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A RESPONSE TO MENACHEM FISCH'S "BERAKHOT 19B: THE BAVLI'S PARADIGM OF CONFRONTATIONAL DISCOURSE"

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It is an act of notable courage to announce that one has found an esoteric tradition which has been hiding out in the open for a millennium or so, yet nobody has noticed it. It is an impressive act of scholarship to forcefully and articulately argue for that position. So I begin with expressing my appreciation for Menachem Fisch's courage and scholarship. In my comments I will focus on two issues. The first is the dichotomy Fisch proposes between traditionalism and anti-traditionalism. Deconstructing such dichotomies is the grist of the post-modern mill, so I put my shoulder to the stone. The second issue is the status of variant readings in analysing *sugyot*, here and elsewhere. I will take up the question: Is there a purpose for examining manuscripts aside from trying to get to *the original, true sugya*?

I.

What is Rav doing in the statement attributed to him by R. Yehudah, which is the focus of Fisch's paper? I will claim that Fisch glosses over the part of Rav's statement which would blur the boundary between traditionalism and its opposite. In a footnote, Fisch raises the possibility that the prooftext which answers the *mai ta'ama* ("what is the reason?") question might not be part of the original statement, but rather an intervention on the part of the *stam*. Rejecting this, Fisch correctly (to my mind) asserts that the prooftext is part of Rav's statement. This assertion is backed up by the evidence of the manuscripts which don't have the *mai ta'ama* and instead have the more commonly midrashic introductory term *shene'emar* (for it is said [in Scripture]). Fisch, however glosses over the midrashic reading itself. The verse in Proverbs which Rav reads midrashically in order to claim that "wherever a profanation of God's name is involved no respect is paid (even) to a teacher" is translated as follows: "There is no wisdom nor understanding nor counsel against (*neged*) the Lord." In its scriptural context, this means something like: no evil person can outsmart God. In the end evil people will be punished. Rav's midrashic reading, however, first presses on the word *neged* /against to develop a sense of opposition, which is taken with respect to God to mean profanation. The midrashist then asks what is meant that there is no wisdom, etc. against God? The answer is Rav's midrashic reading: "wherever a profanation of God's name is involved no respect is paid (even) to a teacher (i.e. a person of wisdom)."

Is Rav's midrashic reading traditional or anti-traditional? On the one hand he is claiming that his own ruling is founded upon or based in a verse from the Torah. This is probably the most traditional claim that exists. On the other hand, the reading interprets the words in a manner contrary to the contextual meaning of the verse. Undermining the meaning of the central sacred text of the tradition would probably rate as anti-traditional. This method of paying homage to a scriptural text in the act of transforming its meaning is explicit over and over again in midrashic readings. Indeed, the most "radical" midrashic readings are

often those introduced by the phrase “if it had not been an explicit verse it would have been impossible to say it.” What usually follows this type of introduction is a *midrash* which doesn’t change any of the words of the verse (although it often changes the vocalization of the words), but nonetheless radically changes the meaning of the citation from its meaning in its original context.

An illustration of this type of midrash is found in B. *Megilla* 21b. In commenting on the Mishna’s assertion that the megilla is read either when standing or sitting the *gemara* has the following:

It is taught: “This is not the case with [reading the] Torah. (i.e. the Torah can only be read when standing.” How do we know this? Said R. Abbahu: “For Scripture says: “But as for thee, stand thou here by Me, [and I will speak unto thee all the commandment, and the statutes, and the ordinances, which thou shalt teach them, that they may do them in the land which I give them to possess it.]” If it had not been an explicit verse it would have been impossible to say it, *kivyachol*/it is as if even God was standing.

R. Abbahu reads Deuteronomy 5:25 midrashically against its contextual meaning by pressing on the word *amod*/stand/remain (NJPS: “remain here with me”) to invoke an anthropomorphic image of God standing next to Moshe as God reads/teaches the Torah. This radical image of God is introduced as if it is explicitly stated in the verse, to the extent that the *midrash* is not introduced in order to show the intimacy of God standing next to Moshe, but rather to prove that even God stands when reading Torah. Is this then a traditionalist or anti-traditionalist reading? On the one hand R. Abbahu firmly states his fealty to Torah and that he wouldn’t make this claim without support from Torah. On the other hand his support from Torah is a midrashic reading which goes against the grain of the contextual meaning. It is undermining both the contextual meaning of the verse and what might be considered a theological truism also found in Deuteronomy (4:12): “you heard the sound of words but perceived no shape-nothing but a voice.”

This hermeneutic is not applied to the Torah alone. The Mishna itself is read “midrashically” by the Talmud (under the guise of various Sages or the *stam*). When the Talmud claims “*chisurei mechasra vehachi katani /*

[the Mishna] is missing [a phrase] and thus it teaches," more often than not this device is used to introduce a law which would harmonize a contradiction between two other laws, or between a law and a precedent-story. The claim is that this is *really* what the Mishna says. The result is *changing* what the Mishna says. (The same is true of the introductory term *chada ve'od katani* / [the Mishna actually] taught one [law] and [implied or intended] another.)

The *stam* will use more familiar midrashic techniques (close reading/*diyyuk*, inclusive reading/*ribbui*, etc.) without the introductory terms to undermine/change and at the same time support the authority of the Mishna (or their own authority by way of the authority of the Mishna). A nice and short example of this type of midrashic reading is the first *stammaitic sugya* in the fourth chapter of Bavli *Gittin*. The Mishna discusses the case of a man sending his wife a writ of divorce through an agent and the possibility of canceling the writ. The Mishna begins as follows:

If one sends a writ of divorce (*get*) to his wife, and he overtook (*vehigi'a*) the messenger

The *stam* comments as follows:

[The Mishna] does not say 'overtook *him'* (*higi'o*), but simply overtook (*higi'a*), that is to say, even accidentally; and we do not say in that case that he merely desires to trouble his wife.

Here the *stam* is using a *diyyuk* or hyper close reading to say that the term "overtook" includes even accidental overtaking. However, this legal distinction is based on no real grammatical distinction. There is no difference in meaning between *higi'a bashaliach* and *higi'o bashaliach*. In point of fact, the actual language of the Mishna is more appropriate, the "corrected" version having an extra and redundant pronoun. This however is a common midrashic technique. Since there is a hypothetically possible way of writing this otherwise, the *stam* takes the fact that it was not written in that way to be significant. The significance, says the *stam*, is that even accidental overtaking is included.

Is this traditional or anti-traditional? Again, the claim is that this is what the Mishna *actually* said. In practice a new law, or a new legal twist,

is being added to the Mishna, despite having no other explicit Mishnaic basis. It is, therefore, hard for me to sort out what traditionalism and anti-traditionalism are in the Talmud. There are some explicit statements of wariness with innovation. In Bavli *Gittin* 37a, R. Yochanan develops an innovative ruling but does not refuse to decide an actual case based on this, declaring: “Just because we theorize [medamin] should we practice?” However, in a related statement in Bavli *Baba Bathra* 130b, R. Yochanan himself says that it is only his students who must be wary about putting his rulings into practice, implying that he would put his own innovation into practice.

There are also explicit statements about authority. “A court might not overrule the ruling of another court unless it was greater than it in wisdom and number” (Bavli *Gittin* 36b). The medieval commentators have already pointed out that this is usually followed in the breach. (Actually, what they do is point out all the rules that serve as exceptions to this one.) On the other hand there are explicitly innovative, even radical legal pronouncements which are made without apology. A shining example is also from Bavli *Gittin* just before the last example (*ibid.* 33a). The *stam* there declares, without relying on any prior authority, that all marriages are done at the pleasure of the Sages and therefore Sages might annul them. Dividing all this up into traditionalism and anti-traditionalism is just too neat a package.

II.

For this next part I must put on for a moment my curmudgeonly and most definitely modernist Talmudist hat. It will be, hopefully, only for a moment. Fisch’s argument centers on the relationship between the Mishna at the beginning of the second chapter of *Berachot*, the *beraita* at the top of Bavli *Berachot* 19b, and the statement attributed to Rav by R. Yehudah. More specifically, “if the Mishna is taken to assert that respect for the dead is to override all religious duties, and if the *beraita* is supposed to imply that in this respect the dead and the living are analogous, then Rav’s ruling squarely contradicts them” (Fisch 11). This is, for Fisch, supported by the fact that “although various of [sic] aspects of human dignity are discussed

in some detail, the word “respect” itself is never specifically associated with the Mishna or the above-quoted *beraita*” (Fisch 10).

Two problems arise. First the overwhelming majority of manuscripts do not have the phrase “all precepts laid down in the Torah.” Most manuscripts only have the saying of the *Shma* and the laying of *tefillin*/phylacteries. Second, in many manuscripts (Munich, Paris and see *Dikduke Soferim*) and as referenced by many medieval commentators (Alfasi, Rabbenu Asher and others), R. Yehudah’s opinion in the *beraita* is as follows: “Those who come on account of the mourner are exempt, [those who come] on account of respect (*mechamat kavod*) are obligated.”

If the Mishna is only referring to a certain specific small group of *mitzvot* (the ones recognized as representing acceptance of the yoke of Heaven), this might very plausibly be an exception to Rav’s rule. Another possibility is that Rav’s rule may never have been intended to cover these since in this situation this might not have constituted a profanation of God’s name. It is certainly not the case that Rav’s ruling squarely contradicts it. Further Rav’s statement is situated so as to pick up on the language of respect in R. Yehudah’s statement in the *beraita*. The manuscripts have no separation between the *beraita* and R. Yehudah’s statement in the name of Rav. Even in the 16th-century *editio princeps* of the Bavli there is still no definitive (separation i.e. the famous “two dots” of the Vilna edition) between the *beraita* and R. Yehudah’s statement in the name of Rav. What then is the status of a reading of the printed edition?

It is not completely rare to find a variant reading which carries with it an argument about the text, or a textual tradition which competes with the original. For example, on Bavli *Berachot* 3a the printed edition of the text reads:

The night is three watches,
and at each watch, the Holy One of Blessing sits
and roars like a lion
and says: Woe to the children, for as a result of their sins I have
destroyed My house and burnt My temple
and exiled them among the nations of the world.

The manuscripts however have:

and says: Woe to me, for I have destroyed My house
and burnt My temple and exiled them among the nations of the world.

A pious copyist, unable to deal with a picture God who mourns His own act of destroying His house and temple, writes of a God who destroys His house and temple as a result of the sins of His children. This example and others show that often a variant is not a scribal "error". It often points to a different textual tradition. Could it be then that there is rather a traditionalist and an anti-traditionalist "reading/transcribing" of this *sugya*?