbi Zeira in B. Niddah 50b.

The assertion of “great man” status may be a necessary superlative to rebuild the honor of a man who has been disparaged. Once insulted, a sage’s vulnerability is demonstrated and his status as an authority is unsure. An overcompensation of praise may be required to repair the damage. As Jeffrey Rubenstein writes, “Maintaining one’s position in the academic hierarchy depended, to some extent, on not being shamed. It was not simply that a sage would feel like a fool or lose self-esteem for not knowing the answer, but that he might either officially be demoted or lose his unofficial rank in the eyes of his colleagues.”⁸⁸ Distinctly Babylonian, the phrase “a great man has made a statement,” represents efforts to preserve a sage’s standing among his peers. Unlike the phrase “a great man,” “a great man has made a statement” occurs seven times in five distinct passages, all of them in the Bavli, all in statements attributed to Babylonian Amoraim.⁸⁹ Three instances are in response to laughter and continue “do not laugh at him.”⁹⁰

87. He is mentioned five times in the presence of Rav Kahana, once in discussion with Rav Papa, once appearing before Rav Nahman, and once before Ravina.

88. Rubenstein, *Culture*, 76.

89. Rav Kahana in B. Berakhot 19b; Rav Natan bar Oshia in B. Shabbat 81b; Rava in B. Gittin 55b; Abaye in B. Niddah 50b; and Rava, Abaye, and Rav Ashi in B. Bava Batra 12a.

90. B. Berakhot 19b, B. Gittin 55b (which has some variation between עליה “at him” and עלה “laugh at it”), and B. Niddah 50b. “A great man has made a statement” has a slightly different valence in B. Bava Batra 12a. There, two Amoraim use the phrase to describe two “great men” who independently made the same pronouncement. This is taken as proof that prophecy was given to the wise. B. Shabbat 81b presents an exchange that lies somewhere in between this usage and the defensive mode. Rav Natan bar Oshia expresses respect for Rabbi Yoḥanan by trying to explain the

Yet the claim that a sage is a “great man” can also be a social disadvantage in the competitive atmosphere of rabbinic dialectic. Identifying Shmuel as a “great man” turns into a backhanded compliment by Rav Sheshet:⁹¹

B. Niddah 70a:

א' רב שש' גברי רבי כשמו' לימי' כי האי מילת'⁹²

“A great man like Shmuel said that?!”

Rav Sheshet makes another incredulous comment about a question Rabbi Zeira asked (B. Eruvin 66a).⁹³ The editorial voice responds to Rav Sheshet’s criticism, explaining Rabbi Zeira’s question in a favorable light. Similarly, in B. Shabbat 53a, Shmuel comments about a tradition from Rav, “if father said that, he did not know anything about the Sabbath laws.” By starting with the word “if” this comment affirms Rav’s honored position by questioning whether he could have said what was cited. Yet the statement also disparages Rav outside of his presence, since it suggests that he is ignorant.

Mostly, social reactions to a high-ranking sage’s silence within the plot action are supportive, for instance offering a potential answer for the sage’s approval, or absent, where the narrative ends without comment. Confusing statements by “great men” are treated charitably in comments by later or distant sages (in the second narrative level). The editors’ sympathetic handling of higher-ranking sage’s failures includes adding addenda to stories in which a sage redeems himself by finding an answer or revising a tradition, or highlighting the difficulty of the problem within the editorial commentary.

reasoning behind the latter’s ruling. There the full phrase is *גברא רבה אמר מילתא נימא בה טעם* “a great man has made a statement, let us say its reason.” While there was no reported laughter disparaging Rabbi Yoḥanan, his statement about the Sabbath perplexed the editors. The passage introduces Rabbi Yoḥanan’s statement, adds two anonymous attempts to explain its reasoning, then presents Rav Natan bar Oshia’s speech. Even without laughter, difficult statements motivate sages and editors towards intellectual innovation. Whether there is a secondary motivation to defend Rabbi Yoḥanan’s reputation is difficult to ascertain.

91. Rav Sheshet is not the only Amora to invoke the “great man” status with underlying contempt. There are six cases in the Bavli where a sage expresses incredulity that a “great man” could have said something undeserving of that rank. In all of the cases the sage is responding to a reported saying, as opposed to a sage who is teaching in his presence: B. Eruvin 66a, B. Mo’ed Katan 11b, B. Niddah 70a, B. Zevahim 44a–b, B. Zevahim 100b, and B. Ketubbot 43a (the only case of these six where an Amora defends the sage who is criticized).

92. There are only Munich 95, Vatican 111, and the Soncino print (1484) edition for this line. In Vatican 111 the word *רבא* is added in a super-linear note.

93. There is not enough evidence to make an argument about this, but it seems noteworthy that both instances of this sarcastic use of “great man” are attributed to Rav Sheshet, and both have some connection to a tradition emanating from Shmuel.

CUMULATIVE ANALYSIS OF THE BAVLI'S PRESENTATION OF SCHOLARLY
FAILURE

Scholastic failure as described in the Bavli is a combination of missing the mark; the immediate reaction of the sage, his peers, or master; and the narrator's perspective in telling the tale. Overall, sages of lower status respond to failure within the plot events by withdrawing from active participation in scholarly debate, sharp verbal responses, and often, no response at all. Higher-rank sages respond to their failures with explicitly narrated "distress" and by providing a belated answer to a formerly confounding question, thereby redeeming themselves.

It is important to pay attention to the narratorial choices in the portrayal of scholars' failures, since the narrative can be sympathetic or critical. The narrative sometimes "averts its eyes," changing the subject or moving on quickly from a sage's lapse, effectively covering the potential shame of the sage. It sometimes includes exchanges with the failing sage and another sage that occur chronologically later, but are presented directly after the sage's failure, in which they learn a proper response to the question they could not answer. Focusing on the answer rather than the failure advances the intellectual inquiry, but also helps rehabilitate the sage. Inclusion of disparaging reactions to the story by sages who were not present in the plot events may not have been left to the total discretion of the editors. Nonetheless, comments by such sages are not a necessary part of recounting the initial scholarly exchange, indicating interest by previous Amoraim who transmitted these details, and the editors' interest in the continuing shame a mistaken statement can engender.

The treatment of failure in these legal vignettes shows that it is not the mistakes that make the difference in how failure is treated in the Bavli. Rather, it is the social status or role of the sage. Social status determines the kind of mistake that a sage might make, because it dictates how he participates in scholarly debate and therefore how he might miss the mark. Social status further contributes to how a mistake becomes failure. The editors' recording of reactions within the immediate dramatic context, the comments of later or distant sages who hear the story, and other choices in presentation differ depending on the social status of the sage who fails. The aspect that editors do not seem to control is the variable of a character's personality. Where one sage withdraws from teaching, another reprimands his colleagues for their judgment.

Once sages achieve higher status, they are more vulnerable to shame, but they also seem more protected by colleagues and by narrators. Mostly, being considered a "great man" insulates a sage from stigmatization and loss of stature. A "great man" can provide questionable answers, but the social consequences are less grave than for someone of lesser status. Alternatively, a "great man" has sufficiently demonstrated his skill that his mistake is given the benefit of the doubt. Perhaps his audience misunderstood him, or failed to see why his comment constituted a novel approach. This spirit of generosity is echoed in a fellow sage asking why one did not offer a particular answer. However, assertion of "great man" status may also attract competitive "trash talk."

There are two contexts in which a sage and his statement are particularly vulnerable to insult, as opposed to simple rebuttal in the spirit of scholastic

exchange. The first is within a narrative's plot, when the sage is new to a scholarly context. He is expected to participate to show his worth, but his contributions are scrutinized for quality. The other is when a sage's statement has been formulated for promulgation and is recited in a secondary study context. This represents a degree of scholastic achievement, but without his physical presence, there may be fewer social constraints on criticism.

THE EFFECTS OF RECORDING NARRATIVES OF SCHOLASTIC FAILURE WITHIN LEGAL DIALECTIC

The stories analyzed here are not lengthy narratives, but rather brief dialogues with a minimum of narrative supplying pertinent details. Often these short narratives could have been omitted from the legal dialectic without much difference in the flow of legal reasoning. In fact, in cases where a sage could not provide an answer and was silent, omitting this detail might have allowed the legal analysis to proceed more smoothly. It is therefore worth considering the effect of preserving these stories.

First, providing these brief exchanges is part of the tendency to record opinions that have been overruled.⁹⁴ One could argue that recording mistaken or flawed arguments in these brief narratives, and even silences when a sage could not answer, preserves intellectual wrong turns for future generations of scholars, saving them wasted efforts or indicating the difficulty of a subject. However, while potentially useful for the rabbinic intellectual project, scholastic failures do not tend to be productive for the sage.

Second, while in English "failure" can be both a phenomenon and a type of person (i.e. "he was a failure"), none of the sages described here are portrayed as comprehensive "failures" by the Talmud. Including details of scholarly lapses in halakhic debates contributes to the recognition of the inevitability of failure in the pursuit of excellence. The sages portrayed as failing are also quoted elsewhere teaching important lessons. The short form of these narratives ensures that they are tightly knit into the legal debate. Sharing stories of failure while developing legal concepts conveys that it is part of the work of scholarship.

Finally, preserving the social and personal consequences of scholarly failure within legal dialectic reinforces the criteria for being a virtuosic scholar. The stories perpetuate norms of shaming and fear of failure. Retelling these stories warns later generations not to become the subject of such a tale, because the costs of failure do not end in one's own lifetime. At the same time, incorporating such stories in the legal discourse somewhat normalizes academic failure within the culture. The vignettes serve as a medium to confront ongoing fears about scholastic stumbling.

94. According to T. Eduyot 1:4, minority opinions are preserved so that their discarded status is remembered in case it resurfaces in a later generation, while M. Eduyot 1:6 (Kaufmann numbering) says overruled minority opinions are preserved because one day they may be upheld. Moshe Halbertal, *People of the Book: Canon, Meaning and Authority* (Cambridge: Harvard University Press, 1997), 51–54, analyzes these two sources, identifying different approaches to the flexibility of tradition and the role of a law book.

Repeating the stories and preserving examples of resilience may serve as a mode of coping with the tensions inherent in a competitive scholastic environment.

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Breaking down the phenomenon of scholastic failure into a mistake and the immediate social reaction, then following the portrayal of that mistake and its author in subsequent receptions, can serve as a basis for theorizing academic failure in other late antique scholarly communities. Vying for position, seeking the approval of peers and teachers, or struggling to maintain a position of broad recognition are familiar elements of the scholarly experience. The ways that academic communities confront and integrate failure into their cultures affect the production and dissemination of knowledge, and is therefore a subject worthy of further analysis.

Integrated into legal debates, failures become an undeniable part of scholarly life, bringing color to the sages' pursuit of intellectual innovation. Analyzing narratives that describe the drama and interpersonal contexts of debate reinforces the importance of literary analysis of Bavli legal sugyot. While some characters' reactions reflect individual personalities, the extent of social damage from academic failure largely depends on how the story is told. The narratives indicate that to a great extent, social status determines whether an opinion is initially treated sympathetically or critically. They also dramatize how the senior get more senior, and the obstacles to gaining social rank. The storytellers portray these issues with complexity, giving voice to multiple perspectives on academic hierarchy in their economical yet evocative style.

Gracie Allen, Talmudic Scholar

Rabbi Jack Abramowitz writes:¹⁶

Reporter: Where were you born?

Gracie: San Francisco.

Reporter: And were you the oldest?

Gracie: Oh, no! My parents were much older!

¹⁶ <https://www.ou.org/life/inspiration/gracie-allen-talmudic-scholar/>

I've been enjoying a lot of Burns and Allen lately. George Burns was the straight man and his wife, Gracie Allen, got all the laughs. But while her high-pitched voice was real, her "dizzy dame" persona was not. In fact, she was quite brilliant. While George Burns' career lasted decades beyond hers, Gracie retired in 1958, six years before her death, due to the stress of always having to be "on." (Gracie always stayed in character when in public so as not to spoil the illusion.)

Harry Von Zell: After being with George for seven years, imagine him paying me that salary for the work I do. It's disgraceful!

Gracie: Well, if you think your work is that disgraceful then you shouldn't ask for a raise.

Contrary to popular conception, Gracie Allen's character was not stupid, dumb, dizzy, or airheaded. She was intelligent and insightful. This epiphany occasionally occurred to others. (In the words of Harry Morton, a character on *The George Burns and Gracie Allen Show*, "I have come to the conclusion that, addlepated as she is, Gracie is the smart one in the family!") Gracie Allen demonstrated the capacity to take what others said and see it from another point of view. If we say something and don't realize that it can be interpreted in two ways, that's a limitation in us. Gracie had no such limits.

Blanche Morton: But she's 20 years younger than he is!

Gracie: So, what? They're crazy about each other! They're as much in love as Napoleon and Cleopatra!

Blanche: Napoleon and Cleopatra? They were at least 2,000 years apart!

Gracie: You, see? If it worked for them, why should only 20 years matter to Harry and Vivian?

The ability to see things differently is a gift possessed by brilliant minds – how else do you explain a hip hop Broadway musical about Alexander Hamilton? (Before it evolved into a full-blown show, *Hamilton* creator Lin Manuel-Miranda told then-President Barack Obama that he planned to write a rap about Alexander Hamilton. The president reportedly responded, "Well, good luck with that.")

Despite what one may think, Steve Jobs did not invent the smartphone – not by a long shot! Smartphones had been available since 1994 (IBM’s Simon) but a decade later, the most popular phone was the Motorola Razr, largely because of how incredibly thin it was. If we had followed conventional thinking on phone technology, we would all be talking today on phones as thin as credit cards that only offered talk and text. Jobs was a visionary who saw the potential for the smartphone, which is why today we all have iPhones and Androids. (Apple’s motto “Think Different” drives me crazy – grammatically, it should be “Think Differently” – but I guess that’s just another example of their company ethos in action.)

This ability to “think different(ly)” is also valued in Judaism. Our most brilliant scholars were not masters of memorization and spitback, they were able to see layers of depth and nuance that were beyond most people. The Talmud tells us that no one in his generation was as brilliant as Rabbi Meir, who could offer convincing proofs that impure things were pure, or vice versa. The only reason the law does not generally follow Rabbi Meir’s opinions is because his thinking was so far beyond the grasp of his colleagues that they could not substantiate the arguments that he advanced (Eiruv 13b).

Similarly, the Talmud Yerushalmi (Sanhedrin 4:2) tells us that a judge was not qualified to open the argument for an accused’s person acquittal unless he could argue 100 reasons why a dead vermin is ritually pure and 100 reasons why it is ritually impure. Such an important task requires the ability to see beyond the box in which most people dwell.

A famous seeing-beyond-the-box story is told about the Beis HaLevi (Rav Yosef Dov HaLevi Soloveitchik). Shortly before Passover, a woman came and asked if she could use milk instead of wine for the four cups. He responded by giving her 20 rubles, far more than was necessary to purchase a bottle or two of merlot! When asked by his students why he had given the woman so much, the Beis HaLevi pointed out that she hadn’t asked about using water, she asked about using milk. From this he inferred that she also lacked meat and other necessities for the holiday.

Thinking outside the box keeps things interesting. An apocryphal tale, popularly but dubiously attributed to physicist Niels Bohr, involves a student asked how to determine the height of a skyscraper by using a barometer. The student described lowering the barometer from the roof with

a rope and then measuring the rope, dropping the barometer off the building, and timing its fall, measuring the length of the shadows cast by both the barometer and the building, and many other solutions – including saying to the janitor, “If you’ll tell me the height of this skyscraper, I’ll give you this barometer!” As an afterthought (and probably because he wanted to pass the exam), the student said, “If you want to be boring about it, you could always use the barometer to measure the air pressure on the roof and on the ground, converting the difference in millibars into feet.”

With the benefit of hindsight, we can see how all of the student’s solutions are equally (albeit unconventionally) valid, how obvious smartphone popularity is, and how apparent the poor woman’s dilemma should have been. As with Gracie Allen’s brilliant insights, something always seems off to us at first – Why are you swinging that barometer like a pendulum? Why is your phone so thick? Why did you give that woman so much money? In all of these cases, however, it takes a visionary to point out the wisdom. These people don’t just think outside the box, they make the box bigger for all of us. As George Burns once said of his wife, “Once you understand Gracie’s logic, everything gets to be normal.”