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[Menachem Fisch](#) *

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Article

Connected Heresy the Talmudic Literature's Heretic Religiosity

Menachem Fisch

fisch@tauex.tau.ac.il

Abstract: “Heretic” is commonly understood as perspectival term employed by insiders to describe a specific kind of outsider, namely, one who, not only holds to seriously objectionable positions, but having been one of us, should know better. Accordingly, ‘heretic religiosity’ denotes for members of the mother religion a dissenting form of religiosity that deviates too sharply from their own to be contained within it. Michael Walzer’s well-known idea of connected criticism, to which this paper’s title alludes, is a person who firmly opposes his community’s way of life, but choses to remain within the fold. The type of religious heresy I shall be looking at in the following pages not only choses to remain within, but is contained within the fold. And not only that, but it is actually formative of the fold. But in that case, why should it be considered heretical?

Keywords: Heresy; Rabbinic canon; divine perfection; submissive *versus* confrontational religiosity; Job; prayers of Anguish; Hillelites *versus* Shammaites; rationality; dialogue; self-critique

1. Introduction

A word about my title. Heresy (from the Greek: freedom to choose) is commonly taken to mean the endorsement of a position outside the fold by a former member; the denial of a basic article of faith by a once-believer who knowingly positions herself anew beyond the pale of her community’s outer boundary. “Heretic” is thus a perspectival term employed by insiders to describe a specific kind of outsider, one who, not only holds to seriously objectionable positions, but having been one of us, should know better. Accordingly, ‘heretic religiosity’ denotes for members of the mother religion a dissenting form of religiosity that deviates too sharply from their own to be contained within it. Such is the common use of the term. Michael Walzer’s well-known idea of connected criticism, to which my title alludes, is a person who firmly opposes his community’s way of life, but choses to remain within the fold. The type of religious heresy I shall be looking at in the following pages not only choses to remain within, but is contained within the fold. Not only that, it is actually formative of the fold. But in that case, why should it be considered heretical?

For one thing, it is fittingly deemed heretical because, although God-centered, it deviates too sharply to be contained by any current form of God-centered religiosity—not merely as a matter of contingent fact but as a matter of principle. Yet, it is by no means a minor or marginal position. It is a side to the Talmudic literature’s¹ most profound religious dispute; so profound as to render each party to it totally heretical in the eyes of the other; a dispute uncontainable within a single coherent religious framework, because it concerns the very framework itself. And yet it is comfortably contained with the rabbinic canon, and deemed comfortably internal to rabbinic Judaism.

¹ I use the term ‘Talmudic literature’ as shorthand for the canonic rabbinic literature of late antiquity composed roughly between the beginning of the third to the end of the sixth century CE, comprising the Tannaitic Mishnah, Tosefta and the so-called halakhic midrashim, the Amoraic Palestinian Talmud, the so-called Amoraic aggadic midrashim, and culminating in the Babylonian Talmud, the rabbinic canon’s crowning achievement. For a thorough overview of this literature and more see Safrai (1987) and Safrai, *et al* (2006, §1).

However, I shall argue, it is a dispute that can only be considered containable within the same religious canon if the canon itself takes sides in it. Moreover, and going a considerable step beyond Walzer, the side the canon takes in the dispute, is not only critical of the opposition, but grounds its very idea of religiosity in adopting a keen critical stance toward *its own* religious framework. And going even a more significant step beyond Walzer, although critical of the opposition, the idea is not to defeat it, but to keep the dispute alive! But I am getting a little ahead of myself.

The Talmudic voice I wish to focus on is not only strange to modern ears, it is almost impossible to hear, for it deviates too radically from what all current forms of God-centered religiosity have in common, namely, the identification of religious faithfulness with a determined, rational willingness to prudently comply with God’s Word, humbly obey His command, and justify His judgment. I say ‘rational’ because their identification of God-centered religiosity with willed surrender follows directly from a theological premise all take for granted, namely, that God is morally perfect, and that, therefore, his revealed word, command and deed are good by definition.² Preposterous as it might sound, the Talmudic voice I shall introduce rests on an explicit denial of divine perfection, and subsequently fashions a God-centered religiosity radically different from the familiar model of pious obedient surrender.

Many readers will have already dismissed such a voice by now, not merely as heretical, but as incoherent, because for them the very notion of divine imperfection harbors a contradiction in terms. But I ask you to bear with me a little longer nonetheless. Not so I can convince you to adopt such position, but to convince you first that it is voiced loud and clear in the Talmudic literature, then to explain its formative role it fashioning the Talmudic canon (thus rendering it its central and most important voice), and finally to explore some of its ethical and political consequences.

2. Job in Dispute

Job is a good place to start, as it presents the Hebrew Bible’s foreshadowing of the rabbinic dispute I wish to bring to the fore. The lion’s share of the book presents a unique contrastive study of two fundamentally opposed paradigms of religiosity: Job, on the one hand, and the collective image of his three, and later four friends dispute monotheistic religiosity’s most basic norm of disposition. How is one to respond to inexplicable disaster when one believes one is blameless (as the reader knows that Job is)? Is it religiously appropriate to question God’s judgment, as did Job, or to unconditionally surrender to it, as his four friends insist? The friends’ position dovetails nicely with how God-centered religiosity is conceived today. Job questions his suffering and demands an explanation, but does not openly criticize God’s judgment. He refuses to submit unconditionally, but does not openly accuse God of injustice (although the reader knows better), and he seems satisfied with God’s eventual answer from the storm, which neither explains nor justifies his suffering. Most importantly, although Job is eventually ‘compensated’ for his afflictions, there is no sense at all in the text that his keenly confrontational stance had any effect on God’s thinking or ruling. God engages Satan in dialogue, but not Job.

However, I am interested less in the Bible’s account of the argument than in how the rabbis attempt to make sense of it. Because the rabbis themselves are divided along the fault lines of the book’s dispute, at its most basic level theirs is a disagreement about who should be regarded the book’s religious hero, Job or his friends? At a deeper level, though, the rabbinic side rooting for Job attributes to him a far more radical position than the biblical text allows. And does so dramatically.

² I am deliberately blurring the distinction labored over in the first two parts of Sagi & Statman (1995) regarding the question of the source of morality’s goodness—namely, whether morality is good because God commanded it, or whether God commanded it because it is good. Premising divine moral perfection renders the question purely theoretical, and hence inconsequential from the believer’s perspective, a conclusion borne out nicely in Part 3 of the work, in which the possibility of a conflict between religion and morality is denied on those grounds.

I'm referring the Babylonian Talmud's extended discussion of Job,³ in which second generation Amoraic sage, R. Yochanan, represents (in the context of the present essay, introduces) the voice of rabbinic confrontational theology. The passage's midrashic engagement with Job is introduced by means of a subtle reworking of the opening heavenly scene of ch.1, which not only raises the ante considerably, but more than implicitly indicates the *sugya's* own preference. It does so by inserting between v. 1:7 (2:1) and 1:8 (2:3) an additional sentence (below in bold) in Satan's answer to God. As a result, the exchange that sets the book's entire drama in motion takes on a very different meaning:

Biblical text: "Now there was a day when the sons of God came to present themselves before the Lord, and Satan came also among them.

And the Lord said to Satan: "from where dost thou come?"

And Satan did answer [From traveling the earth and from walking up and down it] (Job 1:6-7/2:1-2)"

Inserted text: "**He said to Him: "Lord of the Universe I have traveled the entire world and found no one as faithful as your servant Abraham! to whom You said: 'Arise, walk through the land in the length of it and in the breadth of it; for I will give it to you (Gen. 13:17)'. And even so, when he did not find a place to bury Sarah [and had to purchase a burial site for four hundred silver shekels], he did not fault Your ways."**

Biblical text: And the Lord said to Satan: "[But] hast thou considered my servant Job? for there is none like him on earth! (1:8/2:3)"⁴

The wager between God and Satan, as well as the subsequent dialogue between Job and his friends, receive context and background by a heavenly exchange that far transcends an polite divine query about Satan's comings and goings. As the text's midrashic expansion clearly indicates, the fundamental question of religiosity painstakingly disputed between Job and his friends lies at the heart of a fundamental disagreement between God and Satan. Read thus, the entire strained conversation between Job and his friends is transformed into an expansive unpacking of the fundamental heavenly debate.

For Satan, the inserted text implies, Abraham was the model of religious faithfulness—not the confrontational Abraham of the Sodom dispute, but the trusting, compliant, Abraham who, unruffled by the suspension of God's promise of the land, piously accepts his fate, pays for the burial plot, and continues to wait patiently for God to make good on it.⁵ God, by contrast, declares Job's religious faithfulness to be superior to that of Abraham (or to that of Abraham's more submissive moments). He doesn't explain himself other than to assert that in His opinion, as the biblical text has it: "there is none like him on earth!"⁶

This is all R. Yochanan needs to drive the point all the way home by comparing scripture's own descriptions of Job and Abraham, at Abraham's prime moment of religious submission, the Aqedah.

Said R. Yochanan: Greater is the praise accorded to Job than to Abraham. For of Abraham it is written, "For now I know that *thou fearest God*" (Gen. 22:12) whereas of Job it is written, "a perfect and an upright man, who fears God, and (but) *turns away from evil*" (Job 1:8)"⁷

³ BT *Bava Batra* 15a-16b.

⁴ *loc. cit* 15b

⁵ Satan, I believe, is depicted, not as an exegete responding to the biblical text (or as a mischievous evil-doer, for that matter), but as some kind of quality controller who was impressed, not by the Abraham story, but by witnessing him in action, as it were, after Sarah's death.

⁶ Which renders the rabbinic insertion less far-fetched than it might seem. If God deems Job to be religiously superior to anyone else, then that includes Abraham by definition, and Satan doesn't have to root for him explicitly to make the point. What the insertion does do is to lend the wager depth, drama, and vitality.

⁷ *Ibid.* emphasis added.

Assuming that scripture speaks for God in such matters, R. Yochanan's clever contrast renders explicit the religious yardstick by which God deems Job to be the best. It is not enough to be perfect, upright (Gen. 17:1) and God-fearing (22:12), as Abraham was described, Job also turns away from evil, which at the Aqedah, R. Yochanan concludes by omission, Abraham failed to do. Job is thus described, not merely as demanding an explanation for the drastic turn his life had taken, but as accusing God of possible evil-doing in allowing it to happen, to which he refuses to acquiesce. The radical difference between demanding an explanation for catastrophic events, and entertaining the possibility of divine evil-doing is that the latter option necessarily presupposes divine moral imperfection⁸. And, as R. Yochanan clearly implies, aware of His liability to do wrong, God, *therefore*, values and encourages taking a confrontational stance against Him.

Reading R. Yochanan scriptural contrast as aimed to explain and confirm God's position rather than to criticize Satan's, casts their wager in a worryingly different light. Think of the midrashically enhanced heavenly exchange from Satan's point of view. He considers Abraham the model of religious faithfulness, because for him submissive compliance is religion's master norm. God answers by asking him if he'd yet noticed Job, whose religious qualities, God maintains, surpass those of Abraham, but does not explain why. Unaware that he and God hold to different ideals of religious excellence, Satan asks to test Job's religious breaking point by "touching all that he has" to see when he'll cease to accept God's judgment and rail against Him (1:11). But from God's perspective, criticizing Him when dealt with unjustly would prove Job's religious faithfulness, not of refute it! Under this rabbinic construal, no outcome Of Job's cruel trial by fire could settle the heavenly dispute, success for God would be failure for Satan and vice versa. Moreover, knowing this, God should never have allowed Satan to torture Job to no avail.

The Talmudic passage's very opening move lays bare three major presuppositions regarding the rabbis religiosity dispute. The first, is that it is primarily a dispute about whether God can conceivably be in the wrong. The second, is that the dispute is in principle unresolvable; that there is no way to decide whether Job was better than Abraham when each side holds to a radically different notion of "better"⁹. And third, that the essentially theological dispute regarding divine perfection, entails a fundamental dispute of religiosity with each side holding to radically different norms of religious disposition.

The opposition has no problem adopting the opinion attributed by R. Yochanan to Satan, summarizing the book's plot and religious message thus:

There was a certain pious man among the heathen named Job, who came into this world only to receive reward, and when the Holy One, blessed be He, brought afflictions upon him, he began to curse and blaspheme, so the Holy One, blessed be He, doubled his reward in this world so as to expel him from the world to come....¹⁰

Job's piety was instrumental. He was faithful to God so long as he was properly rewarded, but miserably failed the test of suffering by questioning God's judgment—which from the opposition's (Satan's) perspective, amounts to blasphemy. The book's "happy end" is explained away as a settling of the books prior to dealing him the gravest punishment of expulsion from the world to come.¹¹ Job

⁸ To clarify, no confrontationalist rabbinic voice I'm aware of maintains that God is knowingly evil, God forbid. The presumption throughout is that He means well, but being imperfect, is liable to do wrong unwittingly, for which he needs his human covenantal partners to speak up.

⁹ "Better" and "worse" being thin evaluative concepts that are given very different meanings by individuals and communities committed, as God and Satan are, according to the Talmudic passage, to very different vocabularies of thick evaluative concepts.

¹⁰ *loc.cit* 15b

¹¹ Their extremely strained reading of the book's ending, strongly attests to the strength of their religious commitment.

is the villain of the book, his friends, its heroes! And after detailing a long list of major offences of an extremely sinful Job,¹² second generation Amoraic sage, Raba, supplies the opposition's slogan:

Said Raba: "This bears out the popular saying: Either a friend like the friends of Job, or death!"¹³

The passage about Job being a heathen, is part of a discussion of whether he was Jewish or not that immediately precedes the midrashic intervention in the heavenly debate followed by R. Yochanan's confrontationalist contrast cited above. Intriguingly, this preliminary discussion ends with another midrashic reading of R. Yochanan this time regarding the opening verse of Ruth.

Rabbi Yochanan says: What is the meaning of "[And it happened in the days of the] judging of the Judges" (Ruth 1:1)? This indicates a generation that judged its judges. If a judge would say to the defendant: "Remove the splinter from between your eyes", the defendant would say to him: "Remove the beam from between your eyes"; if the judge would say to him: "your coins are counterfeit", the defendant would say to him: "Your wine is mixed with water" (Is. 1:22).

While all commentators read this as a critique of Ruth's generation, in view of the Jobian context, as well as the thoroughly positive Ruth narrative, it makes better sense to read R. Yochanan as praising the generation for holding their judges accountable, rather than docilely submitting to their every judgment—which would then be the perfect backdrop to viewing God, in R. Yochanan's second statement, as being more impressed by Job than by Abraham, exactly because Job was willing to hold even God accountable when Job deemed Him to be in the wrong.

This is not yet to encounter the full force of the rabbinical literature's dispute of religiosity, as we shall in the next section, but its divided account of the Job dispute does give a good sense of how the dispute remains fully contained within it.

3. Justifying God's Judgment: Mishnah, *Berakhot*, 9:1 in Dispute

We have seen how the rabbinic literature's dispute of religiosity plays out in the exegetical, i.e. midrashic arena of interpreting Job. We now turn to the realm of religious law, halakha, where the question of the appropriate religious reaction to catastrophe is disputed even more dramatically.

The ninth chapter of Mishnah, *Berakhot* (lit. Benedictions or Blessings) offers one of the most forceful expressions of submissive religiosity to be found in the entire Talmudic literature. The chapter focuses on the obligatory responses to experiencing the mystery, *tremendum* or awe of what Otto (1958) famously termed the "numinous." After listing the appropriate benedictions to be uttered when one visits places where miracles were wrought for Israel, or from which idolatry was extirpated, when one witnesses shooting stars, earthquakes, thunderclaps, or lightning, or sees great mountains, hills, seas, rivers or deserts, the Mishnah turns to happenings of a personal nature. "For a timely rainfall and for good fortune one is to say "Blessed [art thou, O Lord our God, King of the universe] who is good and bestows good". To all such first-hand experiences of God's strength, power, dominion, and good providence, the obligatory formulaic expressions of profound awe, praise and gratitude make perfect sense. But the Mishnah does not stop at that. Not everything we experience is joyous and awe inspiring. What is the appropriate religious response to catastrophic events? The Mishnah doesn't mince its words:

¹² loc. cit. 17a.

¹³ loc. cit. 17b.

For bad tidings one says: “Blessed [art thou, O Lord our God, King of the universe] who is the true judge.”

The required response in the face of a disastrous happening is not one of quietist resignation.¹⁴ According to the Mishnah, one does not face God as one would face cruel circumstances one is powerless to oppose. The Mishnah requires us to *justify* the calamities that befall us as the verdicts of the perfect judge. “*Tziduk ha-din*” —justification of the verdict—is the blessing’s traditional name. The Mishnah’s ruling thus presupposes a familiar, if problematic two-tier theology, combining personal providentialism and divine moral perfection. Every happening in one’s life, general and personal, good and bad, large and small, owe to the meticulous micro-management of a morally perfect God. Suffering exists in the world, but not evil, the Mishnah clearly implies. Both bad and good are from God, and it is one’s religious duty to give thanks for the latter and vindicate the former as ultimately just.

The blessings of awe and gratitude speak for themselves and make perfect religious sense. The Mishnah sees no need to explain or exemplify them other than dictate their precise wording. But as Halbertal and Rozen-Zvi¹⁵ rightly note, the Mishnah realizes that in moments of pain, dread and suffering she cannot take the required blessing as self-evident, and devotes three entire *mishnayot* to explain, exemplify and explicate the precise requirements of ‘the blessing for the bad’ —more than all the other benedictions it lists put together. “One is obliged to give blessing for bad as for the good,” states the Mishnah, “as it says: ‘And thou shalt love the Lord thy God with all thy heart ... and with all thy might’ ... ‘with all thy might’ - for each and every measure that He might measure out for you, you shall thank Him mightily” (m. *Berakhot* 9:5). Everything is from God, the true judge, who metes out his punishments and rewards in perfect measure, which are, therefore, justified merely by happening. A blessing must hence be uttered for the bad as for the good: here in acknowledgement of God’s benevolence, here in acknowledgement of the supreme justice of God’s perfect verdict. Not insignificantly, the Mishnah sees both blessings as expressions of the love, rather than the fear of God.

But what of prayers of anguish? Isn’t it but natural for believers to cry out to God in their panic and grief? The Mishnah draws a clear and cruel normative dividing line between past and future limiting the space of religiously fitting prayers of anguish to what has yet to occur: “For what has past, one should at all times give thanks, and cry out [only] for what is yet to come” (ibid, 9:4). A catastrophe that has happened must be justified by virtue of having happened. And from that moment on one’s religious duty is not merely to accept it, but to justify it in gratitude of God’s perfect justice. Prayers of anguish are considered religiously apt if, and only if they do not request reversing divine retribution. A retrospective prayer of anguish uttered after the event is deemed by the Mishnah a “prayer in vain”, not in the sense of being ineffective, but of being religiously unacceptable; a taking of God’s name in vain. The Mishnah gives two examples:

For to cry out (in prayer) over the past is to utter a prayer in vain. For instance, If a man's wife is with child and he prays: “May it be Thy will [O God] to grant that my wife bears a male child” this is a prayer in vain. [Similarly] if a person is returning home and he hears cries of distress in the city, and he prays: “May it be Thy will [O God] to grant that this is not in my household”, this is a prayer in vain.

Prayers of anguish, pleading and petition are only permitted prospectively, in anticipation of worrying events, not in response to them. Interestingly, the line drawn is ontological not epistemological. In both cases the distressed believer does not know what happened and prays in fear of the worse. Nonetheless, because in both cases whatever happened had already happened, his prayer is religiously inappropriate.

¹⁴ As Halbertal (2001, 29) has it.

¹⁵ Rozen Zvi (2009), Halbertal ibid.

And thus the Mishnah's two-tier theology of personal, morally perfect divine providence receives its clearest halakhic expression, in what has to be one of the rabbinic literature's keenest displays of submissive religiosity.

But the Mishnah does not go unchallenged. Let us look briefly at two such texts. First, the Babylonian Talmud. Rather than comment on each Mishnah separately, as is its custom, here the Bavli attends to the entire chapter in one fell swoop.¹⁶ As a rule, the Bavli never disputes a Mishnaic ruling openly.¹⁷ It occasionally questions the text's authenticity, and in many cases will leave the Mishnaic text intact while radically reinterpreting it to its liking. But in other cases, especially when the Mishnah gives voice to widely held positions the Bavli's framers deem objectionable, it will use other, more subtle methods to undermine them. Such, I believe is the case with M. *Berakhot* ch.9.

Alongside dealing with halakhic issues to do with the various blessings' exact wording, fine-tuning the precise circumstances in which they should be uttered, and whose duty it is to do so, the Bavli also addresses the Mishnah's two large theological premises: personal providence and divine perfection separately—the first by means of a lengthy discussion of dream interpretation, the second, by a midrashic reading of the birth of Leah's daughter, Dinah.

The first thing to note is that one need not deny both to undermine the Mishnah's approach to "the blessing for the bad". If one maintains divine moral perfection yet denies personal providence, the bad cannot be automatically attributed to God, and will, therefore, be in no need of justification. Conversely, if one denies divine moral perfection, there will be no need to justify the bad even if one maintains personal providence. The Bavli's decision to undermine both is, therefore, clear indication that more is at stake than the "blessing for the bad" per se.

The Bavli does not explain the relevance of dream interpretation to the issues raised by M. *Berakhot* 9 on which it is commenting. But once the Mishnaic text's theological premises are laid bare, the Bavli's strategy is rendered highly significant. The sprawling dream discussion goes in several directions, but one clear strand stands out. It sets forth from a statement attributed to R. Hisda: "an uninterpreted dream is like an unread letter."¹⁸ Which could mean, either that if not interpreted, the dream's message will remain unknown, or, far more radically, that like an unread or undelivered legal document, an uninterpreted dream will not come into effect. The Bavli opts for the second reading:

R. Huna b. Ammi said in the name of R. Pedath who had it from R. Yochanan: If one has a distressing dream he should go and have it interpreted in the presence of three.

Why should he interpret it! Has not R. Hisda said that an uninterpreted dream is like an unread letter?

Say rather, then, that he should have it *bettered* in the presence of three.¹⁹

According to this understanding, an uninterpreted dream is a dead letter, and although significant dreams are treated as "a minor prophecy", it is the meaning given them by their human interpreters that determines their content. When worried by a disturbing dream ask three friends give it a positive reading! And as if to make sure the message is received, the passage goes on to report in the name of R. Bana'ah that

There were twenty-four dream interpreters in Jerusalem. *Once I dreamt a dream and I went round to all of them and they all gave it different interpretations, and all were fulfilled*, thus confirming that which is said: All dreams follow the mouth (of the interpreter).

¹⁶ BT. *Berakhot* 54a-64a.

¹⁷ For why this is the case, see Fisch (2017), (2019, ch.1) and (2020a).

¹⁸ BT. *Berakhot* 55a.

¹⁹ *ibid*, 55b.

And whence do we know that all dreams follow the mouth? Because it says, "And it came to pass, as he interpreted to us, so it was." (Gen 41:13).²⁰

Joseph is thus described by the Bavli, not as having *revealed* the true, God-intended meaning of the ministers' dreams, and later those of Pharaoh, but as having *given* them the meaning that later came true. On this reading, he was not a prophet to whom God revealed His plan, but was granted the power by God to fashion the future as he, Joseph, saw fit! This is a total reversal of divine determinism. It is not God who determines the future, but the people who are privy to His whispered word.

What renders this passage truly remarkable is that the authority to determine the future is granted not to larger-than-life biblical prophets, but to anyone in a dream interpreting capacity. And like any authority, it is liable to be corrupted, as the long story of one Bar Hadaya amply proves: a dream interpreter, we are told, who would interpret dreams favorably to those who paid in advance, and unfavorably to those who didn't. The two Amoraic sages Abaye and Rabba are reputed to have sought Bar Hadaya's services, unknowing of one another, after dreaming a series of identical dreams. Except that Abaye paid him in advance and Rabba did not. The sages' futures diverged severely, until Rabba realized what had happened and put an end to it.²¹

This extraordinary voice (duly countered at each juncture by the familiar voice of divine determinism) places the authority and liberty to interpret God's revealed word and determine the course of the world, wholly in human hands. Biblical prophecy, according to the rabbinic literature, has been long discontinued. But the minor prophecy of significant dreams has not, and with it, by implication, the holy scriptures of God's revealed Word—a point I shall return to shortly. These, the passage strongly suggests are given to humankind to interpret and act upon, as they see fit, in accord with their diverse yearnings and understandings.

This is the decidedly non-providential theology with which, without saying so explicitly, the Bavli opposes to the Mishnah's equally decided providentialism. Not only can God not control His message, which inevitably will be interpreted differently by its different recipients, according to this Talmudic voice God has also placed the world in human hands, granting them exclusive authority to determine the various courses its history will take.

Later in the passage the Bavli turns to address "the blessing for bad" directly. It does so apropos the Mishnah's prohibition against praying after the event in fear of possible disaster. When one is anxious about the sex of one's unborn baby,²² asks the Bavli, "are prayers then of no avail?"²³ And as proof that such prayers are not only permissible but can be effective, the Bavli goes on to cite a midrashic rendition of the biblical story of the birth of Leah's daughter, Dinah, which starts with the words "and after that [she bore a daughter and named her Dinah]" (Gen. 30:21)

R. Joseph cited the following in objection... What is meant by "after that"?

Rab said: After Leah reasoned thus: Twelve tribes are destined to issue from Jacob. Six have issued from me and four from the handmaids, making ten. If this child will be a male, my sister Rachel will not be equal –[even] to one of the handmaids'. Forthwith the child was turned into a girl, as it says, And she called her name Dinah!

²⁰ *loc. cit.*

²¹ *Ibid* 56a-56b.

²² I rendered the Mishnah's example gender neutral in line with the Bavli's own midrashic example.

²³ BT. *Berakhot* 60a.

As we shall see, it is a midrash that goes back to the earliest stratum of the Palestinian Amoraic literature. And because the reading it presents is so contrived,²⁴ it seems to have been fashioned from the start with the Mishnah's halakhic principle and example firmly in mind. The seventh-time pregnant Leah is pictured as calculating that since twelve tribes were to be born to Jacob, if the baby she was carrying was an seventh boy, then her sister Rachel, who had yet to conceive, could only mother one, which would be less even than the handmaids who already had born two each. Her prayer was answered, we are told, and the boy she was carrying was changed to a girl.

The Bavli articulates its difficulty with the Mishnah as focused on the principle that retrospective prayers of anguish are in vain, asking, seemingly rhetorically "are such prayers to no avail?". But the question it raises by means of this midrash is more radical, going to the heart of the blessing for bad's assumed divine omnibenevolence. The question is not whether God is capable of changing a fetus's sex in response to prayer, but whether God could be held religiously accountable for such unfairness, and moreover, to acknowledge His mistake and put it right? Intriguingly, what strengthens this impression—and this is the Bavli's brilliant way of thoroughly undermining the Mishnah without actually saying so—is the lameness of the two alternative answers it offers it.²⁵

The first is that "one cannot cite a miraculous event (to refute the Mishnah)," which makes little sense since the whole idea of praying *after* the event is for God to miraculously change reality! The second answer is that Leah prayed during the first forty days of her pregnancy during which the fetus's sex is not yet determined. Rather than ask the obvious question—why in that case are we told that the fetus was *changed* to a girl?—the Bavli asks another: but what of R. Isaac the son of R. Ammi who holds that the fetus's sex is determined at conception according to which parent ejaculated first, in which case, once pregnant, Leah's prayer was prohibited? And the Bavli answers that in this case the two parents ejaculated simultaneously. All three "answers" are extremely unsatisfactory, and subtly leave the question of God's omnibenevolence—that seriously undermines the blessing for the bad regardless of personal providence—ominously dangling.²⁶

However the most blatant and direct challenge to the Mishnah's position is levelled by the early Amoraic Palestinian midrash, *Tanhuma Yelammedenu*, by means of one of the earliest versions we have of the Leah story.²⁷

²⁴ There is no redundancy in the text, or gap to address. The simple sense of the verse is that after giving birth to the six sons mentioned above Leah then bore a girl she named Dinah. Mazeh (2017) points to minor irregularities in the biblical text, though nothing that justifies going beyond the obvious.

²⁵ In general, the Bavli will offer more than one answer to a question only if none of them are fully satisfactory, thus inaudibly signaling that the question remains dangling.

²⁶ The Bavli, as noted, will never challenge a bona fide Mishnaic ruling directly. At times, its understated methods are highly effective, as with regard the laws of lost property (b. Bava Metzia, ch.3, for example (see the close analysis of the entire chapter in Fisch (2019, 179-183) and compare Furstenberg (2005). At other times, however, the point is liable to be missed (as for example in the Bavli's understated critique of m. *Bava Kama* 4:3 in BT. *Bava kama* 38a, as opposed to the Yerushalmi's far more direct approach: JT. *Bava Kama* 4:3, as analyzed in Fisch (2019, ch4. §4).)

²⁷ Midrash *Tanhuma-Yelammedenu* (ed. S.A. Berman), par. *Va-Yetza*, 8 (Gen.30:21). For some reason Mazeh (2017) chooses to omit the *Tanhuma* version of the story from his study altogether, focusing only on those found in the Bavli, the Jerusalem Talmud, and Genesis Rabba. By contrast, Wiess (2016, ch.2) posits that what he dubs the "pro-protest tradition" in rabbinic literature "first emerges ... most notably in Genesis Rabbah and Lamentations Rabbah and ... reaches its fullest expression in the ... Babylonian Talmud and ... *Tanhuma-Yelammedenu*" (p.51). However, in his brief treatment of the *Tanhuma* version of the Leah story (pp.105-106), Weiss makes no mention of the midrash's dramatic confrontation with the Mishnah. On the relative antiquity of the *Tanhuma-Yelammedenu* midrashim see Fisch (2019, 130, n.45).

May our Rabbi teach us: If a man's wife is with child is one allowed to pray 'May it be Thy will that my wife bears a male child' - for so teaches [the Mishnah]: If a man's wife is with child and he prays: 'May it be Thy will [O God] to grant that my wife bears a male child' this is a prayer in vain?

R. Huna in the name of R. Yossi says, despite the fact that [the Mishnah] teaches that "If a man's wife is with child and he prays: 'May it be Thy will [O God] to grant that my wife bears a male child' this is a prayer in vain," [the law] is not so! Rather, one may pray for a son even as she is giving birth, because it is not beyond God's power to change females to males and males to females.

This is as confrontational as it gets—not yet toward the divine, but toward a bona fide Mishnaic ruling, which the Tanhuma makes a point of citing verbatim three times, before blatantly declaring it wrong! Not on the basis of a different Tannaitic source, or by asserting that the text is corrupt, but on the basis of a theological argument—which at first glance might seem irrelevant. No one doubts God's omnipotence. The Mishnah's reason for prohibiting such prayers is not that it is beyond God's power to change a fetus's sex, but that to request such a change is to contest God's perfect judgment. What the Tanhuma is saying, as the next paragraph amply proves, is that one should by all means pray for such a change if one believes one deserves it, because, aware of the *imperfection* of his judgment, God is perfectly willing to right a wrong for which He is responsible!

For so says Jeremiah, "Then I went down to potter's house, and, behold, he was at work on the wheels. And the vessel that he was making of clay was spoiled in the hand of the potter: so he made it again into another vessel, as it seemed good to the potter to make it. Then the word of the Lord came to me, saying, O house of Israel, cannot I do with you as this potter? said the Lord. Behold, as the clay in the potter's hand, so are you in My hand, O house of Israel." (Jer. 18:6).

Says the Almighty to Jeremiah: if a potter can break a cruse after he has made it and make it into something else, can I not do likewise to you O House of Israel!?

Likening Himself to the imperfect, self-correcting potter, the midrash reads God's words to Jeremiah as an owning up to His own imperfection, and admitting that Israel's suffering was a mistake (like a spoiled cruse) that can and should be rectified! This is the backdrop against which the Leah story is presented:

And similarly in the case of Leah, who after bearing [Jacob] six sons, saw prophetically that twelve tribes were to emerge from Jacob. Having born six already, and pregnant for the seventh time, and with the two sons born to each of the two maidservants, ten had already been born. Therefore, Leah stood, *angrily confronting the Almighty*,²⁸ saying: Lord of the Universe, twelve tribes are to emerge from Jacob, of which I have six, and am pregnant for the seventh time, and by means of the maidservants two and two, hence there are ten. If this (unborn) child (I am carrying) is also a son, then my sister Rachel's share will not (even) be that of the maidservants!

The Almighty immediately responded to her prayer and the boy in her womb was rendered a girl ...

And why did she name her (daughter) Dinah? Because Leah *in her righteousness called the Almighty to task!*²⁹

²⁸ The Hebrew phrase is: *amdah Leah ve-haytah mitra'emet lifnei ha-Kadosh Barukh Hu.*

²⁹ The Hebrew reads: *amdah be-din lifnei ha-Kadosh Barukh Hu.*

Leah is depicted as praying, not merely to ask God that the baby she was carrying not be another boy, but demanding it on the basis of a moral calculation; not as pleading for mercy or for special treatment, but as resolutely demanding justice. The beauty of the midrash is that Given the verse in question, the rabbis could have easily had God respond to her (as He responded to Sarah's inner laughter) "Is anything too hard for the Lord?! (Gen, 18:14) Do you think I'm unaware of the numbers?! Of course you're carrying a girl!" But the midrash *chooses* to describe God as having miscalculated, and once proven wrong by Leah, willingly owning up to His mistake and correcting it.

Looking the Mishnah squarely in the eye, the Tanhuma counters with a radically different theology and subsequent radically different halakhic view of retrospective prayers of anguish. The play on words weaved into Leah's choice of name for newborn daughter says it all: "She called her Dinah," states the midrash, "because Leah the *tzadeket* stood in, judgment, *din* of the Almighty". Leah's righteousness (*tzadikut*), implies the midrash, had nothing to do with *justifying* God's *din* (*tziduk ha-din*, as the blessing for the bad is commonly referred to), but with boldly standing up to God and confronting His *din*.

Finally, because the Tanhuma sets forth from a general halakhic question concerning us all, the Leah story is presented, not as an example of her larger-than-life biblical status, but as a religious paradigm of confrontational religiosity for all to emulate!

4. Internal Heresy

The blatantly heretical aspect of the rabbis' confrontational voice is its explicit denial of divine omnibenevolence.³⁰ But there is more to it than that. The denial of divine moral perfection has consequences for prayer and prophecy, to take two obvious examples. It also entails adopting a similar critical attitude toward the (Written) Torah, the halakhic tradition (the Oral Torah), as well as the halakhic authorities. I deal with all these aspects of confrontational religiosity and more, which amount to a full-fledged heretic form of religious life, in my *Covenant of Confrontation*. Here I wish to focus on the one aspect that requires this form of heresy to remain within the fold.

This form of heretic religiosity requires believers to adopt a normative critical stand toward their own normative frameworks; toward their very form of religious life. But this poses a grave problem. The norms we are committed to are the standard by which we hold our world and ourselves accountable. To criticize anything is to expose it as deviating from those standards. How then can we adopt a genuinely critical attitude toward our norms if it is by means of them that we perform such critical assessments?! By appeal to what standards can a normative framework be thought to normatively impeach itself? How is it at all possible to create sufficient critical distance to hold our very commitments in real normative check? (Except, of course, to troubleshoot them for lacking of clarity, coherence, or consistency.³¹) On the other hand, the idea that our deepest ethical, political, religious and scientific convictions are immune in principle to normative self-criticism and rational reform is unthinkable. In recent years my philosophical work has centered around this problem,³²

³⁰ In addition to Weiss (2016) and to a lesser extent Mazeh (2017), Brafman (2024, §4.5) cites some of Weiss's examples to make the point explicitly. None of them, however, go on to explore the form of religiosity to which such atheology gives rise, which I have attempted to do systematically with respect to all four sources of rabbinic Judaism's religious authority in Fisch (2019).

³¹ Which for Brandom (2009) quite exhausts "one's critical responsibility" with regard to the sum total of one's commitments (pp.35-40). McDowell (1994), appealing to Nuerath's image of a boat overhauled while at sea, maintains that one's normative framework can be overhauled piecemeal. Neither approach is satisfactory

³² Especially Fisch and Benbaji (2011) and Fisch (2017, prt.II).

criticizing the few attempts to solve it,³³ the many who ignored it or deemed it unsolvable,³⁴ and proposing a solution of my own.³⁵

In a word, although it is indeed impossible to normatively self-critique the norms we are committed to merely by talking to ourselves, normative criticism leveled at us from without by trusted critics committed differently, I have argued, can at times destabilize our commitment to them sufficiently to do so. Exposure to external critique has the power to render us normatively *ambivalent* toward those of our norms they challenge—of something we are incapable of achieving alone.³⁶ I have likened the effect to the way a recording device or close circuit TV can enhance self-criticism by allowing us to briefly perceive ourselves as others do, something we can never achieve unassisted.

The upshot is that we can live up to our full rational capacity only if we actively seek the challenging normative critique of others; real others who do not share the commitments that they challenge. This is a powerful pluralistic argument in favor of normative diversity and the value of otherness. However, the only large-scale human undertaking of which I am aware that is explicitly aware, and explicitly endorses this argument as its master epistemological norm, is the rabbinic literature of late antiquity, although it is attributed only to the “Hillelite” voice it contains. Let me briefly explain.³⁷

The rabbinic literature of late antiquity comprises two main undertakings: exegetical and legal or halakhic; and is split diachronically between two synchronically flattened “generational” strata: Tannaitic and Amoraic. The Tannaitic period spans five generations of Palestinian sages from the destruction of 70 CE to the redaction of the Mishna 180 years or so later; the Amoraic period, seven generations of Palestinian and Babylonian sages from around 250 CE to the end of the fifth century. Their exegetical undertaking comprises all midrashic compilations: from the halakhic *midrashim* of the Tannaitic period, to the last of the aggadic *midrashim* of the centuries that followed, as well as the numerous passages devoted to scriptural exegesis in the two *talmudim*.³⁸ The rabbi’s halakhic enterprise commences in the Mishnah and Tosefta—the thematically ordered corpora of Tannaitic rulings—and culminates in the two great Amoraic commentaries on the Mishnah—the fifth century Jerusalem Talmud, the Yerushalmi, and the Babylonian Talmud, the Bavli, redacted a century or so later.

The rabbis’ vast midrashic literature takes its scripture with utmost seriousness, attending to every gap, and seeming irregularity. It does so by means of a broad array of contrasting readings of almost every biblical phrase it addresses, but without ever singling out any one of them as obligatory or binding. The rabbis unanimously deem scripture to be God’s revealed word, yet their attempts to read it are never taken to yield its one God-given Truth. This strange combination of dead seriousness, and exegetical attention to detail and decided reluctance to ever adjudicate exegetical disputes cannot be taken lightly. It bespeaks a model or ideal of Torah-study very different from what one would expect of a religious canon.³⁹

³³ E.g. Taylor (1989, prt.I ch.3), Korsgaard (1996, ch.3), Freidman (2001, prt.I), Jaeggi (2018)

³⁴ Chief among the latter Kuhn (1962), Wittgenstein (1972), and Rorty (1989).

³⁵ Fisch and Benbaji (2011, ch.8), Fisch (2017, ch.2).

³⁶ In recent years, this account of the transformative potential of inter-subjective dialogue (as opposed to the inherent limitations of intra-subjective deliberation) has begun to inspire attempts to explain the dynamics of psychotherapy. For two significant examples see Aron 2017) and Zaidel Aboody (2023).

³⁷ For fuller versions of the argument see Fisch (2019, ch.1), (2020b), and (2025, lect.3).

³⁸ See n.1 above.

³⁹ Which in at least one extraordinarily pregnant passage (in the prolegomena the Amoraic compilation Song of Songs Rabba) it makes explicit. For close readings of that rare text see first Boyarin (1990, chs. 5 and 7), but especially Fisch (2020b, 34-39)

To receive and study Torah, it more than implies, requires its human recipients to form an opinion of its meaning by casting it in their own words. Many tend to fall submissively silent in the presence of the holy and to accept God's Word in mute surrender. For them, receiving Torah is not an invitation to engage in dialogue, but to wordlessly receive a divine dictate. The conceit that God's word is so lucidly given that our sole duty is to obediently comply, ignores everything this remarkable literature presupposes about the linguistic basis of all human comprehension and how thoroughly steeped our languages are in the contingent diversities of our lives and circumstance. The idea that Torah was given once and for all, framed in words that allow every person, everywhere and for all time to univocally fathom its message and vouch for its absolute timeless certainty, is diametrically at odds with the entire rabbinic exegetical enterprise that thrives on a wholly unadjudicated plurality of profoundly diverse and disputing voices.

And the same goes for the rabbis' halakhic undertaking. The law cannot remain diversified, and *requires* deciding at any one time, but those very decisions will inevitably be understood differently. The Tannaitic halakhic corpora, the Mishnah and Tosefta, represents the rabbis' halakhic enterprise point of departure in deciding every issue they raise, while recording dissenting minority opinions. But it culminates three centuries or so later in the Bavli, on all accounts, the crowning achievement of the Talmudic era, and in a way that goes an important step beyond rabbinic midrash.

For one thing, unlike any other rabbinic work (except to a much lesser extent the Yerushalmi) the Bavli is thoroughly dialogical; framed not merely as a register of diverse Amoraic understandings of the Tannaitic rulings it comments on, but as an endless series of keenly reasoned dialogical exchanges between the disputing Amoraic parties, in the course of which their initial positions are deepened and transformed.

The Bavli is meticulously edited. Both its discursive vocabulary and narrative style are extraordinarily uniform. But what attests most significantly to its careful framing, is that the dialogues it narrates are knowingly *fabricated*. Seven generations of Amoraic sages who functioned in a broad array of different Palestinian and Babylonian centers of learning, are flattened synchronically and geographically by the Bavli's framers, and are "made" to address and keenly argue with each other devoid of diachronic ranking, as if occupying one vast timeless study hall.

Finally, quite unlike its Tannaitic forebears, the Bavli leaves its relentless halakhic dialogical engagements with the Mishnah, *wholly undecided*—voicing a decision only in the rare cases in which consensus happens to emerge. The Bavli thus stands to Tannaitic halakha as the midrashic literature stands to the Biblical text, displaying in detailed dialogical form, the very same unadjudicated diversity of halakhic opinion and system.

But to what end? It clearly reads the Mishnah as conveying to its readers how each generation of halakhists should pass its rulings on to its successors. And by the same token, seems clearly to view itself as conveying to *its* readers how each generation of halakhists should *receive* the Torah of its forebears—not as a dictate, but as subject to fierce and ruthless debate.

Still, the enormous effort invested by its framers in casting Amoraic halakhic disagreement in horizontal dialogical form, requires explanation. A well narrated account of how each Amoraic sage understood each Mishnaic ruling would have sufficed to paint a vivid picture of the diversity of Amoraic halakhic understanding. Why was it so important for the Bavli framers to imagine the disputing partners arguing with each other in such rigorous detail? What is the dialogical dimension of the reception process meant to add? It is clearly not a mere literary device as in the Platonic dialogues. Talmudic dialogue is not circus-meistered by a Socratic figure to produce inevitable conclusions. What is its point?

The Bavli has little to say about why it does what it does, but, as I have shown in former work,⁴⁰ in one of its best known, yet, again, less appreciated moments, it offers an insightful glimpse of what moved its framers. I am referring to legend of the two Houses related in Bavli, *Eruvin* 13b. The much-cited passage contrasts three very different meta-halakhic positions. First, that of the great Tannaitic

⁴⁰ n.36 above.

sage, R. Meir who is described as deliberating halakhic issues *disputatio* style, in an attempt to represent all sides of the debate. His approach is firmly rejected in favor of doing so by means of real, rather than imagined dispute. None can defend a position better than someone truly committed to it, the passage implies, just as no one can criticize it more keenly than those who truly oppose it. You can't get very far by talking to yourself, the Bavli implies.

The deeply divided Houses of Hillel and Shammai are then introduced as the paradigm of real halakhic and meta-halakhic dispute: each demanding that law be decided according to them. Until a heavenly voice issued forth ruling enigmatically that while both are to be considered “the words of the living God”, halakhic decision making is nonetheless to “follow the House of Hillel”.

The first part of the Heavenly ruling is understandable. If halakha is best developed in conditions of real disagreement, a plurality of diverse opinions must be both valued and ensured. Hence the need to deem all parties to the debate equally viable. But for halakha to benefit from debate, energetic disagreement is not enough. For dispute to have an impact at least one of the parties must be willing to change its mind in the face of counter-argument. This, the Talmud goes on to explain, is why the Hillelite approach merited heavenly endorsement.

Which brings me to my main point. The Hillelite position is endorsed, the Talmud explains, because, unlike the Shammaites, they were both *nohin* and *aluvin*, which in Talmudic Hebrew means both flexible, as opposed to dogmatic—namely, wary of being wrong and willing to change their mind—and, knowingly coupled to their flexibility, willing to be insulted—namely, to be proven wrong by others; not only flexible but open to criticism. As I explained above, it is one thing to be willing to admit being wrong, and quite another to realize how hard it is to gain a critical grip on one's own heartfelt commitments. The Hillelites, the Talmud explains, wouldn't only hear their rivals' arguments but took them more seriously than their own—to which the Yerushalmi perceptually adds: “And they would [often] see the Shammaites' point, and retract their own position.”

To side with the Hillelites is to realize the severe limitations of *self*-criticism, and to recognize the need, therefore, for the kind of potentially transformative challenge only a real and equally dedicated opponent can provide, *and to actively seek such engagement*. Most significantly, the so-called “Houses” of Hillel and Shammai are not schools of halakhic thinking, but bearers and transmitters of Shammaite and Hillelite halakha. While the Shammaites, neither flexible nor open to criticism, prove to be committed to exposing, articulating and transmitting their halakhic legacies, yet powerless to criticize, adjust or change them, the Hillelites see themselves as obligated to adopting a critical, reformative stance toward them. Realizing their relative ineffectiveness as critics of their own form of life, they enlist the opposition by actively seeking exposure to horizontal normative criticism from without in order to create sufficient critical distance from their vertical commitments, which, as we have seen, is impossible to accomplish alone!

This portrayal of the two Houses, their heavenly acknowledgment as equally viable, while endorsing the Hillelite position, hence provides an insightful key to how the Bavli understood its halakhic undertaking—precisely because the Houses stand to their halakhic legacies as the Bavli stands to Tannaitic halakha. Shammaites submit *to* the vertical to press the halakhic tradition into the service of human self-critique. Hillelites, by contrast, and with them, I believe, the Bavli's entire halakhic undertaking, keenly expose themselves horizontally to the normative critique of others, in order to press it into the service of submitting their halakhic traditions to *their* critique along the vertical!

The Houses' dispute regarding the religiously appropriate stance to adopt with respect to one's halakhic traditions—submissive compliance, as the Shammaites would have it, or confrontational critique, as would the Hillelites—is first and foremost a forerunner of the larger, and far more radical picture I have painted of the Talmudic literature's dispute of religiosity. But viewing the Bavli's insistent non-Socratic dialogism as a necessary component of “Hillelite” confrontational religiosity, without which adopting such a position is impossible, explains why such heretical religiosity *cannot but be* internal and connected!

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