DIVORCE AND EXILE IN AGGADIC LITERATURE

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ABSTRACT

Since the early Middle Ages, the development of Jewish law has relied almost exclusively on the legal, halakhic\(^1\) statements contained in classic Rabbinic literature found primarily in the Babylonian Talmud.\(^2\) Rabbinic literature also consists of narrative material known as Aggadah. The term Aggadah refers to the range of genres that includes stories, philosophy, wisdom, folklore, rabbinic biographies, history, moral exhortation, theological speculation and anything not strictly speaking legal in nature.\(^3\) This does not mean that Aggadah lacks legal significance. The precise nature of Aggadah and its authority within the Jewish legal framework has been debated by Rabbinic scholars for centuries.

This thesis is about the relationship between literary discourse, intertextuality and Aggadah in the Babylonian Talmud. I will concentrate on an analysis of the aggadah in the Babylonian Talmud in Tractate Gittin 6b. Tractate Gittin is the tractate in the Mishnah and the Talmud devoted to the laws of divorce. I will engage the material both within the aggadah and with its intertextual linkages. This study will focus on the ways that the literary rhetoric of the aggadic narrative in B. Gittin 6b conflates the themes of marriage and divorce with the covenantal relationship of God and the Jewish people. The intertextual analysis will disclose the characteristics and traditions of the emerging Babylonian Rabbinic culture that

\(^1\) Halakhah literally means “the way.” The word refers to the body of Jewish law or to a specific legal ruling.

\(^2\) Talmud literally means “learning” or “teaching”. The Babylonian Talmud was compiled between the third and the sixth or seventh centuries C.E. by Rabbinic scholars in Babylonia or Sassanian Persia which spans present day Iraq and Iran. The Babylonian Talmud, also referred to as the Bavli, contains about 2.5 million words and is more authoritative than the smaller and less highly edited Palestinian Talmud compiled in Palestine not later than the second half of the fourth century C.E. The Palestinian Talmud is also referred to as the Talmud of the Land of Israel, Talmud of the West, Jerusalem Talmud or the Yerushalmi. When Talmud is cited without specification, the Babylonian Talmud is usually meant. In this thesis, BT and B. will indicate the Babylonian Talmud.

\(^3\) Aggadic stories are primarily contained in the Midrash and the Jerusalem and Babylonian Talmuds.
are portrayed within the aggadic discourse, and will reveal that the concepts of divorce, violence and exile are thematically intertwined in the aggadah.

Halakhah is often contextualized in opposition to Aggadah. The findings of this study will unsettle this opposition and reveal that halakhic passages are found within the aggadic discourse and that there is no distinct demarcation separating the halakhic material from the aggadic discourse.

The modern and contemporary periods have witnessed an increased academic interest in the Talmud and in the role and nature of Aggadah as a distinct type of literary discourse. The goal of the first part of this thesis is to review the position of Aggadah within classic Rabbinic discourse. I will also identify contemporary Talmudic scholarship and evaluate and critique the methodological approaches applied in the pursuit of understanding the discourse of Aggadah. I will discuss the impact of source and form criticism, literary analysis and intertextuality on Talmudic studies in general and the usefulness of these methodologies for informing meaning in the Aggadah.

In the second chapter of this thesis I will provide a background to the laws of divorce which are contained in tractate Gittin and I will explain the methodology that I will employ in my analysis. I will then engage in a close linear reading of the narrative in B. Gittin 6b. In the last chapter an intertextual reading will uncover latent rhetorical and historical layers and reveal a structure to the narrative that is independent of its linear flow. The conclusion will summarize the findings of this study.
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CHAPTER I

There is no consensus regarding the historic role of Aggadah within classic Rabbinic Judaism. Jeffery Rubenstein contends that “the aggadic traditions carried much less authority than halakhic dicta.”¹ The reality of the relationship between the two literary categories, Halakhah and Aggadah, is actually more nuanced and complex than Rubenstein’s statement indicates. Aggadah by its very nature consists primarily of non-legal discourse. It is less likely, therefore, that Aggadah would be taken into consideration when determining legal questions, and more likely that Halakhah will be utilized to answer such questions. This does not mean that the Aggadah has not played a role within Jewish legal culture.

Judah Goldin assumes that aggadic literature never constituted the major course of study among Rabbinic sages.² Goldin maintains that an ancient move to conceptualize Aggadah in opposition to Halakhah is reflected in midrashic statements, in which the study of Aggadah is never mentioned prior to the study of Halakhah. In a statement in the Midrash, a second generation Palestinian amora,³ R. Isaac bar Phineas, portrays the study of Halakhah as meritorious and does not even mention the study of Aggadah.⁴

¹ See Jeffrey Rubenstein, The Culture of the Babylonian Talmud (Baltimore: John Hopkins University Press, 2003), 6. Rubenstein cites Yaakov Elman, “How Should a Talmudic Intellectual History Be Written? A Response to David Kraemer’s Responses” JQR 3-4 (1999): 361-86 as the source for his claims that Aggadah carried less authority than Halakhah. It does not appear to me that Elman discusses the issue of the authority of the Aggadah in his article at all.


³ Amora (plural amoraim) refers to the Rabbinic sages of the post-Mishnaic era from either Palestine (third to fourth century C.E.) or Babylonia (fourth, fifth or sixth century C.E.). Their period is the amoraic period. Their traditions are found in the gemara sections of the Jerusalem and Babylonian Talmud.

R. Isaac’s comment provides the basis for Goldin’s claim that a tension between the importance of the study of Halakhah and Aggadah began in the tannaitic era; however, it may not be methodologically sound to conclude that R. Isaac’s statement reflects the actual historical situation regarding the status of Aggadah during tannaitic times. Several contemporary scholars have demonstrated that Rabbinic attributions cannot necessarily be considered historically accurate since many Rabbinic statements were attributed to earlier sages retroactively. Goldin is making an argument from silence; there may be other reasons why Aggadah is not mentioned in the statement by R. Isaac. By Goldin’s own admission, third generation amoraic Rabbinic sages were known for being aggadic experts.

There was a growing trend to contextualize Aggadah in opposition to Halakhah during the Middle Ages. Goldin attributes this to the influence of rationalism, the “dominant intellectual persuasion” of that era. According to Marc Saperstein, the uneasiness with the Aggadah among Rabbinic sages in the Middle Ages also stemmed from the attacks upon the Aggadah by the Karaites and the anti-aggadic polemic found in Islamic and Christian literature.

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5 Goldin, “Haggadah,” 69. Tannaitic era refers to the traditions of the sages in the Land of Israel from the first two centuries C.E. Their traditions are assembled in the Mishnah, Tosefta, Tannaitic Midrash and in Baraitot.

6 See Rubenstein, Culture of the Babylonian Talmud, 6, and Talmudic Stories (Baltimore: John Hopkins University Press, 1999).

7 See Goldin, “Haggadah,” 58, 70 n. 10 and n. 11. In Genesis Rabbah 3: 4, R. Simeon bar Yehozadak, a third generation amora, mentions to R. Samuel bar Nachman that he has heard that R. Samuel is a master of Aggadah. According to B. Bava Qamma 55a, Joshua ben-Levi is known as an expert in Aggadah. In B. Mo’ed Qatan 28b, R. Tarfon states that the tanna R. Ishmael is an expert in Aggadah.

8 Goldin, “Haggadah,” 60.

9 The Karaites were adherents of a Jewish sectarian movement that challenged the authority of the Talmud and the Babylonian sages.

10 See Marc Saperstein, Decoding the Rabbis. A Thirteenth-Century Commentary on the Aggadah (Cambridge and London: Harvard University Press, 1980), 1-20. “Probing the Talmud for weakness, the Karaites found the
In the tenth century, the Rabbinic sage, Saadia Gaon of Sura (882-942 C.E.), issued the ruling according to which one may not invoke Aggadah as support for certain views. In the eleventh century Hai Gaon writes: "Know ye (or know thou) that aggadic sayings are not like a received tradition; they are simply what an individual expresses of what occurs to him personally." The term "received tradition" refers to the claim found in the BT and other early Rabbinic sources which states that all Rabbinic teachings in addition to the five books of Moses were revealed to Moses at Mt. Sinai - (abbreviated HLMM).

Christine Hayes conducts a thorough analysis of all the occurrences of the term in the Mishnah, Tosefta, and Palestinian and Babylonian Talmuds. This article demonstrates that shifts in the understanding of the essence of the Aggadah to be a particularly vulnerable spot through which their barbs could penetrate the heart of Rabbinic hegemony" (1).


12 Goldin, “Haggadah,” 59. See Michael S. Berger, Rabbinic Authority (New York: Oxford University Press, 1998) 164. Berger claims that Hai Gaon’s views of Aggadah are shared by Maimonides. Saperstein, Decoding the Rabbis, 11-20, also discusses Maimonides’ views of Aggadah. According to the comments made by Saperstein it appears to me that Maimonides’ opinions of Aggadah were more complicated and nuanced than is evident from the statement that Berger makes. Saperstein suggests that Maimonides was acutely aware that a Rabbinic stance that did not consider Aggadot to be authoritative would open the Rabbis to attacks from within and without the Jewish community. Those opponents would claim that if the Aggadot are not considered authoritative how can the halakhot be authoritative. Maimonides reinterpreted Aggadot to reflect his world view as a medieval religious philosopher. In this way, Saperstein claims, Maimonides was able to speak through the word of the sages even though the early Rabbis would hardly have recognized Maimonides’ interpretations as their own.

13 The Mishnah is the most authoritative collection of tannaitic legal traditions and the first canonical work of classical Rabbinic Judaism. It was probably edited ca. 200-220 C.E. It is mostly in Hebrew and contains statements from the tannaitic Rabbinic sages of the land of Israel from the first two centuries C.E.

14 The oldest collection of tannaitic statements not contained in the Mishnah is that of the Tosefta.

conception

Hayes applies a source critical analysis which reveals that HLMM is in some cases cited as an absolutely authoritative justification for law, and at other times it is open to dispute and can be set aside or overruled.\textsuperscript{16} It might also detail the proper way to observe a particular Halakhah or explain an aggadic tradition.

Goldin claims that Hai Gaon’s ruling that Aggadah does not constitute the traditions received from Moses at Sinai, but that Halakhah does, is a continuation of the view that Aggadah is less important than Halakhah. Goldin believes that this view originated in tannaitic times in Palestine.\textsuperscript{17} The study by Hayes contradicts the conclusion reached by Goldin that the move to contextualize Aggadah in opposition to Halakhah existed continuously from tannaitic times to the Middle Ages. Hayes conclusively demonstrates that according to Rabbinic texts the understanding of what constituted “received tradition” underwent changes over time, and that “received tradition” was sometimes employed as a justification for Aggadah as well as Halakhah.

In contrast to Goldin’s views, Joseph Heinemann contends that halakhic and aggadic thinking are found together in intimate coexistence in the Jerusalem Talmud, the BT and in the Halakhic Midrashim, which indicates to him that a close link existed between Halakhah and Aggadah in ancient times.\textsuperscript{18} Whereas Halakhah must be fixed and reliable in order to determine legal questions, the Aggadah is fluid and open, with a spirit of creative

\textsuperscript{16} Hayes, “Halakhah le-Moshe mi-Sinai,” 74.

\textsuperscript{17} Goldin, “Haggadah,” 60.

independence.\textsuperscript{19} “Aggadic thinking nourishes the Halakhah, and Halakhah, in turn, gives Aggadah a kind of permanency by evolving from it legal norms.”\textsuperscript{20} Heinemann concludes that the sages who were famous as creators and transmitters of Halakhah were also aggadists, and only a few of the greatest amoraim in Babylonia expressed reservation regarding “the fertile imagination expressed in the Aggadah.”\textsuperscript{21} Yonah Fraenkel concurs with Heinemann. He claims that Rabbinic texts clearly indicate that Aggadah, no less than Halakhah, was the product of learning in the ancient study house. Aggadah is an integral part of classical Rabbinic learning and should not be dismissed as being marginal or inconsequential.\textsuperscript{22}

While scholars may not agree on what constituted the nature of the relationship between Halakhah and Aggadah during Talmudic times, the rejection of the importance of aggadah by Rabbinic scholars in the Middle Ages has had a profound and lasting impact on discourse in Rabbinic academies, 	extit{yeshivot}, even until today. With few exceptions most Rabbinic academies continue to devote little or no time to the study of Aggadah and concentrate almost exclusively on Halakhah.

A different trajectory has occurred in academic scholarship. The modern and contemporary eras have witnessed a growing interest in the literary discourse of Talmud in general and in Aggadah in particular. The academic study of Judaism began in the nineteenth century with \textit{Wissenschaft des Judentums}. Talmudic scholarship at the time

\textsuperscript{19} Heinemann, “Aggadah,” 49.

\textsuperscript{20} Heinemann, “Aggadah,” 51.

\textsuperscript{21} Heinemann, “Aggadah,” 52.

primarily relied on historical-philological methods. Source and form-critical analysis focusing on tradition history and redactional stages occupied much of scholarship regarding classic Rabbinic texts until the latter part of the twentieth century.

In the early twentieth century, Avraham Weiss attempted a form analysis of the BT in its entirety. He was the first scholar to develop the concept that the Talmud is subject to analysis as a literary text with his notion that a distinct literary formulation can be discerned within the BT. Weiss contributed to our knowledge of distinct forms within the Talmud, including Midrashim, Aggadot and tractates: he documented the characteristics of the basic building blocks of Talmudic literature known as the memra and the sugya.

Weiss is responsible for the term “strata of the sugya,” which he defines as “the segments of the sugya that were created generation by generation.” The term “strata of the Talmud” is Weiss’s conception for “a body of material, homogeneous as to time and place of


26 A memra is a brief amoraic discursive saying or teaching within the Talmud.

27 See Feldblum, “The Talmud: Avraham Weiss’s Views,” 89-95. Sugya literally means “course.” The term refers to a pericope within the Talmud consisting of a few lines of text or several pages. Each sugya begins with an excerpt of Mishnah which is followed by a segment of Gemara. Gemara is an Aramaic word that means “learning.” The Gemara segment is a commentary on and an elaboration of the Mishnah text and often the Gemara discusses a different topic than is covered in the corresponding Mishnah. Gemara is attributed to the Amoraim.
origin...material that is recognizable as forming a stratum in the Talmud that was created at a specific time by a specific individual or school." The recent work of Martin Jaffee calls Weiss’s findings into question. Jaffee concludes that Rabbinic literature included oral and written transmission of material with little discernible difference between them, making it impossible to identify the original form of a Rabbinic tradition. “The continuous loop of manuscript and performance had no ground-zero at which we can isolate an oral text or (literary) tradition as fundamental.”

Avraham Weiss did not subscribe to the opinion that there was a final redaction, or a redactor of the BT. The culture of Rabbinic learning was viewed by Weiss as consisting of an identifiable and a traceable process involving continuous development beginning with sayings taught by the first generation of amoraic sages to their students or peers. These statements circulated and continued to develop until the Geonic period resulting in the content found in the BT. Although some of Weiss’s findings have been challenged by later scholars, his research represents an important first step in Rabbinic studies and paved the way for others to build on his work.

Jacob Neusner’s documentary theory contradicts Weiss’s view that a final redaction of the BT did not occur. In his voluminous writings, Neusner’s documentary theory makes the claim that Rabbinic texts are independent wholes and therefore we only have access to

28 Feldblum, “The Talmud: Avraham Weiss’s Views,” 126 n. 32.


30 See Feldblum, “The Talmud: Avraham Weiss’s Views,” 116 and Cohen, Rereading Talmud, 1998: 2. Weiss disputes the formerly held opinion that Rav Ashi was the redactor of the Talmud.

31 The Geonic period extended from approximately 750 to 1038 C.E.

what is attested by redactors in the final documents of Rabbinic literature. Each document must be understood on its own terms and as such can only impart reliable information about the redactor of the text. The documentary theory raises many methodological issues. An underlying assumption of the documentary theory is that redactors have edited Rabbinic traditions to such a great extent that the traditions are unified regarding issues important to those redactors. The documentary theory, however, cannot account for the fact that Rabbinic texts demonstrate a predominant tendency to present heterogeneous views on most issues. The heterogeneity found in Rabbinic sources suggests to many scholars that the process of redaction did not impose ideological unity or destroy distinctive elements of various traditions. It does not appear that redactors exercised the all-encompassing editorial control over the texts that the documentary theory assumes. The Synoptic Problem in Rabbinic Literature, edited by Shaye Cohen, contains six articles that critique Neusner’s documentary hypothesis. The analysis in this book further dispels the documentarian notion that redaction flattens source materials. Robert Goldenberg avers that Neusner’s approach treats Rabbinic documents solely on the redactional level with no serious regard for earlier sources found within a particular text or for parallel sources found in other compilations. Shaye Cohen


34 There are numerous critiques of Neusner’s documentary theory. See Elman, “How Should a Talmudic Intellectual History Be Written?”

adds that the documentary theory does not take into account the reality that “much of Rabbinic literature is as synoptic as Matthew, Mark and Luke; because of their extensive parallels in structure, content, and wording, Rabbinic texts should be “seen together.”37 Viewing Rabbinic texts synoptically presents different issues than those which face Gospel scholars. While the Synoptic Gospels are more or less contemporaneous within a few decades, Rabbinic literature spans several centuries. Parallel narratives in different texts are likely to have undergone a certain degree of redaction.

Form analysis of Aggadah, involving the identification, characterization and synoptic comparison of units of aggadic discourse, has been conducted by a number of scholars. The doctoral thesis of Dan Ben-Amos isolates narrative forms in aggadic folk literature and applies a structural analysis to them.38 Utilizing techniques devised for the study of folk literature, Ben-Amos refines the enumeration of functions presented by Propp in *Morphology of the Folktale*, 1968.39 The stability of patterns in different aggadic stories and the variability of the content of the stories are treated in this study covering the genres of legend, tall tale, fable, exemplum and riddling tale. In his conclusion, Ben-Amos discusses the problems connected with determining the historicity of Aggadot. He suggests that a formal structural analysis of Aggadot can uncover the unique information in the stories which is more likely to be historically accurate than the recurring information.

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Eli Yassif’s suggestion that the “story cycle” is a frequently occurring literary phenomenon in the Talmud and Midrash makes a valuable contribution to the scholarly understanding of Rabbinic aggadic discourse. A “story cycle” occurs in the Talmud and Midrash in places where an uninterrupted cluster of tales is sequentially told. A central theme emerges based on the accumulated meanings and impressions of all the stories taken together. For Yassif, the “story cycle” is crucial to the understanding of the art of Rabbinic story telling. Yassif views the cycle itself rather than the individual stories as the important phenomenon. He defines over forty such cycles, including one concerning the destruction of the Second Temple found in a collection of stories extending from BT Gittin 55b to 58a. Avraham Weiss also determined that Gittin 55b-58a contains a distinct set of “Aggadot on the Destruction.” Yassif’s unique contribution is his notion that the redactors of Rabbinic literature displayed a tendency to present tales in narrative clusters.

Another example of a form-critical study of Rabbinic literature is the work of Henry A. Fischel, which examines forms of discourse which are common to Greco-Roman and Jewish thought. Fischel concentrates on finding Hellenistic literary forms that are equivalent to the stylistic elements in Rabbinic literature. Jeffrey Rubenstein determines that Fischel’s studies indicate numerous stunning parallels between Greco-Roman stories, chriae, and

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41 See Yassif, *Hebrew Folktale*, 211.


Rabbinic Aggadah. The following characteristics of *chriae* are the same elements that Rubenstein finds in many Rabbinic stories. *Chriae* emerged from the Greek schools of philosophy and rhetoric which were similar in structure to the Rabbinic academies in Babylonia. Parallel master-disciple relationships existed in the Greek schools and in the Babylonian Rabbinic academies. As is the case with Aggadah, themes in *chriae* are reused and recombined in new *chriae*. *Chriae* circulated orally and in written collections and they criticized and satirized sages while at the same time depicting the wisdom of those sages. Stock motifs designed to teach social values rather than portray historically accurate situations are frequently found in *chriae* and in Aggadah.

Sibley Towner offers a form-critical study of aggadic portions of the Rabbinic literature by determining the enumeration pattern, namely a list of items that appear in the literature he investigates. Towner analyzes the exegetical formulae of Aggadot. "He traces the tradition-history of the individual pericopes by comparing parallel versions of the texts. Finally, he catalogues the lists according to functional categories (hermeneutical, lexical, etc.) and detects a development of the form." 45

Scholarship focusing on tradition history can also be seen in the work of Joseph Heinemann, whose studies of Aggadah, conducted in the 1960's and 1970's, concentrated on searching for manuscript variants and comparing the different versions of Aggadot in order to situate them in their historical context. Heinemann also attempted to determine which

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factors led to the creation and revision of aggadic stories. Heinemann suggests some ideological and theological reasons for the emergence of the literary genre of Aggadah. The Aggadah represents a creative reaction to the upheavals suffered by Israel in their land during this long period. It represents an attempt to develop new methods of exegesis designed to yield new understandings of scripture for a time of crisis and a period of conflict, with foreign cultural influence pressing from without and sectarian agitation from within. The Aggadists do not mean so much to clarify difficult passages in the biblical text as to take a stand on the burning questions of the day, to guide the people and to strengthen their faith.

Daniel Boyarin takes issue with Heinemann’s approach and claims that Heinemann’s view of Aggadah is one found in many studies of Rabbinic thought which treat Aggadah “as theological or otherwise ideological utterances while tacitly denying their hermeneutical function.”

David Weiss Halivni has greatly contributed to the scholarship concerning the redactional stages of the Talmud on the subject of the identity of the redactors and the

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46 Burton Visotzky appears to employ a similar methodology in his study of the aggadic story found in BT Gittin 56a. See “Most Tender and Fairest of Women: A Study in the Transmission of Aggada,” HTR 76: 4 (1983): 404. Visotzky determines that earlier versions of Aggadot may be preserved in relatively later texts, while at the same time later versions of legends may appear in what are thought to be earlier texts. “Since collections tend to be dated according to the latest elements in the text, the date of redaction will not always match the dating of individual elements in the collection. The only reliable method for reliably dating a given version of a legend is to fix its place within its own transmission history irrespective of the collection in which it is preserved.”


48 See Daniel Boyarin, Intertextuality and the Reading of Midrash (Bloomington: Indiana University Press, 2001), 3. “The point of this is not to attack Joseph Heinemann for dishonesty or blindness to the way his ideology may have affected his reading, but only to suggest that such blindness is a component of all reading and cannot be used as a taxonomic parameter for describing Midrash. I wish to discredit the opposition between reading which is value-free and concerned with the difficulties of the biblical text and that which is unconcerned with those difficulties and speaks to the needs of the moment. I am not denying the reality of ideological concerns on the part of the rabbis nor that the ideological concerns may have often had an effect on the interpretive choices they made. I am asserting that we will not read Midrash well and richly unless we understand it first as reading, as hermeneutic, as generated by the interaction of Rabbinic readers with a heterogeneous and difficult text, which was for them both normative and divine in origin.” Boyarin’s methodology and approach will be discussed more fully later in this chapter.
methods by which the process of editing altered the composition of the BT. He is credited with creating the term, stammaim, to refer to the Babylonian Talmudic scholars who functioned as the primary redactors of the BT and flourished after 500 C.E. Stammaim means anonymous authors since stam is the Aramaic word found in the Talmud that refers to the anonymous sections of talmudic discourse. Halivni’s conclusion that the stammaitic stratum contains most of the Talmud’s argumentation leads him to determine that a shift in values must have taken place between the amoraic and the stammaitic periods. The amoraim valued practical law and did not consider it important for their discursive material to survive, so they only preserved and transmitted the conclusions of their legal discussions and not the debates that led to their decisions. The stammaim, in contrast, placed higher value on the discursive passages and therefore they attempted to reconstruct the argumentation that produced the conclusions and to “integrate the whole into a flowing discourse.” The argumentational material that the stammaim inherited was so “cryptic and truncated” that it required their intervention. The stammaim redacted the BT by prefacing, concluding and interpolating the words of the amoraim in order to reconstruct them and integrate them into the Talmudic text.

Most contemporary scholars agree with Halivni’s findings that an anonymous layer of material in the BT follows the amoraic stratum of discourse. It is generally held that the

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50 Stammaim is the plural. The singular is stam or stamma.

stammaitic Talmudic scholars composed the anonymous editorial layer of the Babylonian Talmud and may also have contributed to composing and reshaping the aggadic discourse in the Talmud.\footnote{Halivni, \textit{Midrash, Mishnah and Gemara}, 77.}

Yonah Fraenkel’s early studies deal with the forms, prevalent wordplays and rhetorical elements employed in aggadic narratives.\footnote{See Rubenstein, \textit{Culture of the Babylonian Talmud}, 5.} He is also one of the first scholars to apply literary analysis to Aggadah. He is not interested in the historical or redactional questions pursued by many of the scholars thus far reviewed. To Fraenkel, Aggadah is first and foremost a literary creation expressing the sages’ understanding of reality rather than a reflection of historical reality.\footnote{See Yonah Fraenkel, “Paranomasia in Aggadic narratives,” in \textit{Scripta Hierosolymitana-Studies in Hebrew Narrative Art Throughout the Ages} (eds. Joseph Heinemann and Shmuel Werses; Jerusalem: Magnes Press, 1978), 27-51. See also Yonah Fraenkel, “Chiasmus in Talmudic-Aggadic Narrative,” in \textit{Chiasmus in Antiquity} (ed. John Welch: Hildesheim: Gerstenberg, 1981), 183-95.} At the same time, if understood properly, Aggadah can provide information about the cultural milieu of its authors.\footnote{See Cohen, \textit{Rereading Talmud}, 71-89, for a comprehensive review of Fraenkel’s work.} One of Fraenkel’s central claims is that Aggadot are self-contained stories with internal and external closure. No connection exists between any single aggadah and any other aggadah, even in stories that portray the same sages.\footnote{Many scholars such as Richard Kalmin, Jeffery Rubenstein and Daniel Boyarin follow Fraenkel’s line of inquiry and continue to develop literary-theoretical approaches to interpret Aggadah, although they reject Fraenkel’s notion of closure. The work of these scholars will be reviewed later in this chapter.} Many scholars disagree with Fraenkel’s insistence that aggadot are self-contained literary units. Aryeh Cohen and Richard Kalmin conduct investigations of the same aggadot that Fraenkel does. Cohen and Kalmin suggest very different explanations from Fraenkel’s, because they analyze the aggadot in the context of the talmudic passages in

\footnote{Cohen, \textit{Rereading Talmud}, 76.}
which they occur. Their analysis proceeds on the basis that aggadot may have prior histories in other sources.\(^{58}\)

David Kraemer has attempted to contribute to the ongoing discussion regarding the literary style and composition of the BT by comparing the literary traditions that bear the names of the major sages of each amoraic generation represented in the BT.\(^{59}\) A distinction is drawn between “brief traditions...that simply state an opinion or ruling in law” and “argumentational traditions which are direct objections or deliberative, dialogical sequences” which contain several “steps” or “units of discourse.”\(^{60}\) The ratio of the amount of brief as compared to argumentational traditions attributed to each generation of Babylonian amoraim is examined.\(^{61}\) Kraemer finds that argumentational traditions increased with succeeding generations, while brief traditions decreased. The first and second generations tended to display traditions consistent with the stylistic precedent of the literary forms established by the Mishnah. The early amoraim focused on explicating the Mishnah and clarifying its legal

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\(^{58}\) Cohen, Rereading Talmud, 78-89. See in particular p. 89: “Framing Aggadot as hermetic units ignores the decisive part context plays in generating meaning.” See also Kalmin, “The Modern Study of Ancient Rabbinic Literature,” 192. “Fraenkel errs in seeing uniformity when there is actually tremendous diversity. He approaches the material with a preconceived literary theory, and allows the theory to determine his interpretation. One who approaches the material without such heavy baggage is likely to interpret differently.” See Jeffrey Rubenstein, Talmudic Stories (Baltimore: John Hopkins University Press, 1999), 302 n. 33. “Fraenkel’s insistence on the closure of Rabbinic stories was a reaction to the method of recovering history by reconciling and harmonizing contradictory sources.”

\(^{59}\) Kraemer, The Mind of the Talmud: an Intellectual History of the Bavli (New York: Oxford University Press, 1990). Other examples of studies of the literary style and composition of the BT include Yaakov Elman, Authority and Tradition: Toseftan Baraitot in Talmudic Babylonia (Hoboken NJ: Ktav, 1994). Elman discusses the relationship of the Tosefta to the BT. Since Toseftan materials appear regularly in the BT in a form different from that in the Tosefta, Elman concludes that the Tosefta as it is now constructed cannot have been known to the redactors of the BT. See also Jack Lightstone, The Rhetoric of the Babylonian Talmud. Its Social Meaning and Context (Waterloo: Wilfred Laurier University Press, 1994). Lightstone examines the rhetoric of the BT using tools of social anthropology combined with textual analysis. He demonstrates that the BT contains unique rhetoric not found in other forms of Rabbinic literature.

\(^{60}\) Kraemer, Mind of the Talmud, 27-8.

\(^{61}\) Kraemer, Mind of the Talmud, 70-8.
implications with brief opinions of law, containing few argumentational sequences, based on
the support of a verse of scripture, a mishnah or a baraita. The literary forms of the third
generation demonstrated an increase in argumentational sequences and a decrease in brief
traditions. This change was accompanied by a transformation from the reliance on the
authority of scripture to the authority of human reason. Objecting to a tannaitic source on the
basis of logic alone was a bold innovation that began with the third generation and intensified
with the fourth generation.62 This was manifested in the BT’s accommodation of competing
views rather than in the privileging of one over the other.

Kraemer’s detection of different literary traditions in the layers of the BT leads him to
conclude that “the formulation of these traditions precedes the hand of a final editor and most
likely derives from the approximate periods to which they are attributed.”63 Kraemer
suggests that by the fifth and sixth generations amoraic forms saw no further development
and changes to the text were modest. David Weiss Halivni, in contrast, concludes that the
redaction of the BT reached “its greatest intensity in the last quarter of the fifth century,”
during the period of the stammaim.64 Jeffrey Rubenstein concurs with Halivni and
demonstrates conclusively that it was the stammaim, the talmudic redactors, in the fifth and
sixth centuries that played the major role in constructing the lengthy, highly developed
passages in the BT by reworking earlier narrative sources.65 It appears more likely that
preservation of argumentative material is due to subsequent generations and not to the sages
to whom the material is attributed. This is in part because the talmudic passages that cite

62 Kraemer, Mind of the Talmud, 36.
63 Kraemer, Mind of the Talmud, 68-9.
64 Halivni, Midrash, Mishnah and Gemara, 81, 142 n. 13.
tannaim in argumentative, discursive traditions are often more consistent with the language, motifs and rhetoric found in the literature of later amoraic layers.  

Kraemer’s attempt to determine attribution solely by examining ratios of longer and shorter passages may not be methodologically sound. Jeffrey Rubenstein has noted that brief stories reporting legal precedents may be more reliable historically than longer more developed stories. Richard Kalmin suggests that brief aggadic stories tend to be more accurate than lengthy ones. Kraemer also only examines the traditions of two sages for the evidence he gathers for the first and second generations and one sage each for the fifth and sixth generations. Yaakov Elman concludes that argumentation is too loose a form to determine the nature of the Babylonian Talmud.

Kraemer’s study of the intellectual history of the Bavli fails to deliver a comprehensive intellectual history of Rabbinic thought in late antiquity. The book does provide valuable contributions to the understanding of the Talmud with the findings that argumentation increased over time. It points to the necessity for further research and for reliable methodology in dealing with this subject. This is one of the motivations for the present study.

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65 Rubenstein, *Talmudic Stories*, 244.

66 Kraemer, *Mind of the Talmud*, 122-3, discusses the Talmudic story of the oven of Akhnai (B. Bava Metzia 59b) but he fails to explain what Rabbi Eliezer and Rabbi Joshua, two Tannaim from the early second century, are doing in a passage which displays concepts and literary forms more consistent with Babylonian academies of the fifth and sixth centuries.

67 Rubenstein, *Talmudic Stories*, 297 n. 3.


A major issue that has occupied contemporary scholars of Halakhah and Aggadah is the question of the historicity and reliability of Rabbinic attributions. Until recently many scholars considered that aggadah provides entirely accurate historical information. Jacob Neusner was one of the first contemporary scholars to criticize historical scholarship of classic Rabbinic literature for credulous assumptions that attributions in the Talmud are accurate and can serve as a reliable source for historical evidence. Neusner maintains that it is a false presumption to accept “that nearly all sources, appearing in any sort of document, early, late or medieval, contain accurate historical information about the men and events of which they speak.” Yaakov Elman does not accept Neusner’s assertions. He concludes that since the BT contains over 45,000 attributed statements we will ignore a considerable amount of important data if we accept Neusner’s contention that attributions have no historical worth. Richard Kalmin contributes to the on-going discussion regarding the nature of Rabbinic attributions and also concludes that talmudic sources are not without historical value. He steers a middle course between total acceptance and extreme skepticism about the historical value of Rabbinic stories in viewing some stories as more reliable than others. Kalmin suggests that later generations may have falsely attributed statements to earlier generations because late authors desired to compose favorable stories about sages they

70 On this issue see Elman, “How Should A Talmudic Intellectual History Be Written?” 371-82.


considered to be their spiritual forebears. Another suggestion Kalmin offers for pseudepigraphic attributions is that “late authors attacked rival schools by composing accounts which reflect poorly on the long-dead founders of these schools.” The stories that describe the Second Temple period (pre-70 C.E.) are unreliable because the sages know very little about this early period. Rabbinic sources regarding later periods, however, are more accurate. Kalmin suggests that, although Talmudic sources are often ahistorical in their purpose and presentation, they are still susceptible to historical analysis. He determines that, since Talmudic traditions are colored by polemical bias and the author’s desire to teach a moral lesson or make a theological point, it is important when exploiting Talmudic stories for historical evidence “to explain their moral, theological or polemical significance.”

Yet another suggestion to explain the treatment of attributions in the BT is offered by Stern, according to whom “the flexible treatment of attributions may have been due to a flexible concept of authorship.” The redactors of the BT may have attributed sayings pseudepigraphically because they regarded Rabbinic sayings as belonging to collective Rabbinic traditions rather than to specific Rabbinic figures. Stern analyses several passages in the BT which indicate to him that sometimes redactors sought to impose individual authorship upon earlier anonymous, collective traditions. He also sees evidence of an

73 See Rubenstein, *Culture of the Babylonian Talmud*, 10, 165 n. 25. Jeffery Rubenstein incorrectly characterizes Richard Kalmin’s position when he declares that Kalmin “accepts attributions as reliable indicators of earlier traditions.” Kalmin’s views are more nuanced than Rubenstein’s statement indicates.


75 Kalmin, *Sages, Stories, Authors and Editors*, 3.

76 Kalmin, *Sages, Stories, Authors and Editors*, 197.

opposite dynamic at work. In other instances, the redactors of the BT were inclined to divest authorship from individual rabbis and chose to allocate them to collective traditions.  

Jeffrey Rubenstein builds on the scholarship of Jacob Neusner and Yonah Fraenkel in demonstrating that Talmudic Aggadot are not historically accurate: they are didactic tales. At the same time, Rubenstein departs from Fraenkel’s assumptions about the closure of such stories. While the analysis of David Weiss Halivni focused on the stammaitic redactors’ methods of composing the legal narratives in the BT, Rubenstein finds that the stammaim also played a major role in the construction of the highly developed Aggadot in the BT. Through an examination of the literary traits and compositional techniques of six Aggadot in the BT, Rubenstein demonstrates that the stammaim extensively reworked and revised earlier Palestinian narratives. He makes a compelling case for the claim that the thematic content of aggadot in the BT provides a window into the cultural values and milieu of the stammaim.

_Talmudic Stories_ demonstrates the advantages of applying compositional and literary analysis to Rabbinic narratives. The book is a significant achievement and it advances the field of study of aggadot in the BT. Unfortunately, Rubenstein fails to pay enough attention to the distinct compositional methods of the Palestinian narratives he mentions. Catherine Hezser demonstrates that narratives in the Palestinian Talmud contain greater and more developed literary form than has previously been thought.

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80 Rubenstein, _Talmudic Stories_, 3.

81 Rubenstein, _Talmudic Stories_, 244.

82 Catherine Hezser, _Form, Function, and Historical Significance of the Rabbinic Story in Yerushalmi Neziqin_ (Tübingen: Mohr Siebeck, 1993).
In *The Culture of the Babylonian Talmud*, Rubenstein follows up on themes discussed in *Talmudic Stories*. The book attempts to describe the cultural conditions of the Rabbinic academy of the stammaim and to demonstrate evidence for the conclusion that the stammaim were the editors and redactors of the BT. Rubenstein claims that the stammaim created the sugyot in the BT by editing the amoraic traditions they inherited in "a sustained superstructure of their own composition."83

One methodological problem that Rubenstein himself acknowledges is that it can sometimes be difficult to distinguish stammaic from amoraic aggadic material. While formal and stylistic differences can be seen in amoraic and stammaic halakhic material they occur less often in aggadic traditions.

While some aggadic traditions can be assigned to the stammaim based on defined characteristics and other considerations, in other cases it is difficult to determine whether the tradition has been reworked and now reflects stammaic concerns or was not reworked and expresses authentic amoraic ideas. What can be shown with more confidence is that a particular motif is Babylonian, and not Palestinian, despite the fact that the Bavli attributes statements containing the motif to Palestinian sages.84

Nevertheless, Rubenstein makes a convincing case for his conclusion that the stammaim rewrote Aggadot and imbued them with the values of late Babylonian Rabbinic culture in order to utilize them to convey messages to the audience in Babylonian settings.

The elements of the culture of the Babylonian Talmudic milieu which Rubenstein finds depicted in the themes of the Aggadot in the BT are as follows. Torah study in Babylonia became institutionalized with the establishment of formal academies of learning in

83 Rubenstein, *Culture of the Babylonian Talmud*, 4.

84 Rubenstein, *Culture of the Babylonian Talmud*, 7.
the stammaitic period from the late fifth to early sixth century C.E. The institutionalization of Torah study brought about transformations in Rabbinic culture and editorial changes in the literary style of Rabbinic traditions. Rubenstein sees the fact that formal academies of learning are reflected in many aggadot in the BT that purport to portray earlier Palestinian sages as evidence of stammaitic editing. The qualities that are featured prominently in later Babylonian aggadot are much less prominent in Palestinian literature and in earlier strata of the BT. Although these aggadot claim to portray life in Palestine in the second and third centuries, Rubenstein concludes that they are pseudepigraphic because scholars are quite certain that institutionalized Rabbinic academies did not exist in the second and third century in Palestine. Sages studied in small groups in a study-hall or in the home of their teacher during the second and third century. These small study groups often disbanded with the death of the teacher. The aggadot found in the BT that describe the dialectical ability of earlier sages is actually a reflection of the academic setting in which the stammaitic sages debate each other in public, each attempting to "conquer" the other and rise through the academic hierarchy. This scholastic rivalry is more consistent with the established academies found in the fifth and sixth centuries in Babylonia than the informal study groups in the second and third centuries in Palestine and the fourth century in Babylonia. In Babylonian academies in the fifth and sixth centuries, sages who fail to "win" the academic

85 Rubenstein, Culture of the Babylonian Talmud, 20-23.
86 Rubenstein, Culture of the Babylonian Talmud, 47.
87 See Rubenstein, Culture of the Babylonian Talmud, 23-8 and David Goodblatt, Rabbinic Instruction in Sasanian Babylonia (Leiden: E. J. Brill, 1975), 267-68. Goodblatt concludes that Palestinian academic activity and early amoraic study in Babylonia was not dominated by the large academies on the model of the geonic yeshivot found in Babylonia.
88 See Rubenstein, Culture of the Babylonian Talmud, 19-20. These are also the findings of Catherine Hezser 1997 195-214.
debate are sometimes depicted as having experienced a great deal of shame. Rubenstein contends that this aspect of stammaitic cultural life is reflected in the many Aggadot that frequently warn of the consequences of shaming others.⁹⁰

Contemporary literary theory represents another methodological approach that recent scholars have attempted to apply to classical Rabbinic studies. David Stern discusses what he terms the “Midrash-theory connection” in his book, *Midrash and Theory* (1996). The relationship between Rabbinic studies and theory forged primarily by American scholars in the late 1970’s and early 1980’s initially seemed to produce a new vision of the field.⁹¹ Tension ensued as it became apparent that Midrash was not susceptible to “being systematically analyzed and described within any single conceptual framework.”⁹² Students of Midrash found that Midrash resisted analysis by poststructuralist methodologies because the poststructuralist concept of indeterminacy is different from Midrashic polysemy.⁹³ Literary critics whose approaches were aligned with deconstruction sought to create an alternative interpretive tradition to combat logocentrism. They discovered that Midrash is not reducible to literary theory,⁹⁴ because Midrash is bound by hermeneutical approaches and rules and it is not an entirely open or unconstrained literary genre.⁹⁵ Stern asserts that Midrash is a literary discourse in its own right,⁹⁶ yet he is interested in how the contemporary

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meaning of Midrash can be illuminated by literary theory. Although this book is useful in its explanation of the incompatibility of literary theory with Rabbinic studies, it fails to deliver a helpful strategy for how Midrash can be illuminated by literary theory. Stern does not address this issue except for a brief discussion of contemporary literary terminology such as information gaps and implied interpreter.

Daniel Boyarin’s *Intertextuality and the Reading of Midrash* also deals with contemporary literary theory, but unlike Stern’s *Midrash and Theory*, this book presents a comprehensive effort to develop a complete hermeneutical account of ways of understanding Midrash through the application of contemporary literary theory. Boyarin’s knowledge of literary theory is skillfully applied to the characteristics of Midrashic discourse and to his understanding of the concept of intertextuality. Boyarin’s insights regarding intertextuality are useful for this study of Aggadah.

Intertextuality has several different accepted senses, three of which are important in my account of Midrash. The first is that the text is always made up of conscious and unconscious citations of earlier discourse. The second is that texts may be dialogical in nature—contesting their own assertions as an essential part of the structure of their discourse—and that the Bible is a preeminent example of such a text. The third is that there are cultural codes, either conscious or unconscious, which both restrain and allow the production of new texts within the culture; these codes may be identified with the ideology of the culture, which is made up of the assumptions that people in the culture automatically make about what may or may not be true and possible, about what is natural in nature and in history.

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97 Stern, *Midrash and Theory*, 1, 11, 16.
100 Boyarin, *Intertextuality*, 12.
Boyarin understands the term “gap,” which is an important element in contemporary literary theory, to mean any contradiction or repetition in the textual system of the Bible which demands interpretation for a coherent construction of the story. He successfully applies literary theory to Midrash by concluding that the gaps in the Torah are indications of intertextuality. For Boyarin, the essence of intertextuality is that the gaps and ambiguities in scripture are not indeterminate. They are purposely situated in the text in order to draw attention to their intertextual connections.

Another important notion articulated by Boyarin is his conception of “archetypal story forms.” Midrash (and Aggadah, as I will demonstrate) contains archetypal story forms which are the bearers of Rabbinic ideology. Many scholars, including Eli Yassif, have noted this aspect of Aggadot. Boyarin’s innovation is in his idea that the value of the repetitive themes, characters and actions which appear in Midrash comes from their conventional style. Since they come from the common stock of possible characters, actions and motivations they provide the most legitimate ways to fill in the gaps and understand the biblical narrative.

This survey of the advances in methodological approaches to the study of ancient Rabbinic literature began at the beginning of the twentieth century with the work of Avraham Boyarin, *Intertextuality*, 41.


See Stern, *Midrash and Theory*, 15-38. Jewish tradition views the openness of texts to a multiplicity of meaning not as a worrisome or vitiating indeterminacy, but as a reflection of the infinity of God’s creative word.

Boyarin, *Intertextuality*, 85-86 acknowledges that the notion of “archetypal story forms” comes from the historian Hayden White.
Weiss. It concludes at the end of the twentieth and the beginning of the twenty-first century with a look at “Textual Reasoning.” This is a decade-old movement in Jewish Studies that began under the umbrella term “Postmodern Jewish Philosophy.” In 1991, ten members of the Academy of Jewish Philosophy formed a new subgroup dedicated to the study of postmodern Jewish philosophy. The term postmodern does not represent a specific ideology; rather, it indicates that their methodologies would not be limited to historical-critical modes of text study, or to the various forms of postmodernism such as deconstruction or critical theory. Rejecting methods of the modern academy, society members desired to create a new paradigm of Jewish Studies that would be based on a dialogic method of inquiry, modeled on the dialogic methods of classical Rabbinic academies applied to text-interpretive studies.

Textual reasoning arose from the confluence of Jewish Studies with literary theory, semiotics and hermeneutics.

The following are some of the characteristics which delineate “Textual Reasoning.” They will be the basis upon which the inquiry in the next two parts of this thesis will be conducted.

1. Textual reasoning refuses to view later texts which grow up in response to earlier texts as extraneous or heterogeneous to those earlier texts. This is because textual reasoning rejects the idea that it is possible to determine the one true meaning of a text, what it really means, outside of attending to how various people standing in various historical and cultural circumstances have interpreted that text. Since human beings always live in particular conditions which set the questions and shape the interests through which they read texts,


any reading of a text is always partial, specific and contextual. Textual reasoning takes the various genres of traditional commentary to be disclosive of the meanings of a text. Textual reasoning refuses to subordinate traditional commentary to discourses which attempt to determine the one (true) meaning of a text.

2. Textual reasoning resists discourses which homogenize the constitutive aspects of textuality. Textual reasoning takes a pluralist stance; it defends the way that traditional readers regard ironies, tensions, metaphors, rhetoric, parabolic discourse and various narrative strategies as generating a semantic field of possibilities, rather than a univocal reference to one theme or idea.

3. The hermeneutic dimension of textual reasoning can be found in the distinctive interpretive techniques and strategies that traditional reading practices employ in order to read texts. Boyarin’s *Intertextuality and the Reading of Midrash* displays some of these procedures.\(^\text{109}\)

In Chapter II of this thesis I will conduct a review of ancient divorce practices as they relate to this thesis and I will explain in detail the methodology that I will employ. The second dimension of this thesis, in Chapter II, will be the analysis of the aggadah found in the Babylonian Talmud Tractate Gittin 6b. In chapter three I will analyze the aggadah and some of its intertextual linkages with two goals in mind. I seek to reconstruct how the aggadah might have been read in the Rabbinic period and I wish to determine what function the aggadah might have served in constituting Rabbinic culture.

CHAPTER II

Gittin is the name of the tractate found in the Mishnah and the Talmud that governs the laws of divorce. The term get (plural גיטין, Gittin) refers to the writ of divorce, the legal document that effects the divorce.\textsuperscript{110} The relevant biblical passages that address divorce mandate that divorce is effected only when the husband gives the writ of divorce to the wife.\textsuperscript{111} The biblical passage that addresses divorce is found in Deuteronomy 24:1-4 which states:

\begin{quote}
When a man takes a wife and marries her, if then she finds no favor in his eyes because he has found some indecency in her, and he writes for her a bill of divorce (sefer kerituf) (literally, a writ of cutting off) and puts it in her hand and sends her out of his house and she departs out of his house, and if she goes and becomes another man's wife and the latter husband dislikes her and writes her a bill of divorce and puts it in her hand and sends her out of his house, or if the latter husband dies who took her to be his wife, then her former husband, who sent her away, may not take her again to be his wife, after she has been defiled; for that is an abomination before the Lord, and you shall not bring guilt upon the land, which the Lord your God gives you for an inheritance.\textsuperscript{112}
\end{quote}

Few details regarding the laws of divorce are provided in the biblical text. The Bible does not indicate which specific procedures are to be followed in order to effect a divorce nor does it explain the nature of the bill of divorce (sefer keritut) in any detail.\textsuperscript{113} The law of

\textsuperscript{110} The term get can refer to any type of legal document but it is most commonly used to refer to a writ of divorce. The association of get with divorce is assumed wherever the term appears unless otherwise noted.


\textsuperscript{112} The source for this translation is Jacob Neusner, The Talmud of Babylonia an American Translation Gittin (Atlanta, Georgia: Scholars Press, 1992).

\textsuperscript{113} The content of the biblical writ of divorce is unknown. The Encyclopaedia Judaica (Volume 6: 123) suggests that it may have been an essentially oral declaration similar to the Sumerian practice which required
Divorce in Deuteronomy 24:1-4 does not address issues that concern contemporary divorce, such as the division of property or the right to custody of the children or the rights of each of the parties in the divorce. Topics such as suitable grounds for divorce, aside from the phrase because he has found some indecency in her, are absent from the biblical narrative.114

The biblical passage regarding divorce is primarily concerned with the necessity of the husband writing and presenting the wife with a writ of divorce and with the specific prohibition that forbids a man from remarrying the woman whom he has divorced. Although biblical law permits a man to divorce his wife, no provision is made for a woman to initiate divorce.

Zakovitch concludes that the reason the biblical formulation of divorce laws is brief and seemingly incomplete is because divorce must have already existed and been known in the ancient world and therefore it was not necessary for the Bible to refer to what was already understood.115 Divorce seems to have been a known phenomenon in ancient Hebrew society. The Israelite prophets, who describe the relations between God and Israel using the metaphors of marriage and divorce, address their words to people who seem to be familiar with divorce (see Hos. 2:4, Is. 60:15).

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114 The biblical term for he has found some indecency in her. The same expression is found in Deut. 23:15, where its meaning is the uncovering of nakedness in the holy camp. According to Mishnah Gittin 9:10, the house of Shammai understood רְפֵאָה נְדָעָה to mean that the only suitable reason for a divorce is the unfaithfulness of a wife. See Yair Zakovitch, “The Woman’s Rights in the Biblical Law of Divorce,” in The Jewish Law Annual Volume Four (ed. Bernard S. Jackson; Leiden: E.J. Brill, 1981), 32. Mishnah Gittin 9:10 also mentions that the house of Hillel and Rabbi Akiva say that a man can divorce his wife for any reason whatsoever.

Divorce was an established institution in the ancient Near East.\textsuperscript{116} Divorce was a common phenomenon in the Roman Empire, although it was free from any formality. Roman law contained no provisions for a writ of divorce nor did it require any special grounds for a divorce.\textsuperscript{117} The lack of a document to establish the official end of a marriage sometimes led to problems in Roman society. A passage from Cicero relates the case of a Roman citizen who left his pregnant wife and married another woman without having given notice of his intentions to his first wife. His sudden death and the birth of a son to each of the women after his death, posed the question of whether the son of the second wife was illegitimate because he had remained married to the first wife.\textsuperscript{118} The Bible’s insistence on the necessity for a bill of divorce (\textit{sefer keritut}) in order to officially effect a divorce may have been generated by a desire to avoid a situation such as that discussed by Cicero.

The Rabbinic legal system formulated laws and interpreted and expanded on the specific details of divorce dealt with in the Bible. In general the Mishnah and the Talmud were concerned with the legal ramifications regarding what were seen as the major transitions in relationships between men and women, which include betrothal, marriage and divorce. The importance that the Mishnah and the Talmud attach to the stages of betrothal,

\textsuperscript{116} See E. Lipinski, “Divorce in the light of an Ancient Near Eastern Tradition” in \textit{The Jewish Law Annual Volume Four} (ed. Bernard S. Jackson; Leiden: E.J. Brill, 1981), 9-27. Paragraph 142 of the Code of Hammurabi (1728-1686 B.C.E.) states that, if a married woman who is not at fault takes a dislike to her husband, she may take her dowry and return to her father’s house. West Semitic and Neo-Assyrian marriage contracts that discuss procedures to be followed in the event of divorce have been found.


\textsuperscript{118} See Rabello, “Divorce of Jews in the Roman Empire,” 79-90, for an in depth discussion of the problems regarding the absence of a writ of divorce in Roman law. Cicero’s statements are found in \textit{Dig.} 45.1.134. It should be considered that Cicero’s discussion of procedural flaws in Roman divorce law may not necessarily deal with a real case but may be a rhetorical gesture in order to highlight problems related to a lack of a writ of divorce in Roman law.
consummation of marriage, and divorce is reflected in the composition of four separate
tractates that deal with the specific procedures and laws to be followed at each of these
critical stages. The tractates are Yevamot,\textsuperscript{119} Qiddushin,\textsuperscript{120} Ketubot,\textsuperscript{121} and Gittin.\textsuperscript{122}

The mishnaic and talmudic discussions of divorce are contained in Tractate Gittin.
Some statements appear to indicate that the Mishnah adopted the divorce laws as stated in
Deuteronomy. Mishnah Yevamot 14:1 states that a man can send his wife away of his sole
accord. Another statement in the Mishnah somewhat mitigates the severity of Yevamot 14:1.
According to Mishnah Ketubot 7:10 a woman could petition the court to force her husband to
divorce her on grounds of specific neglect or general incompatibility (M. Ketubot 7:10).

A substantial amount of discourse in the Mishnah and the Talmud is concerned with
the exact details of the writing of a bill of divorce (\textit{get}), its precise formulation and the
manner in which it is to be delivered to the woman. Much of Tractate Gittin is devoted to
questions such as who is qualified to deliver the \textit{get}? How must the woman accept it in order
for it to be valid? What happens when a \textit{get} is delivered by a messenger? These laws
pertaining to the writing, delivery and acceptance of a \textit{get} are complex and cover many
circumstances. Great care and accuracy in the fulfillment of these procedures is demanded
by Rabbinic law. Rabbinic legal requirements never overturned the biblical law that declares

\textsuperscript{119} Yevamot literally means sisters-in-law. This tractate deals with the obligations and procedures regarding
levirate marriages.

\textsuperscript{120} Qiddushin literally means betrothal or engagement.

\textsuperscript{121} Ketubot are both marriage contracts and the amount assigned to a woman in the case of divorce or the death
of a husband. This tractate includes the mutual duties of husbands and wives, women’s property and
inheritance rights and the rights of a widow.

\textsuperscript{122} Gittin deals with all the laws regarding divorce including: procedures for transmission, certification and
retraction of divorce certificates; the legal status of the divorced wife; reasons for divorce; divorce in cases of
illness and conditional divorce.
that only a man can initiate divorce proceedings. At the same time many scholars believe that the complicated divorce procedures demanded by the Mishnah and the Talmud were designed to stand in the way of a man who wants a quick and easy divorce.123

Mishnaic law addressed the vulnerability of women in another way by instituting the ketubah, marriage contract. This document that a groom gives to a bride obligates the husband to pay the wife a considerable sum of money if he divorces her. The ketubah guarantees that the woman will not be destitute in the event of divorce. The Talmud states that the ketubah was imposed on men so that divorce would not be a simple, light matter in their eyes (see Ketubot 11a, Yevamot 89a). Another talmudic statement indicates that tensions existed among sages regarding the issue of making divorce law more lenient toward women. According to Yevamot 112b, “a woman may be divorced with her consent or without it.” The overall impression, however, is that Rabbinic legislation did counterbalance somewhat the Biblical law that a woman’s consent in divorce is not necessary by creating some impediments to divorce. A further legal modification occurred in the Middle Ages when a decree was introduced, ascribed to Rabbenu Gershom, which forbade divorcing a woman against her consent. The historical record paints a different picture from the rabbinic texts. There is evidence from Genizah material that in the early Middle Ages in North Africa women had the right to divorce their husbands.124 Divorce documents have been found from


a Jewish settlement in Elephantine Egypt (420 BCE.),\textsuperscript{125} from the community at Massada (71 C.E.)\textsuperscript{126} and from the Judean desert (ca. 135 C.E.)\textsuperscript{127} These documents name Jewish women as the initiators of divorce proceedings. In addition, fragmentary Aramaic marriage contracts that date from the fifth century B.C.E. were found among the Jewish documents from Elephantine Egypt, indicating that Jewish marriage contracts existed long before the ketubah was formally legislated by the Mishnah.\textsuperscript{128} In addition, Rabbenu Gershom’s decree in the Middle Ages that forbade divorcing a woman without her consent may have been a Rabbinic move to accommodate the existing social reality.\textsuperscript{129}

The aggadic narrative that I will analyze is situated within the first chapter in tractate Gittin. I will employ Daniel Boyarin’s definition of aggadah.

Aggadah is the most significant kind of historiography, not because it represents a true subjective communion with the past but because it manifests the past as it was represented by the culture in which the Aggadah was produced. I propose a reading of Aggadah in which, from the distance of our time, we try to understand how the rabbis read the Torah in their time-taking seriously their claim that what they are doing is reading, and trying to understand how a committed reading of the authoritative text works in the rabbinic culture.\textsuperscript{130}


\textsuperscript{126} Rabello, “Divorce of Jews in the Roman Empire,” 96.

\textsuperscript{127} Piatelli, “Marriage Contract and Bill of Divorce in Ancient Hebrew Law,” 66.


\textsuperscript{129} According to Biale, Women and Jewish Law, 81, although the ruling which forbade divorcing a woman without her consent “is traditionally ascribed to Rabbenu Gershon, there is historical evidence that by his time this was already accepted practice among most Ashkenazic Jews.”

I will engage in a close linear reading of the narrative in B. Gittin 6b. As a reading practice, I will examine the aggadah line by line. A literary analysis of the relationships of the internal parts of the aggadah will be conducted. This close reading will point to the places where a simple and straightforward reading is inadequate for fully uncovering the rhetorical layers of the text. The “ungrammaticalities” in the text will point to the places where this reading falters. I use ungrammaticality in the sense that Daniel Boyarin does in Intertextuality and the Reading of Midrash. Ungrammaticality is a gap or silence in the text that calls for interpretation to make sense of the text in a meaningful way. It is any element in the text that demands interpretation for a coherent construction of the story.

In the third chapter of this thesis an intertextual reading will uncover the aggadah’s rhetorical and historical features and reveal a structure to the narrative that is independent of its linear flow. The sense in which I am using the term intertextual is based on Daniel Boyarin’s conception of intertextuality. Intertextual means that, when a text refers beyond itself, it is referring first and foremost to other texts. Boyarin claims that texts are always made up of conscious and unconscious citations of earlier discourse and that the cultural codes identified with the ideology of the culture allow for the production of new texts within


\[132\] Boyarin, Intertextuality, 41.

\[133\] See also Galit Hasan-Rokem, Web of Life Folklore and Midrash in Rabbinic Literature (trans. Batya Stein; Stanford: Stanford University Press, 2000), 57. Hasan-Rokem maintains that a wider cultural context for Rabbinic texts can be found by examining intertexts which are perceived as contexts or cotexts.
The intertextual analysis in the third chapter of this thesis will reveal both the citations of earlier discourse and the cultural codes within the aggadah in Gittin 6b. Aryeh Cohen puts it this way: in talmudic discourse “words or phrases are signs which refer to preexistent word groups. These preexistent word groups or intertexts determine the production and inform the meaning in the text.”

This intertextual analysis will assist in uncovering competing trajectories or resistances to the ideological concepts conveyed in the aggadah. An intertextual reading goes beyond the literal meaning of the text in order to perceive tensions in the text which may have existed in ancient society itself. The intertextual analysis will enable us to situate the narrative within a larger cultural discourse. My particular emphasis in the reading of this narrative is to uncover the ways in which it conflates the constructions of gender, violence and divorce with the exile of the Jewish people. This study will expose the ways in which the Talmud presents the movement towards severing marital bonds as a movement to exile.

The intertext is first and foremost the context in the Talmud in which the Aggadah is situated. How does the context of the aggadah inform its meaning? What is the impact of the aggadic unit on the surrounding halakhic material contained within the sugya, the specific Talmudic pericope in which the aggadah is situated? Does the aggadah share part of its texture with other statements in tractate Gittin or other passages in Rabbinic literature? The intertextual analysis will also determine what role scriptural references play in the aggadah.

The primary scriptural reference in Gittin 6b is Judges 19, which presents a strikingly

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134 See Boyarin, *Intertextuality*, 12.

disturbing and violent tale. Daniel Boyarin contends that “all of the later books of the Bible are in a strong sense readings of the Torah as interpretations of the Torah.”

Many scholars today view Judges 19 as a learned, allusive and polemical text. I will explore how the concepts of divorce and the exile of the Jewish people as portrayed in this aggadah are informed and shaped by the story of the concubine (pilegesh) of Giveah in Judges 19-20.

I will treat Rabbinic attributions as primarily ahistorical, in the same manner as Richard Kalmin does. At the same time I will seek to explain their moral, theological or polemical significance. I will examine statements made by the rabbis mentioned in this story in other contexts in Rabbinic literature. This may enhance our understanding of this story and help to determine the characters or ‘personalities’ of the sages mentioned in this text. To put it in another way, we may gain, thereby, an appreciation of the characteristics that Rabbinic literature has assigned to these sages.

Aggadic passages are often contextualized in opposition to halakhic passages. Jacob Neusner refers to aggadah as “Rabbinic teachings that conduct dialogue with Scripture’s narratives and language and center on issues of belief and only rarely enter into the presentation and analysis of norms of practical behaviour.” In actuality, in a great deal of talmudic discourse halakhic discussions appear as a component of the narrative stories.

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138 An intertextual reading could extend to the later chapters in Judges and to other Biblical references, however, that is beyond the scope of this study.

139 See Kalmin, *The Sage in Jewish Society of Late Antiquity*, 1.


141 B. Bava Metzia 59b is an example of this.
The aggadah that is the focus of this study is a case in point. The aggadah seamlessly appears in the midst of the halakhic discussion. This thesis will demonstrate that halakhic material appears in the aggadic portion of the talmudic chapter. It is the contention of this thesis that the strict opposition between halakhah as law and aggadah as narrative lore in the Babylonian Talmud should be unsettled.

The aggadah that is the focus of this study is situated within Chapter I of Tractate Gittin. The chapter begins with a halakhic discussion of the first mishnah in the tractate. As an introduction to the Aggadah I will investigate some of the ways in which folios 2a-6a in the Talmud understand and elaborate on the mishnah text. I will only address the issues that are crucial for demonstrating how the halakhic passages inform the subsequent Aggadah.

Mishnah Gittin 1.1\textsuperscript{142} states:

\begin{quote}
The one who brings a get (to Israel) from \textit{מַעְרָכָה} \textsuperscript{143} abroad, he must say “it was written in my presence and signed in my presence.” Rabban Gamliel says also one who brings (it) from Rekem or from Cheger\textsuperscript{144} (must make the declaration). R’ Eliezer says: even one who brings it from Kefar Ludim to Lod\textsuperscript{145} (must make the declaration.) But the sages say: One is not required to say “it was written in my presence and signed in my presence” unless he is bringing it from abroad or taking (it there.) And one who brings (a get) from province to province abroad must say “it was written in my presence and signed in my presence.” Rabban Shimon ben Gamliel says: Even (if he brings it) from (one) jurisdiction to another jurisdiction.
\end{quote}

\textsuperscript{142} Only the first part of mishnah 1.1 which is most relevant to this thesis is presented here. This mishnah translation is from Nosson Scherman, ed., \textit{The Schottenstein Edition of the Talmud Bavli} (New York: Mesorah Publications, 1994).

\textsuperscript{143} The literal translation of \textit{מַעְרָכָה} is “from the lands by or of the sea.” This term is usually translated as “abroad.”


\textsuperscript{145} Lod and Kefar Ludim were twin cities. Lod was within the border of Israel but Kefar Ludim was not (Rashi).
The initial halakhic discussion in chapter one of Talmud Bavli tractate Gittin is generated by Mishnah Gittin 1:1 and analyzes the stipulation contained in the opening line of the mishnah. The mishnah states, that when a husband sends a get from abroad, the agent delivering the get must declare that the get was written and signed in his presence.

An essential feature of Rabbinic divorce laws that is discussed in great detail in the Talmud is the requirement that the writ of divorce, the get, be written “for her,” that is for the sake of the woman to be divorced with it. This is indicated in the Bible’s statement that he writes “for her” a bill of divorce. The husband or a designated scribe must write the get specifically for the purpose of divorcing his wife. This requirement is known as lishmah, נ construcción for her sake, which is a term used extensively throughout tractate Gittin.

The act of divorce takes place when the husband gives the get to his wife for the sake of divorce, as indicated by the biblical phrase and puts it in her hand and sends her out of his house and she departs out of his house. There is a general talmudic principle that a person’s agent can act on his or her behalf. Divorce is one of the primary sources for the law of agency (B. Kiddushin 41a). Accordingly, the husband may appoint an agent to deliver the get to the wife and, in that case, the divorce takes place when the husband’s agent gives the get to her. Similarly, the wife may appoint an agent to receive the get on her behalf, or both husband and wife can designate agents to act for them.146

The get is divided into two sections; the toref and the tofes. The first section, the toref includes the date, the names of the husband and wife and the place where the get is drawn up. The second section of the get, the tofes, contains the text that is standard in all gittin. It elaborates on the nature and ramifications of the divorce.

146 See the introduction to tractate Gittin in the Schottenstein Edition of the Talmud Bavli.
The Talmudic discussion in chapter one of Tractate Gittin begins by presenting two opposing legal positions as the possible explanations for why the mishnah states *if an agent brings a get (to Israel) from abroad, he must declare "it was written in my presence and signed in my presence."*

According to the Talmud: *Rabbah*\(^{147}\) says, “because there are not (experts who are) knowledgeable (of the requirement that a get be made) for the sake of the woman.”\(^{148}\) *Rava*\(^{149}\) says “because witnesses are not (to be found) to confirm it.”\(^{150}\)

The statements which are attributed to Rabbah and Rava may constitute an editorial construction and are not necessarily original attributions since in the version of the halakhic discourse in chapter one of Gittin which appears in the Jerusalem Talmud, Rabbi Joshua b. Levi and Rabbi Yohanan take opposing positions and Rabbah and Rava are absent from the Jerusalem

\(^{147}\) The identity of Rabbah is not entirely apparent. He could be Rabbah bar Nachmani, a Babylonian amora from the third century C.E. or Rabbah Ben Avuha, a Babylonian amora of the second half of the third century C.E., or he might be Rabbah Ben Shilah, a Babylonian amora from the late third, early fourth centuries C.E.

\(^{148}\) Rabbah assumes that the mishnah is saying that the requirement that the *get* must be written for the sake of the woman to be divorced by it is not known by people who live outside of Israel. Therefore an agent delivering a *get* from the Diaspora to Israel must observe the *get* being written and signed, and he must declare when he delivers the *get* that he saw it being written and signed.

\(^{149}\) See Gershom Bader, *The Encyclopedia of Talmudic Sages* (trans. Solomon Katz; Northvale New Jersey: Jason Aronson Inc., 1993), 734-39. According to Bader, Rava’s full name is Rava Bar Joseph Bar Chama. He is a Babylonian amora from the fourth century. Rava is supposed to have headed his own academy in Mechoza. According to Bava Batra 12b, Rava married the daughter of Rav Chisda and was a close friend of Abaye. Abaye and Chisda both appear later in the aggadah in Gittin 6b. Although Bader’s work in constructing Rabbinic biographies must be considered somewhat reductionist, it is still useful for helping us to understand the Rabbinic biographies that the sages purposely constructed through the tales told about the Rabbis in the aggadot.

\(^{150}\) Rava contends that the reason the mishnah requires that the agent who delivers the *get* must declare that he saw the *get* being written and signed is because it would be difficult to find people in Israel who could recognize signatures on a *get* written outside of Israel. See Cohen, *Rereading Talmud*, 173. Talmudic discourse reflects larger cultural narratives. This is seen in the early and medieval commentaries on the Talmud. The Talmudic commentator, Solomon ben Isaac (1040-1105), known as Rashi, which is the acronym of his name, says that Rava’s opinion is based on the view that travelers to Israel from outside of Israel were infrequent during the Talmudic era.
This may indicate a different manuscript tradition or that the discourse in the Bavli underwent some rhetorical embellishment.

In a highly formalized manner the controversy between Rabbah and Rava serves as a literary device that allows the Talmud to deal with the halakhic matters raised by the mishnah. The Talmud discusses how each of the following issues would be viewed from the opposing perspectives of Rabbah and Rava. What is the status of the agent who brings the get and makes the declaration? Is he a witness? What is the status of his declaration? Why do we require a verbal declaration concerning a legal document that had already been written and signed? These are some of the questions that are debated. The arguments of Rabbah and Rava are left at a stalemate until Gittin 4b, where the Talmud reaches the conclusion that Rabbah accepts Rava’s reasons. Although Rabbah stated that the purpose of the declaration was to assure that the get was made lishmah, he also comes to agree with Rava’s view that it is necessary for witnesses to be present when the get is delivered in order to verify the signatures. However, Rava does not accept Rabbah’s position that those residing abroad are ignorant of the law that a writ of divorce needs to be written specifically for the woman (Rashi).

Conspicuously absent from the Talmud’s discussion is an analysis of exactly which states are considered to be in the category of “abroad” מים ים. The Talmud does address the situation of bringing a get from one province to another province abroad or from province to province within Israel (see 4b) or from abroad to Israel (see 5b). Then in 6a we find the following: It was stated: (concerning) Babylonia, Rav said that, “It is like Israel

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151 In Gittin 5b the Babylonian Talmud relates the dispute between Rabbah and Rava to a dispute between Rabbi Joshua b. Levi and Rabbi Yohanan. The Bavli appears to acknowledge the discussion in the Jerusalem Talmud without explicitly referring to it.

152 The first important amoraic scholar from the period of the amoraim was known not by his name Abba Arecha, but by his title, Rav. He founded the important Babylonian Talmudic academy in Sura.
regarding the (laws of) Gittin. Babylonia is the only country that is specifically stated to have the same status as Israel regarding laws of Gittin. Rav’s statement in Gittin 6a indicates that the Talmud was establishing official judicial authority and jurisdiction for the Rabbinic sages exiled in Babylonia within the Tractate that deals with the laws of divorce. Negotiating the terms of living in exile is an integral part of the legal discourse in chapter one of tractate Gittin. In the dialogue of what constitutes the land of Israel and which locales constitute territory outside of the land of Israel, a conscious effort can be seen on the part of the sages to establish Babylonia as a center having the same legal status as the land of Israel.

Isaiah Gafni describes the situation this way:

There emerges over the years a Babylonia enjoying all the attributes of the historically central Land of Israel: Davidic leadership, remnants of the Jerusalem temple, links with the Patriarchs, and even hallowed earth and sacred boundaries. Indeed, the statement attributed to a late third-century Babylonian sage: “We have made ourselves in Babylonia the equivalent of Israel from the day Rav came to Babylonia” now took on a meaning far exceeding equality regarding knowledge of the laws of divorce, which was the issue at stake in that particular passage. If the decisive factor in maintaining the subservience of the Diaspora to Israel was considered to be the every essence of “the land” and its position in Jewish minds, the one way of overcoming this dependence was by refashioning the Babylonia community to be a precise copy of the original land.

Recent scholarship, particularly the work of Erich Gruen, determines that, while the dispersal created by the destruction of the Second Temple in 70 C.E. led to a scrambling to recreate abroad the culture that had been crushed in Palestine, the Diaspora of the Jews had

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153 The statement by Rav is also found in the Jerusalem Talmud Gittin 1:2. Bava Kamma 80a in the Babylonian Talmud states: \textit{Rav Yehudah said in the name of Rav: We have made ourselves in Babylonia like the land of Israel with regard to (the prohibition against raising) small domesticated animals.}

154 This effort to define borders is evidenced in Mishnah Gittin 1:1 as well as in the Talmud.

begun long before the Second Temple fell.\textsuperscript{156} “Vast numbers of Jews dwelled outside Palestine in the roughly four centuries that stretched from Alexander to Titus. The Jews of the Diaspora, from Italy to Iran, far outnumbered those in the homeland.”\textsuperscript{157} While, in a modern context, exile is something to be overcome, Gruen reveals that for Jews living in the Diaspora prior to 70 C.E., it represented an achievement rather than a source of shame. This brings us back to the mishnah’s term מדריכות, which likely refers to the Diaspora communities that were well established in the Roman Empire, Asia Minor and Egypt prior to the destruction of the Second Temple. These countries were geographically separated from ancient Israel by the Mediterranean Sea. The mishnah only acknowledges the division between Israel and מדריכות. There is no indication in the mishnah that any countries could be in a different category than Israel or מדריכות.\textsuperscript{158} It is with Rav’s statement in Gittin 6a that the Talmud confirms the distinctiveness of Babylonia as a center of Rabbinic authority on par with the authority of Israel.

Following the equation of Babylonia with Israel, Gittin 6a continues to discuss situations involving divorce writs prepared in Babylonia, and this is where the aggadah begins. The aggadah begins within the halakhic portion of the chapter. Rav Evyatar, a main character in the aggadah, is introduced in the midst of the halakhic discussion.

B. Gittin 6b:

1. \textit{R. Evyatar}\textsuperscript{159} sent the following ruling to Rav Chisda:\textsuperscript{160} \textit{For writs of divorce that come from there (Babylonia) to here}


\textsuperscript{157} Greun, \textit{Diaspora Jews}, 233.

\textsuperscript{158} According to Rashi מדריכות refers to any place outside of Israel except for Babylonia.

\textsuperscript{159} Kalmin, \textit{Sages, Stories, Authors and Editors}, 158 identifies R. Evyatar as a second generation Palestinian amora. R. Evyatar is mentioned only once in the entire Babylonian Talmud, in Gittin 6b. He occurs in two places in the Jerusalem Talmud, Berakhot 9:13 and Shevi‘it 6:36. The aggadah in B. Gittin 6b does not appear in tractate Gittin in the Jerusalem Talmud, although a version of the first line occurs in which a statement is made in the name of R. Yohanan, instead of R. Evyatar, that someone who brings a get from Babylonia to Israel does not have to state the declaration. Rav Chisda is also absent from the Jerusalem Talmud.
(the land of Israel) (the agent, i.e., bearer of the writ of divorce) is not required to declare “It was written in my presence and signed in my presence.”

2. Shall we presume that he (R. Evyatar) was of the opinion that (the reason for requiring the declaration) is because they (the people from outside of Israel) are not familiar (with the requirement that a writ of divorce be made) for the sake of (the woman)?

3. Whereas these (people in Babylonia) are familiar (with the requirement.)

4. Do you think (this is so? i.e. is this logical?)

5. But Rabbah agrees with Rava.

6. Rather, everyone (this is a term meaning every tanna) agrees that (a declaration is required because) we need to confirm (the signatures on the writ of divorce. Therefore a declaration should be required even for a writ of divorce brought from Babylonia to Israel).

7. However, since there are many (people) who go up to (Israel) and (back) down to Babylonia witnesses will readily be found (to confirm the signatures on the writ of divorce should it be necessary).

The Gemara is telling us that R. Evyatar sent a message to Rav Chisda stating that writs of divorce that come from Babylonia to Israel do not require a declaration. In lines 2 through 7 the anonymous editorial voice of the Gemara conducts an analysis of R. Evyatar’s ruling. Within the halakhic discourse in 6a we find parallel statements to the dialogue in 6b. Identical phrases to the lines that I have labeled 2, 3, 4, 5 and 6 in Gittin 6b are also found in Gittin 6a. The difference is that in 6a the comments are generated by Rav Chisda and they pertain to sending writs of divorce within provinces in Babylonia, whereas in 6b Rav Evyatar discusses divorce writs coming from Babylonia to Israel. The comments in 6a and 6b both pertain to the ongoing discussion of geographical borders.

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160 See Bader, Talmudic Sages, 700-6. Rav Chisda was a third century Babylonian Amora and a contemporary of the other sages mentioned in this Aggadah.

161 The discussion regarding whether a declaration is necessary when taking a get from province to province within Babylonia does not occur in the Jerusalem Talmud.
The parallel lines in 6a and 6b provide an opportunity to introduce two of the characters of the ensuing aggadic passages, Rav Evyatar and Rav Chisda. It is difficult to discern exactly where the halakhic discussion ends and where the aggadic portion begins. Gittin 6b continues with:

8. **Rav Yosef said: “Who tells us that R. Evyatar is reliable?”**

Rav Yosef is thought to be a third generation Babylonian amora. In this aggadah he is questioning the reliability of R. Evyatar, who is a second generation amora. In another aggadic story in Baba Batra 22a, Rav Yosef boastfully claims responsibility for the death of Rav Ada bar Ahava. Rav Yosef is known for criticizing statements made by rabbis separated from him by a generation (see Yevamot 105b and Sanhedrin 99a). Richard Kalmin suggests that in the stories in which Rav Yosef criticizes other sages, Rav Yosef, or whoever recorded these sentiments in his name, reacts to the substance of the statement and bears no ill will toward the statement’s author.162 Kalmin further makes the observation that, although, in some talmudic stories third generation Babylonian amoraim criticize contemporaries and near contemporaries, we find no comparable criticisms of or by non-contemporaries.163

9. **Furthermore, he is the one who sent** (the following letter) **to Rav Yehuda**

10. **People who come up from there (Babylonia) to here (Israel) have fulfilled in themselves** (the idea expressed in the following verse): *They have given the boy for a prostitute, and the girl they sold for wine, and they have drunk* (Joel 4:3).164

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162 Kalmin, *Sages, Stories, Authors and Editors*, 158.

163 Kalmin, *Sages, Stories, Authors and Editors*, 158.

Rav Yosef claims that R. Evyatar sent a letter to Rav Yehuda. The content of the letter is puzzling. Rashi interprets line 10 to mean that R. Evyatar is quoting a scriptural verse to refer to the situation of Babylonian sages who leave their wives and children in Babylonia and travel to Palestine for extended periods. By doing so, the sages neglect the commandment of procreation, and the absence of the sages forces their families into economic hardship and even prostitution. In its own context the verse from Joel 4:3 is part of a prophecy of the end of days in which God promises to save the remnant of Israel while punishing the enemies of Israel who consider the lives of boys and girls so worthless that they would trade them for wine or prostitution. R. Evyatar is equating the actions of Rabbinic sages from Babylonia with the enemies of Israel. The quoting of the proof text from Joel out of context is an indication of a tension that is embedded in the Aggadah.¹⁶⁵

11. And (Rav Yosef continues) “he (R. Evyatar) wrote (this verse) without scored lines.”

12. And R. Yitzchak said “two (words from scripture) may be written (without lining the words), three (words) may not be written” (without lining them).¹⁶⁶

When writing a Torah scroll or books of the Prophets or the Writings, one must score horizontal lines into the parchment on which to write the words. This is discussed in Sotah 17b, Menahot 32 and 35a-b. The Talmud considers that the authority for this rule comes anywhere else in the Bible. See Hasan-Rokem Web of Life, 20. The identical proof text from Joel appears in a midrash in Lamentations Rabbah in a story about children of the high priest, Zadok, who are taken captive.

¹⁶⁵ This is an example of ungrammaticality in the text: a straightforward linear reading of the text is inadequate for uncovering the latent meaning of these lines.

¹⁶⁶ R. Yitzhak’s statement: two may be written, three may not be written parallels a verse in the halakhic discourse in Gittin 3a in which the Talmud discusses whether the agent who delivers the get to the wife to be divorced with it is permitted to say an abridged version of the verbal declaration. The verse reads One out of three he might omit, one out of two he would not omit. Earlier in 3a the Talmud discusses how many witnesses are required when the get is delivered. The Talmud states: One said in the presence of two, one said in the presence of three. See Fraenkel, “Chiasmus in Talmudic-Aggadic Narrative.”
from an oral tradition, a הָלְכָה לַמִּשְׁמְרָה –HLMM (a law to Moses at Sinai). In this aggadah, Rav Yosef maintains that scored horizontal lines are required even when writing only three consecutive words in a personal letter. Rav Yosef is criticizing R. Evyatar for quoting the scriptural verse in his letter to Rav Yehudah without scoring lines on the paper.

13. *It was taught in a baraita: three (words) may be written (without lines), four (words) may not be written (without lines).*

14. *Abaye*\(^{168}\) *said to him (Rav Yosef) “Is anyone who does not know this rule of R. Yitzchak not to be considered a great scholar?”*

15. (Abaye continues) “If it were a rule established by logical deduction, we might think so” (that is we might assume that R. Evyatar’s mistake demonstrates that he is not reliable).

16. (Abaye): “But (R. Yitzchak’s ruling) is an oral tradition, and it is an oral tradition that R. Evyatar had not received.”

A baraita is a Rabbinic tradition that can be found in the Tosefta, the Midrash, and in Jerusalem and Babylonian Talmuds. A baraita is usually attributed to a Rabbinic sage from the tannaitic era. In general, baraitot were held by later sages to be authoritative in some way, although the exact nature of the authority is hard to determine because baraitot often contradicted one another and later sages sometimes felt free to disregard them. Robert Goldenberg, however, claims that “if a baraita was quoted in the course of a discussion, its meaning and its implication necessarily had to be explored.”\(^{169}\) In this aggadah, although a baraita is quoted, the Talmud does not explore its meaning or its implication. Rav Yosef

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\(^{167}\) See Hayes, “Halakhah le-Moshe mi-Sinai,” 108. Hayes states that “both Talmudim contain traditions that identify details of the preparation of Torah scrolls as HLMM.”

\(^{168}\) See Bader, *Talmudic Sages*, 727-33. Abaye is Abaye bar Chalil who reportedly lived from 280 CE to 338 CE. Rabbah, who was mentioned earlier in chapter one of Gittin, was the uncle of Abaye and he raised Abaye because he was an orphan. Abaye’s father, Rabbah’s brother, died before Abaye was born and Abaye’s mother died while giving birth to him. In other stories in the Talmud, Abaye is portrayed as one who was very tolerant and would always think the best of others. Therefore it seems that it is no coincidence that Abaye is the one who defends R. Evyatar’s reputation in this story.

objects to R. Evyatar on the basis of R. Yitzhak’s ruling alone and not from the baraita. Abaye only refers to R. Yitzchak’s tradition and not to the baraita in his defense of R. Evyatar.

17. (Abaye): “Furthermore, this R. Evyatar is the one to whom the Master (God) gave his approval.”

In line 17 Abaye supports R. Evyatar’s authority in another way by claiming that God especially approved of R. Evyatar. It is not clear if lines 18-20 of the aggadah are said in the name of Abaye or whether they constitute commentary by the Talmud’s anonymous editors.

18. For it is written, “And his concubine was unfaithful to him” (Judges 19:20).

This statement refers to the episode in Judges 19-20 known as the concubine in Giveah, which relates a story regarding a certain man who becomes angry with his concubine. She flees from his house and returns to the house of her father. The man follows her to take her back. This begins a chain of events that leads to the concubine’s death at the hands of the residents of Giveah and a civil war between the tribe of Benjamin and the other tribes of Israel.

According to the story, after the man takes her back they are given lodging overnight in Giveah. During the night the townspeople in Giveah demand that the man be handed over to them. Their host instead offers his virgin daughter and the concubine. During the night

170 Rashi understands this to mean that God gave R. Evyatar the ability to understand an unknown matter.

171 The Soncino Talmud translates the verse from Judges 19:2: הרה ועמד על עין ילאך as “the concubine played the harlot against him.” The Schottenstein Edition of the Talmud Bavli translates the verse as “the concubine strayed from him.” According to W. L. Holladay, A Concise Hebrew and Aramaic Lexicon of the Old Testament (Grand Rapids, Michigan: William B. Eerdmans Publishing Company, 1971), 90 and Marcus Jastrow, A Dictionary of the Targumim, The Talmud Babli and Yerushalmi, And The Midrashic Literature (New York: The Judaica Press, 1971), 388 the literal translation of הרה is “she was unfaithful.” The Schottenstein Edition of the Talmud Bavli translates הרה as “she strayed” because traditional Talmudic commentators such as Tosafos assume that the word does not mean adultery in this case; rather it refers to a lesser infraction.
the townspeople rape and kill the concubine. The man finds his dead concubine in the morning and cuts her into twelve pieces and sends a piece to each tribe. This leads to a bloody civil war with huge losses. The insertion of the proof text from Judges along with the earlier scriptural proof text from Joel situates these stories in the center of the discourse of violence and divorce in the Talmud.

19. R. Evyatar said: “He found a fly with her.”
20. R. Jonathan said: “He found a hair with her.”

Lines 19 and 20 appear to be generated by the question of what were the concubine’s actions that caused her husband to be angry with her, which led to her departure from her husband’s home. Two opinions are offered in the Talmud. Rabbi Evyatar said that it was a fly. The suggestion from Rabbi Jonathan is that a hair was the source of the trouble. Further on, the aggadah will explain the exact circumstances in which the husband found the fly and the hair. According to both opinions, however, her offense was a minor one. Traditional commentaries assume that from the conversation in the Talmud we can infer that the sages assumed that the concubine was legally married to her husband and that she did not commit adultery. The Talmudic discourse seems to be generated by an attempt to determine what her less serious offense was since the story in Judges describes that later the husband wanted his concubine back. Had she committed adultery he would have had to divorce her and could not have asked her to return because that would have contravened biblical divorce laws.

The biblical text clearly states, however, that the woman was a concubine. Michael Satlow concludes that according to the Babylonian Talmud a concubine cohabits with a man

172 The traditional Talmud commentary Tosafot held this view. See Aryeh Cohen, “Beginning Gittin/Mapping Exile” in Beginning Again Toward a Hermeneutics of Jewish Texts (ed. Aryeh Cohen and Shaul Magid; New York: Seven Bridges Press, 2002), 87-8. Cohen also thinks that Gittin 6b understands that the concubine was legally married to her husband.
without being married to him and concubines do not have the legal rights of wives.\textsuperscript{173} B. Sanhedrin 21b states that wives have \textit{ketuboth} and concubines do not have \textit{ketuboth}. The possibility should be considered that this aggadah refers to the tragic story in Judges 19 in part as a polemic against men having concubines, since the Babylonian Talmud seems to have adopted a more negative view of concubines than that found in the Jerusalem Talmud.\textsuperscript{174} One of the reasons that the proof text from Judges has been inserted in this talmudic chapter might be to highlight concern on the part of Rabbinic sages that wider social problems can occur when men cohabit with concubines and do not observe Rabbinic laws regarding properly constituted marriage and divorce.\textsuperscript{175}

The next section of the aggadah moves to a story regarding the prophet Elijah, who suddenly appears to Rabbi Evyatar.

\begin{itemize}
\item 21. \textit{Soon afterwards R. Evyatar met Elijah.}\textsuperscript{176}
\item 22. \textit{He asked him “What is the Holy One Blessed Be He doing?”}
\item 23. \textit{(Elijah) answered him, “He is involved with (the episode of) the concubine in Giveah.”}
\end{itemize}

Elijah appears in only six chapters in Scripture, 1 Kings 17-19, 2:2 Kings 1-2, and through one passage in Malachi 3:2 he becomes the prophet who will usher in the messianic era. Rabbinic literature expanded on the image of Elijah as portrayed in scripture.

\textsuperscript{173} See Satlow, \textit{Jewish Marriage}, 193. See also \textit{Encyclopedia Judaica} 5: 863.

\textsuperscript{174} See Satlow, \textit{Jewish Marriage}, 193. The Jerusalem Talmud, in Ketuboth 5:2, 29d, states that a wife and a concubine both have a \textit{ketubah}, but the concubine’s \textit{ketubah} lacks the full economic security of a legitimate wife. Satlow concludes that “in the Palestinian Talmud the concubine more clearly inhabits a position between a legitimate wife and a prostitute,” whereas in the Babylonian Talmud “a concubine is not considered married and lacks the primary economic protection that Rabbinic law grants to wives.”

\textsuperscript{175} See Grubbs, \textit{Women and the Law in the Roman Empire}, 170. In 326 C.E. Emperor Constantine enacted a law forbidding Roman men who were already married from keeping a concubine as well. Constantine’s law of 336 C.E. made it illegal for men of rank to leave inheritances to children who were born of relationships with concubines.
24. (R. Evyatar asks Elijah) “What does (God) say?”
25. He (Elijah) says to him (R. Evyatar): “(God says) Evyatar my son states this and Jonathan my son states this.”
26. (R. Evyatar) asked (Elijah): “Can there possibly be uncertainty in the mind of the Heavenly One?”
27. (Elijah) answered him: “These and those are the words of the living God.”

The voice of the anonymous editor of the Talmud refutes the claim made by Rav Yosef that R. Evyatar is not reliable when Elijah confirms that God considers that the words of both sages are authoritative. Richard Kalmin argues that:

commentary by the Talmud’s anonymous editors is distinguishable from commentary by Amoraim. Anonymous commentary neutralizes the criticisms of rabbis found in attributed sources and makes peace between sages when the sources portray conflict. Anonymous commentators show their high regard for Rabbis by reinterpreting sources which depict these rabbis in an unfavorable light. For the most part, anonymous editors leave the offending passages untouched.177

Kalmin’s observations can be applied to this aggadah. The criticism of R. Evyatar earlier in the aggadah, when Rav Yosef declares who tells us that R. Evyatar is reliable and Rav Yosef’s claim that R. Evyatar did not score lines in the letter he wrote, have not been removed by the editors. At the same time, the unattributed voices rehabilitate R. Evyatar’s reputation by telling us that R. Evyatar is favored by God and is privy to special information that is unknown to other sages. This is an example of the claim made by many scholars that Talmudic discourse is comprised of diverse and objectively identifiable sources.178

The aggadah continues with:

176 Why does R. Evyatar have the special distinction of being able to converse with Elijah? This is an ungrammaticality in the text that will be discussed in part three of this thesis.

177 Kalmin, Sages, Stories, Authors, and Editors, 162-167.
28. He (the Levite) found a fly and did not become angry; he (then) found a hair and became angry.
29. Rav. Judah said “The fly was in a plate (of food), and the hair was in that place (on her body).”
30. The fly was merely disgusting but the hair was dangerous.¹⁷⁹
31. Others say, “Both (the hair and the fly) were in the plate, the fly was accidental, the hair was negligent.”

Lines 28-31 comprise the Talmud’s explanation of the circumstances regarding the hair and the fly. There is a difference of opinion. Rav Judah says the fly was in a plate of food and the hair was on her body. Others say that both the hair and the fly were in a plate, but that the appearance of a hair in his food angered the man more than finding the fly in his food. The hair was considered worse than the fly because “it is sometimes difficult to prevent an insect from landing on a plate of food, but to serve food with a hair on it is an act of carelessness.”¹⁸⁰

Line 31, which states others say, “Both (the hair and the fly) were in the plate, the fly was accidental, the hair was negligent,” may be an attempt by the Talmudic redactors to

¹⁷⁸ See Hayes, “Halakhah le-Moshe mi-Sinai in Rabbinic Sources,” 91-2, who concludes that the preservation of distinctive sources in Babylonian Talmudic material underscores the heterogeneity of Rabbinic texts and militates against “the documentarian notion of a redactional voice that flattens source materials.”

¹⁷⁹ It is not clear if line 30 is a continuation of Rav Judah’s statement in line 29 or if line 30 is a comment by the anonymous editors of the Talmud. The classical commentaries have understood that the place (on her body) refers to the pubic area. See Judith Baskin, *Midrashic Women: Formations of the Feminine in Rabbinic Literature* (Hanover, NH: Brandeis University Press / The University Press of New England, 2002), 35. Baskin concludes that “B. Gittin 6b expresses the view that a man who has intercourse with a woman with pubic hair risks castration” (2002: 35). The Talmud says נוּלָּא the hair posed a danger. According to Scherman, *The Schottenstein Edition of the Talmud Bavli*, Rashi’s commentary on this verse states that it was the custom of Jewish women to remove their pubic hair to guard against inflicting a wound (cut, laceration) on the male organ during marital relations. Baskin seems to be interpreting the word for wound/ laceration to be castration. I can find no commentaries that mention castration in reference to Gittin 6b. It is interesting, however, that the word for wound comes from the same root as the word keritut as in sefer keritut, the writ of divorce.

¹⁸⁰ Scherman, *The Schottenstein Edition of the Talmud Bavli*. See the commentary on Gittin 6b.
retreat from the dispute between R. Evyatar and Jonathan by harmonizing their positions.

Daniel Boyarin suggests that lines 28-31 “may even be a later gloss on the text.”

The Aggadah concludes with the following:

32. **Rav Chisda said:** “A man should never instill excessive fear in his household.
33. **For the concubine in Giveah, her husband instilled excessive fear in her, and many thousands were killed in Israel.”
34. **Rav Judah said in the name of Rav:** “Whoever instills excessive fear in his household will eventually commit three sins: illicit relations, bloodshed and the desecration of the Sabbath.”
35. **Rabbah b. Bar Chanah said:** “That which the Rabbis taught: there are three things a man must say in his home on the eve of the Sabbath just before dark.
36. **Have you set aside the tithe?** Have you prepared the **Eruv?** Light the Sabbath lamp!”
37. **A man needs to say** (these things) gently, so that the members of his household will accept (them) from him.
38. **Rav Ashi said:** “I never heard that rule of Rabbah b. Bar Chanah but I fulfilled it based on (my own) reasoning.”

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181 See Boyarin, *Intertextuality*, 141. Boyarin’s conclusion that lines 28-31 are a later gloss is somewhat problematic. Line 28 is the explanation of what special knowledge R. Evyatar had because he alone knew that the incident with the fly occurred prior to the incident with the hair. According to the commentary in Scherman, *The Schottenstein Edition of the Talmud Bavli*, “Since the man sent away his concubine as a result of the hair, this infraction became well known, but no one knew of her earlier act of serving food with a fly in it.” R. Evyatar’s knowledge of this earlier infraction demonstrates the divine assistance he received here. It seems more likely that line 31 alone was a later gloss or that lines 29-31 may even constitute a gloss but line 28 is part of the ‘original story’.

182 The number of the sins parallels the number of things that a man must say in his home on the eve of the Sabbath. According to Rashi this phrase refers to the forbidden sexual union of cohabiting with a woman who has menstruated and not completed her purification process. A woman who fears her husband’s anger might be too afraid to tell him that she has not immersed and would cohabit with him even though it is forbidden. Similarly her excessive fear might cause her to flee, which would lead to bloodshed as it did in Giveah. Alternatively, it might lead her to desecrate the Sabbath. For instance, if she had not made all the preparations for the Sabbath prior to its onset, she might continue work forbidden on the Sabbath out of fear of her husband.

183 This refers to the necessity of tithing the food to be eaten on the Sabbath prior to the Sabbath because it is prohibited to tithe on the Sabbath.

184 According to the Biblical laws of the Sabbath it is forbidden to carry anything outside of your home on the Sabbath. The **eruv** is a legal device that merges several separate residences into a single joint ownership. This is a rabbinic enactment which allows people to carry items outside of their own homes on the Sabbath.

185 See Rashi’s commentary on Shabbat 34a. “Light the lamp” is said as a statement rather than a question because it is obvious whether or not the lamp has been lit.
The theme of Rav Ashi’s not receiving or not hearing the tradition is parallel to Rav Evyatar’s not knowing the rule of R. Yitzchak (see lines 14 and 15 of the aggadah).\textsuperscript{186}

In “Early Rabbinic Explanations of the Destruction of Jerusalem,” Robert Goldenberg states that the prophets consistently asserted a connection between national wickedness and national disaster.\textsuperscript{187} The prophets repeatedly stated that Israel was violating its covenant obligations and could expect catastrophe in return.\textsuperscript{188} Goldenberg concludes that, while Rabbinic literature displays similar themes, the prophetic paradigm that linked national wickedness with national tragedy was replaced by a vague moral trope in which a pattern of behaviour by an individual could be rebuked by declaring it the cause of a national calamity. This trope assumed a new role as a rhetorical cliché and could often be invoked to explain Israel’s misfortune.\textsuperscript{189}

In Gittin 6b, the husband’s harsh reaction is blamed for his concubine’s fleeing his home, which leads to an ensuing disastrous chain of events on a national scale. Marital discord leads to illicit sexual relations and bloodshed and the destruction of the established social order. The rhetorical moves in this aggadah follow Goldenberg’s assessment that the Rabbinic sages employed a vague moral trope in which an individual’s behaviour is rebuked by declaring it the cause of a national calamity.

\footnotesize
\begin{itemize}
\item \textsuperscript{186} Cohen, “Beginning Gittin,” 84.
\item \textsuperscript{188} Goldenberg, “Rabbinic Explanations of the Destruction,” 518.
\item \textsuperscript{189} Goldenberg, “Rabbinic Explanations of the Destruction,” 525. In B. Gittin 56a, a minor character named Zechariah b. Avkilus, who does not appear anywhere else in Rabbinic literature, is declared by a leading Rabbinic authority to have caused the destruction of the Second Temple with his excessive legal and moral scruples. According to Goldenberg this is an ironic reversal of the prophetic tradition of connecting national wickedness with national disaster. “This development offers a striking example of the Rabbinic interpreters’
The analysis in chapter three of this thesis will display the ways in which the intertextual references operate to locate the concepts in this aggadah within the wider cultural context. An intertextual reading will reveal that the themes of divorce, violence and exile are further reinforced and interwoven in 6B and in the following aggadic passage located in Gittin 7a.
CHAPTER III

Various passages in Rabbinic literature indicate that marriage and divorce and the phenomenon of exile\textsuperscript{190} are at the heart of the Rabbinic enterprise. These themes are dramatically portrayed in a story located at the conclusion of the talmudic tractate of Gittin.

B. Gittin 90b states:

\begin{quote}
R. Elazar said: anyone who divorces his first wife, even the Temple altar sheds tears on his account. As it is stated you cause the altar of God to be covered with tears, with weeping and with sighing, so that he no longer turns to the offering, or receives it with good will from your hands. (Malachi 2:13).
\end{quote}

This passage from the book of the post-exilic prophet Malachi links divorce with the conditions of the exile of the Jewish people following the destruction of the First Temple. The intertextual placement of the proof text from Malachi within Gittin 90b seems to reflect the Rabbinic recognition that marriage is a covenant between husbands and wives that is analogous to the covenant between God and Israel.\textsuperscript{192}

Marriage and divorce has been a metaphor for the relationship between God and Israel (see Hos. 2:4, Isaiah 60:15). Isaiah (50:1) and Jeremiah (3:1, 3:8) make use of the

\textsuperscript{190} The Rabbinic description of exile has occupied much of Rabbinic literature and imagination. See Shaul Magid, “Origin and Overcoming the Beginning Zimzum as a Trope of reading in Post-Lurianic Kabbala,” in Beginning Again Toward a Hermeneutics of Jewish Texts (ed. Aryeh Cohen and Shaul Magid; New York: Seven Bridges Press, 2002), 172. “The phenomenon of exile is one of the more fascinating ways the Jews understood their covenantal relationship to and experience of God. In the centuries following the destruction of the Second Commonwealth, Rabbinic Judaism read its contemporary experience of exile into the entire tradition, beginning with the biblical narrative of Genesis, (including Adam and Eve’s departure from the Garden of Eden), continuing with Israelite descent into Egypt and the history of the Israelites in the desert, culminating with the experience of destruction in the First and Second Commonwealth. The notion of exile progressed from a deficiency in the covenant, i.e., a divine response to sin, which is rooted in Deuteronomy and prophetic literature.”

\textsuperscript{191} This translation of Gittin 90b is from the Schottenstein Edition of the Talmud Bavli. According to B. Yoma 90b, the author of the book of Malachi was considered to be the last of the prophets, along with Haggai and Zechariah. Upon their death, the spirit of prophecy departed from Israel.

\textsuperscript{192} See Novak, “Annulment in Lieu of Divorce in Jewish Law,” 192.
Deuteronomic divorce laws in their discussion of the covenantal relationship. Since Rabbinic literature frequently portrays Israel’s relationship to God as that of a bride to her husband,\textsuperscript{193} it is not surprising that the cultural narrative of exile has also been embedded in the discussion of divorce laws in tractate Gittin of the Babylonian Talmud.

The intertextual analysis within chapter three of this thesis will demonstrate that the Talmudic site of Gittin 6b is a significant place for the sages’ discussion of divorce, exile and the covenantal relationship. The construction of Rabbinic society is another significant narrative strand that is interwoven in this aggadah.

**Gittin 6b:**

1. *R. Evyatar sent the following ruling to Rav Chisda: For writs of divorce that come from there (Babylonia) to here (the land of Israel) (the agent, i.e., the bearer of the writ of divorce) is not required to declare, “It was written in my presence and signed in my presence.”*

2. *Shall we presume that he (R. Evyatar) was of the opinion that (the reason for requiring the declaration) is because they (the people from outside of Israel) are not familiar (with the requirement that a writ of divorce be made) for the sake of (the woman)?*

3. *Whereas these (people in Babylonia) are familiar (with the requirement).*

Rav Evyatar’s initial statement reinforces the theme of the equality of Babylonia and Israel, which is stated in the preceding halakhic discussion.\textsuperscript{194} The following two lines that begin with *Shall we presume that he* and *Whereas these* appear to be statements offered by the Talmud’s anonymous editors and they confirm the legal authority of Babylonia regarding divorce writs.

7. However, since there are many who go up to (Israel) and down to Babylonia, witnesses will readily be found (to confirm the writ of divorce if it should be necessary.)

Line 7 states that many people travel from Babylonia to Israel and therefore witnesses who can testify to the signatures on gets from Babylonia can be readily found in Israel. Line 7 again asserts the legitimacy of sages from Babylonia who can be relied on to confirm the signatures on gets. In the next section of the aggadah the Talmud will move to discuss problems associated with sages who leave their homes in Babylonia to study in Israel for extended periods.

8. Rav Yosef said: “Who tells us that R. Evyatar is reliable?”

9. Furthermore, he is the one who sent (the following letter) to Rav Yehuda;

10. People who come up from there (Babylonia) to here (Israel) have fulfilled in themselves (the idea expressed in the following verse): They have given the boy for a prostitute, and the girl they sold for wine, and they have drunk (Joel 4.3).

Rav Evyatar’s reference in line 10 to People who come up from there (Babylonia) to here (Israel) has traditionally been understood to be an oblique castigation of the practice of Babylonian talmudic sages who leave their wives and children in Babylonia and travel to Palestine for extended periods. The classical medieval Talmud commentators (Rashi and Tosafot) comment that these sages demonstrate the lack of importance they attach to their relations with their wives and the fathering of children by deserting their families in Babylonia. Jeffrey Rubenstein’s observations about the culture of the stammaim and the role they played in developing aggadic stories that reflect their particular culture in Babylonia can

194 See Cohen, “Beginning Gittin,” 85. Cohen also recognizes that the themes of exile and divorce are combined in Gittin 6b.
be seen in this section of this aggadic story. According to Rubenstein, Torah study was an activity exclusively pursued by men and it created tensions among the sages and their wives and families.

To become a master of Torah required long hours of study each and every day, which naturally competed for attention with other aspects of a sage’s life. The rabbinic ethic of Torah study made limitless demands. To eschew marriage and embrace celibacy—a remedy available to Greek and Roman philosophers and demanded of the Church fathers—was not an option for the rabbis. Marital sex and procreation were mitzvot; consequently rabbis could not withdraw from female society out of single minded devotion to Torah. The conflict emerges more acutely in Bavli traditions, many of which bear signs of Stammaitic reworking. The extreme expressions of the value of Torah exacerbated the anxieties that prompted sages to devote all available time to study. The limited number of academies in Stammaitic times forced students to journey from their places of residence to the centralized institutions...and they had to spend months or years away from home.

This tension regarding husbands deserting wives in order to study Torah does not exist in the Palestinian sources, perhaps because this issue was not a cultural problem within Palestine where Rabbinic teachers were found in numerous towns and villages with a greater chance that an aspiring student could study in proximity to his home. The linking of the issue of the Babylonian sages who desert their families to the scriptural proof text from Joel 4:3, regarding the prophecy of the end of days in which God promises to save the remnant of Israel, results in an intersection of the two major narrative strands in this aggadah. This connection serves to bring together the construction of Babylonian Rabbinic society with the

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195 See Rubenstein, *Culture of the Babylonian Talmud*, 103-112. Many stories in the Babylonian Talmud discuss sages who desert their families for many years in order to study Torah. On this issue also see Boyarin, *Carnal Israel*, 156-58.


theme of the exilic experience. The rhetoric of the Bavli can be seen in the choice of a
Palestinian amora, Rav Evyatar, to voice what appears to have only been a concern among
sages in Babylonia.

Who exactly was Rav Evyatar? Although Richard Kalmin identifies Rav Evyatar as a
second generation Palestinian amora, his name cannot be found among those of the other
Rabbinic sages who are listed in encyclopedias. Evyatar does occur in four passages in the
Babylonian Talmud. Gittin 6b, however, contains the only reference in the entire Babylonian
Talmud to Rav Evyatar. The other citations refer to Evyatar who was a High Priest during
the reign of King David.

17. Furthermore, this R. Evyatar is the one to whom the Master
(God) gave his approval.

Richard Kalmin contends that the ways in which rabbis are portrayed in aggadot are
not necessarily in order to glorify or condemn a particular individual, "but because the
central purpose of the narrative is served by distorting or fabricating aspects of a sage’s
personality." Reading intertextually takes us to I Samuel (23:2-9, 30:7) where we find that
the High Priest Evyatar consults the Urim VeTumim at King David’s request in order to

198 See Kalmin, Sages, Stories, Authors and Editors, 158.
199 For instance there are no references to R. Evyatar in Bader, The Encyclopedia of Talmudic Sages, or in
Strack and Stemberger, Introduction to the Talmud and Midrash, (trans. Markus Bockmuehl; Minneapolis:
200 See B. Yoma 73b, B. Sotah 48b, B. Sanhedrin 16b.
201 See Kalmin, Sages, Stories, Authors and Editors, 158.
202 The Urim VeTumim are not described in any detail in the Bible or the Talmud. Classical commentators, such
as Rashi and Ramban, maintain that it consisted of a slip of parchment upon which the Ineffable Name was
written. This parchment was inserted into the High Priest’s breastplate which he wore while performing the
Temple service. Twelve precious stones were attached to the front of the breastplate in four rows of three
stones each. Each of these stones was inscribed with the name of one of the twelve tribes in order of their birth.
Whenever the Urim VeTumim was consulted, the letters etched on the stones lit up and spelled out a message
(see Schottenstein Edition of the Talmud Bavli Tractate Yoma Glossary).
seek divine counsel regarding whether or not King David should declare war against the Philistines. Perhaps this aggadah is making a connection between the abilities of Rav Evyatar and the High Priest Evyatar who, according to the Biblical text, was able to ascertain secret divine knowledge though consulting the *Urim VeTumim*. This could explain why Rav Evyatar is described in this aggadah as *the one to whom the Master (God) gave his approval*. My conclusion that the talmudic editors created a convergence of the characteristics of the High Priest Evyatar with Rav Evyatar is further confirmed, because according to I Samuel 30:7, the town of Tziklag is one of the places that the High Priest Evyatar consults the *Urim VeTumim* at the request of King David and Tziklag is mentioned later in this aggadic passage. Another intertextual reference is found in B. Yoma 73b which refers to the High Priest Evyatar and mentions that the tribes sought the advice of the *Urim VeTumim* regarding whether they should go to war with the tribe of Benjamin following the incident of the concubine of Giveah in Judges 19.\(^{203}\)

The aggadah continues with:

18. *For it is written, “And his concubine was unfaithful to him”* (Judges 19:2).

Marc Zvi Brettler writes the following regarding this incident in Judges in his recent work, *The Book of Judges* (2002):

J. Cheryl Exum is right that the concubine is “raped by the pen.” She has as much reality as the fish which swallowed and then vomited up Jonah. She was borrowed and then fleshed out from Genesis 19 and reworked a bit. However, if like Trible,\(^{204}\) we

\(^{203}\) This information is not found in the Biblical text but only in the Talmud. Judges 20:18 simply states that *Israel arose and went up to the house of God and asked counsel of God*. It is the Talmud that embellishes the story and says that the tribes consulted the *Urim VeTumim*.

\(^{204}\) See Brettler, *Judges*, 82: “Trible highlights the way in which the rhetoric of Judges 19 peripheralizes and dehumanizes the woman. Trible comes to the following legitimate conclusion that of all the characters in scripture, she is the least. Appearing at the beginning and the close of a story, she is alone in a world of men.”
make that our sole focus, we misread the text from a historical-literary perspective, missing many significant clues. A woman is dismembered in a text to express the collapse of pre-monarchial society.\(^{205}\)

The aggadah's primary reason for referring to the story in Judges 19 may be in order to emphasize the same aspects of this scriptural narrative that have been identified by Brettler, that is, the collapse of society. In Judges 19, divorce brings with it instability and the eventual tragic collapse of a society. Judges 19 is a discourse that reflects a lack of control, and a return to chaos.

By situating the narrative in Judges 19 within this aggadah, the discourse regarding divorce as portrayed in chapter one of tractate Gittin reveals a discourse of instability and disorder. Zakovitch points out that the opening verses of the story of the concubine in Judges 19 share language with Jeremiah 3:1.\(^{206}\) The act of locating the proof text from Judges within tractate Gittin is an example of a Rabbinic hermeneutical exercise that equates the instability and disorder of divorce with the instability and disorder of exile. The Talmud may be perpetuating the connection between divorce and exile that was first made with Jeremiah's rereading of the Deuteronomic divorce laws. Boyarin describes it this way.

The Bible is characterized by a degree of self-reflexivity, self-citation, and self-interpretation. The Rabbis, as assiduous readers of the Bible, developed an acute awareness of these intertextual relations within the holy books and their own hermeneutic work consisted of a creative process of further combining and recombining biblical verses into new texts, exposing the

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\(^{205}\) Brettler, *Judges*, 91. Brettler also suggests that Judges 19 should be seen as an anti-Saulide polemic. See Brettler's discussion of recent exegesis of Judges 19 (80-91).

interpretive relations already in the text as well as creating new ones. This recreation was experienced as revelation itself.\textsuperscript{207}

The disorder and chaos in Judges which becomes part of the talmudic discourse of divorce coheres with Jonathan Smith’s description of the Jewish exile.

While the exile is an event which can be located chronologically as after A.D. 70, it is above all a thoroughly mythic event: the return to chaos, the decreation, the separation from the deity analogous to the total catastrophe of the primeval flood.\textsuperscript{208}

The aggadah continues with:

22. He asked him “What is the Holy One Blessed Be He doing?”

The locution, “R. so and so met Elijah. He asked him “What is the Holy One Blessed Be He doing?” also appears in B. Hagigah 15b and in B. Bava Metzia 59b.\textsuperscript{209}

23. (Elijah) answered him, “He is involved with the concubine in Giveah.”
24. (R. Evyatar asks Elijah) “What does (God) say?”
25. He (Elijah) says to him (R. Evyatar): “(God says) Evyatar my son states this and Jonathan my son states this.”

In B. Hagigah 15b and B. Bava Metzia 59b God calls various rabbis “my son.”\textsuperscript{210}

An intertextual thematic web was created with the prophet Elijah appearing in a similar fashion to Rabbinic sages in numerous narratives in the Talmud and the Midrash. In Rabbinic literature, Elijah functions as an intermediary between the heavenly and earthly

\textsuperscript{207} Boyarin, \textit{Intertextuality}, 128.


\textsuperscript{209} Rubenstein, \textit{Talmudic Stories}, 54.

\textsuperscript{210} Rubenstein, \textit{Talmudic Stories}, 54.
realms in order to impart important information regarding God’s reactions or declarations.\textsuperscript{211} In these narratives, God’s thoughts are revealed through dialogue that Elijah has with Rabbis. There is never any indication that the characters in these stories are surprised that the prophet Elijah appears and converses with them. In forty Aggadot in the Babylonian Talmud Elijah speaks with or visits with Rabbis. Elijah functions in the same manner as the heavenly voices and dream visions that are found in other Rabbinic narratives that provide types of divine revelation in the post-biblical world following the cessation of prophecy.\textsuperscript{212} Stories in the Babylonian Talmud contain more supernatural or mythic elements than the Palestinian Talmud. There are only three stories in the Palestinian Talmud in which Elijah converses with the sages.\textsuperscript{213}

I suggest that it is no accident that Elijah was chosen by Rabbinic literature to fulfill the role of imparting divine revelation in the post-biblical world following the cessation of prophecy. Daniel Boyarin asserts that Midrash represents a “radical inter-textual reading of the canon, in which potentially every part refers to and is interpretable by every other part.”\textsuperscript{214} Boyarin’s claim can be seen in the Rabbinic portrayals of Elijah. The Rabbinic legends about Elijah appear to be based on his characterization in scripture itself. In Rabbinic legends Elijah appears suddenly, he speaks with authority, he is imbued with mystery and he is alone.\textsuperscript{215} It has been suggested that these elements of Elijah’s character

\textsuperscript{211} Rubenstein, \textit{Talmudic Stories}, 113.

\textsuperscript{212} Rubenstein, \textit{Talmudic Stories}, 76. It seems to me that the characterization of Enoch in Hekhalot and Merkavah literature, mirrors Elijah’s position in rabbinic literature.

\textsuperscript{213} See Rubenstein, \textit{Talmudic Stories}, 93, 249, 322.

\textsuperscript{214} Boyarin, \textit{Intertextuality}, 16.

stem from the account of his life in scripture. In the book of Kings, Elijah appears on the scene suddenly and mysteriously and he immediately establishes his authority in confronting Ahab. The solitariness of Elijah is reiterated in scripture. “The people of Israel have forsaken thy covenant...I alone am left” (1 Kings 19:10, 14). “I am the only prophet of the Lord still left (1 Kings 18:22). Elijah departs from the biblical narrative as suddenly as he enters it, and in Rabbinic stories regarding Elijah, he appears and disappears suddenly and he is always alone.

An intertextual link between Elijah and the prophet Moses was established by the Biblical text in the description of Elijah’s life. Many elements of the verses in the book of Kings pertaining to Elijah are a rereading of the life of Moses as portrayed in the book of Exodus. In the six chapters of scripture in which Elijah appears, 1 Kings 17-19, 21, and 2 Kings 1-2, there are many implicit references to Moses, therefore making Elijah the natural choice as the figure to continue to impart messages from the divine in the post-prophetic era.

In the book of Kings, Elijah performs miracles with his disciple Elisha (2 Kings 2:2). Scholars have compared the duo of Elijah and Elisha with Moses and Aaron. God tells Elijah to confront Ahab (1 Kings 18:1-2), which resonates with God instructing Moses to speak to Pharaoh (Exodus 3:9). Elijah gathers the people of Israel to Mount Carmel (1 Kings 18:19). This is reminiscent of Moses gathering all of Israel to Mount Sinai (Exodus 19:17). Elijah builds an altar with 12 stones (1 Kings 18:31-32) as Moses builds an altar with 12 stone pillars (Exodus 24:4).

216 Goldstein, Jewish Folklore, 158.

Jezebel sends a message to Elijah promising to kill him (I Kings 19:2). It has been suggested that this is similar to Pharaoh’s hardening his heart and setting himself against Moses (Exodus 8:11). Elijah is suddenly afraid and goes into hiding (I Kings 19:3-4). This is similar to the fear and reticence that Moses exhibits before going to Pharaoh (Exodus 6:12). Elijah travels on a journey of 40 days and 40 nights to Mount Horeb (I Kings 19:8). Moses spent 40 days and 40 nights on Mount Horeb receiving the Ten Commandments for the second time. God then tells Elijah to go up to the top of the mountain and God grants Elijah a theophany similar to that of Moses. Elijah is the only biblical figure other than Moses to have a theophany. Shortly before Elijah ascends to heaven in “a chariot of fire and horses of fire” (2 Kings 2:11), he strikes the Jordan River and it is miraculously parted by his cloak (2 Kings 2:8-9). A path of dry land is created between the two sides of the river allowing Elijah and his disciple Elisha to safely cross to the other side of the river just as Moses parted the sea for the Israelites to cross after leaving Egypt (Exodus 14:21-22). There are many similarities between the stories of Moses and Elijah. There are significant differences as well, but we can discern in the story of Elijah a similar thematic structure to the story of Moses.

The aggadah continues with:

26. (R. Evyatar) asked (Elijah): “Can there possibly be uncertainty in the mind of the Heavenly One?”
27. (Elijah) answered him: “These and those are the words of the living God.”

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218 Reiss, “Elijah the Zealot,” 177.
220 Reiss, “Elijah the Zealot,” 177.
Several scholars have commented on this remarkable exchange between R. Evyatar and Elijah in Gittin 6b. In regard to, *Can there possibly be uncertainty in the mind of the Heavenly One?* Daniel Boyarin states, “We have here in my view, a metamidrashic comment which marks the indeterminacy of the biblical text as inherent in it - even its Author cannot resolve it.” For Boyarin this is the “radical implication of the whole narrative.” Menachem Fisch remarks that “to deny God perfect knowledge of the past, most would argue would be seriously to encroach on his omniscience.” Yet Fisch concurs with Boyarin that the aggadic question, *Can there possibly be uncertainty in the mind of the Heavenly One?* accomplishes just that.

I will suggest another explanation that in my opinion more likely reflects the intentions of the Talmud’s authors/editors. *Can there possibly be uncertainty in the mind of the Heavenly One?* is a rhetorical question. Rhetorical questions are prevalent in the Talmud and line 4 in this aggadah is one such example. An intertextual reference leads to the conclusion that redactors integrated this aggadic passage by connecting phrases and references and by the repetition of motifs and themes. The Talmud is clear that there is no uncertainty in the mind of the Heavenly One since “*These and those are the words of the living God.*” This phrase also appears in B. Eruvin 13b in a discussion of the respective authority of the houses of Hillel and Shammai. It is more likely that in Gittin 6b, as in Eruvin 13b, the Talmud is saying that in these cases the contrary views of the great Talmudic sages must be entertained simultaneously because their opinions are equally divine and

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221 Boyarin, Intertextuality, 141.

222 Boyarin, Intertextuality, 141.

therefore acceptable.\textsuperscript{224} In Eruvin 13b, \textit{"These and those are the words of the living God,"} is invoked to settle a dispute between Hillel and Shammai. In Gittin 6b its purpose is to accept the positions of both R. Evyatar and R. Jonathan and perhaps even of Rabbah and Rava.\textsuperscript{225}

Shaul Magid suggests that a multiplicity of opinions is intrinsic to talmudic discourse because it represents a response and a solution to uncertainty. This notion of multiplicity is the Talmud's "survival strategy for navigating in an unstable theological world without an absolute, yet a world that is always informed by the absolute that is not there."\textsuperscript{226} With multiplicity the Talmud teaches its readers about post-prophetic religion by "constructing a logic of reliable relativity, that is logic without an absolute but one that is anchored in the trace of a God who is not there."\textsuperscript{227}

In the Halakhic discourse preceding this aggadah, the Talmud establishes that the authority of the Rabbinic sages in Babylonia is equal to that of the sages in Palestine with the statement issued in Gittin 6a: \textit{It was stated:} (concerning) Babylonia, Rav said that, \textit{"It is like Israel regarding the (laws of) Gittin."} The aggadah follows up on this theme by means of the intertextual phrase, \textit{these and those are the words of the living God}, which asserts a fundamental notion regarding the specific nature of that Rabbinic authority. In so doing the


\textsuperscript{225} See Rubenstein, \textit{Talmudic Stories}, 54. In B. Gittin 6b and B. Hag 15b Elijah appears to settle a dispute between sages. "God does not settle the issue but accepts both opinions as true." See also Halivni "On Man's Role in Revelation," "On Man's Role in Revelation," in From Ancient Israel to Modern Judaism Intellect in Quest of Understanding (eds. Jacob Neusner, Ernest S. Ferrichts, Nahum M. Sarna; Atlanta: Scholars Press, 1989), 38-42.


\textsuperscript{227} Magid, "Rabbis of Gold and Silver," 105. At the same time, this multiplicity is not indeterminate. In Eruvin 13b, the Talmud states that although the words of Hillel and Shammai are both \textit{the words of the living God}, the Talmud makes decisions of law according to the house of Hillel and not Shammai.
narrative strand relating to the construction of Rabbinic society within Babylonia is again interwoven in the Talmudic discourse regarding divorce.

The aggadah continues with:

28. He (the Levite) found a fly and did not become angry, he (then) found a hair and became angry.
29. Rav. Judah said “The fly was in a plate (of food), and the hair was in that place” (on her body).
30. The fly was merely disgusting but the hair was dangerous.
31. Others say, “Both (the hair and the fly) were in the plate, the fly was accidental, the hair was negligent.”

The Talmud states that the husband became angry because the concubine prepared a dish of food for him that contained a hair. The impetus for the placement of this theme in this aggadah may be the intertext found in Mishnah Gittin 9:10 which states: And the house of Hillel said: “He may divorce her even if she spoiled a dish for him.” Steinsaltz suggests that the reference to food is based on the similarity between the word מִנְסָף, a faithless wife or a prostitute, and the word מָכָה which means food.

According to Daniel Boyarin:

There is a rich field of metaphors in which sex and eating are mutually mapped onto each other in the Talmudic culture with eating the quintessential signifier of that which is both pleasurable and necessary for health and well-being. Within this field, the notion of consuming does not seem dominant, the primary metaphorical comparison is that while there are categories of food which are forbidden, those that are permitted may be enjoyed in

228 This is Danby’s translation. Sometimes it is translated as if she burned a dish for him.

229 See Jastrow, A Dictionary of the Targumim, The Talmud Babli and Yerushalmi, And The Midrashic Literature, 388.

230 See Steinsaltz, Talmud Bavli Tractate Gittin (Heb), 29. This was the view expressed by the talmudic commentary Tosafot (Heb). This is an example of what Gibbs and Ochs, “Gold and Silver: Philosophical Talmud” in Textual Reasonings Jewish Philosophy and Text Study at the End of the Twentieth Century (eds. Peter Ochs and Nancy Levine; Grand Rapids Michigan: William B. Eerdmans Publishing Company, 2002) 91, refer to as the talmudic text being based on semiotics or a theory of signs. “The sages reflect with great sophistication on how words signify and locate written words in all manners of inscription.”
any manner. Similarly, while there are sexual connections that are
forbidden, those that are permitted may be enjoyed in any fashion.
There are even places in the Talmudic text, where children are
referred to with food metaphors, and children are certainly not
classified as consumables. This complex usage of the
metaphorical field militates against the notion that its function is to
define women as sex object.  

Boyarin observes that the main metaphorical comparison that sages make between
food and sex is that just as some food is forbidden so are some sexual practices. This can be
seen in the following baraita quoted in B. Gittin 90a in a discussion regarding mishnah Gittin
9: 10, in which the house of Hillel says that a man can divorce his wife if she spoils a dish for
him.

*It was taught in a baraita, R. Meir used to say: “Just as there are
(different) sensibilities concerning (what is considered repulsive
with respect to) food, so there are (different) sensibilities
concerning what is considered licentious behavior for women.”*

The baraita continues and launches into a discussion in which differing opinions are
offered to explain the ways that a fly in one’s food can correspond to the licentious behaviour
of women. The content of mishnah Gittin 9:10 seems to be the intertext that generates the
discussion of a fly in one’s food in both B. Gittin 6b and 90a. Another intertextual
connection is found in B. Sotah 4b in which the act of being a faithless wife, וְהָרַע, is
clearly linked to מַז, food. The Talmud discusses how long a woman must be secluded with
another man in order for her to have committed adultery and therefore be classified as a
suspected Sotah. The opinions offered include the following: the seclusion must occur for
the amount of time it takes to drink a cup or roast an egg or swallow an egg.

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232 The Sotah is a woman whose fidelity has been questioned by her husband. In order for a woman to become a Sotah, two
events must occur: (a) warning- her husband warns her not to seclude herself with a specific man; and (b) seclusion- despite
the warning the wife goes into seclusion with the other man. Two people must witness the warning and the seclusion in
order for a woman to be declared a Sotah.
The aggadah in 6b immediately follows with:

32. **Rav Chisda said:** “A man should never instill excessive fear in his household.

33. **For the concubine in Giveah, her husband instilled excessive fear in her, and many thousands were killed in Israel.**

Just as Trible remarks that in Judges the men of Israel completely obliterate the concubine, also in the Talmud she is left on the cutting room floor as the Talmud immediately moves from why her husband divorced her to discuss the fact that many thousands were killed. 233

34. **Rav Judah said in the name of Rav:** “Whoever instills excessive fear in his household will eventually commit three sins: illicit relations, bloodshed and the desecration of the Sabbath.”

35. **Rabbah b. Bar Chanah said:** “That which the Rabbis taught: there are three things a man must say in his home on the eve of the Sabbath just before dark.”

36. **Have you set aside the tithe? Have you prepared the Eruv? Light the Sabbath lamp!”

37. **A man needs to say (these things) gently, so that the members of his household will accept (them) from him.**

38. **Rav Ashi said:** “I never heard that rule of Rabbah b. Bar Chanah, but I fulfilled it based on (my own) reasoning.”

In a recent article Shamma Friedman writes, Original composition and creative transmission are native to the talmudic corpus from earliest times. One of the pervasive literary devices which we find is transfer of motifs from one context to another, and in its extreme form duplication and reapplication of a story from one hero to another, producing two similar stories. 234

Friedman’s observations pertain to this aggadah. Lines 35 through 38 constitute an almost identical literary unit to that which is found in B. Shabbat 34a. Shabbat 34a begins


with the same mishnah text that is found in our aggadah, which states, *there are three things a man must say in his home on the eve of the Sabbath just before dark. “Have you set aside the tithe? Have you prepared the Eruv? Light the Sabbath lamp!”* In Gittin 6b, the mishnah is introduced by Rabbah bar bar Chanah. In Shabbat 34a the mishnah appears on its own and the gemara follows, with Rabbah bar Rav Huna stating the identical line found in this aggadah, namely *A man needs to say (these things) gently, so that the members of his household will accept (them) from him.* In Gittin 6b this is followed by Rav Ashi’s statement: “*I never heard that rule of Rabbah b. Bar Chanah, but I fulfilled it based on (my own) reasoning.*” In Shabbat 34a we find the following: *Rav Ashi said: “I never heard that rule of Rabbah bar Rav Huna, but I fulfilled it based on (my own) reasoning.”*

Rabbah b. Bar Chanah may be a corrupted form of the name Rabbah bar Rav Huna. By transferring the passages from Shabbat 34a to Gittin 6b the redactors created a new literary context. Jeffrey Rubenstein addresses the issue regarding talmudic stories that have been amalgamated from disparate sources. He ponders the question of why any particular composition in the Babylonian Talmud should be considered as a single extended story rather than three or four independent stories if the narrative has been composed of material from other sources. Rubenstein concludes that:

> from a redactional-critical perspective, the story must be considered a unity because the redactors did not simply juxtapose a series of narrative sources but wove them together with purpose. The main evidence for this claim which argues that each part contributes to the whole is that a well-constructed plot unfolds and consistent lessons emerge.\(^{236}\)

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\(^{235}\) See Bader, *Encyclopedia of Talmudic Sages,* 81-2 for a biography of Rabbah bar Rav Huna. According to the *Encyclopedia Judaica,* a Rabbah bar bar Chanah, who was distinct from Rabbah bar Rav Huna, did exist (Volume 13: 1440), but in this case it seems that it is more likely that the identical figure appears in both Gittin 6b and in Shabbat 34a since all the other elements in these narratives cohere.

\(^{236}\) Rubenstein, *Talmudic Stories,* 144.
These insights are germane to this aggadah. The Talmud is connecting Shabbat 34a with this narrative in order to convey the moral lesson that when fear is instilled in a household it can have much larger implications for society at large. Man should not cause fear in his household because to do so threatens the stability of the entire social order.

The aggadic passage in Gittin 7a which immediately follows states that:

39. *R. Abbahu said: “A person should not instill excessive fear in his household, for a great man instilled excessive fear in his own household, and they fed him a “major thing” (prohibited food). Who was he? R. Chananiah ben Gamliel.”*

42. *Rather, they attempted to feed him a “major thing.” And what was (this prohibited food)? A limb severed from a live animal.*

We see a repetition in the aggadah of the theme that instilling fear in one’s household leads to an extremely negative outcome. The discussion relates to a prohibited food, further linking the notions of prohibited food and prohibited sexual practices. Earlier on the aggadah stated that a man who instills excessive fear in his household will come to engage in illicit sexual relations. In this case, due to the man instilling excessive fear, there is an attempt to feed him a limb severed from a live animal which is prohibited. Here we also see evidence of the aggadah teaching a halakhic principle regarding the prohibition of eating a limb from a living animal. The aggadah will now turn its attention from marital discord to discord among Rabbinic sages.

43. *Mar Ukva sent (a question) to R. Elazar. “People who stand over me,237 I have it within my power to hand them over to the authorities, what is the law?”*
46. *He (Mar Ukva) sent to him (R. Elazar): “They torment me greatly, and I am unable to stand it.”*

Mar Ukva is considered by many to have held the position of Exilarch\(^{238}\) in Babylonia.\(^{239}\) In *The Culture of the Babylonian Talmud*, Jeffrey Rubenstein devotes an entire chapter, entitled “Violence,” to the discussion of discord among sages.

Readers of Bavli stories are often struck by the hostile and threatening manner with which the sages address one another. Comparisons with the Palestinian versions of many of these sources suggest that hostility among sages was predominantly a Babylonian issue. The sages conceived of their struggles to learn Torah, perform the commandments, and help their fellow Jews lead pious lives as a holy war. Where their biblical ancestors fought battles against the inhabitants of Canaan to carry out God’s plan, so they struggled against Roman and Persian oppressors, heretics, nonrabbinic Jews, the evil impulse, sin, laziness and suchlike. However much the sages perceived themselves as a scholastic class of philosophers, they simultaneously saw themselves as soldiers waging war. This self-conception helps explain the violent tenor of rabbinic interactions.\(^{240}\)

R. Elazar advises Mar Ukva that, if he shows restraint in dealing with those who are troubling him, God will reward him with the destruction of his enemies.

47. *He (R. Elazar) sent to him (Mar Ukva): “Wait silently for the Lord and long for him (Psalms 37:7). Wait silently for the Lord and he will cause corpse upon corpse to fall for you.*

48. *Arrive early to the study hall and leave late on account of them and they will disappear on their own.*

With line 48 an important aspect of the Babylonian Rabbinic ethos regarding Torah learning is being imparted. Rabbinic study ethics along with the discord among sages are

\(^{238}\) The Exilarch served as the recognized political leader of the Jewish people in Babylonia.


\(^{240}\) Rubenstein, *Culture of the Babylonian Talmud*, 54, 55, 60.
important characteristics of the Rabbinic culture in Babylonia which are being woven into the Talmudic discourse relating to divorce within this aggadah.

The aggadah continues with:

49. The words left R. Elazar's mouth and Geniva was placed in chains.

Geniva is the name of the sage who has been troubling Mar Ukva and the story concludes with his imprisonment. This confirms the wisdom of Elazar's counsel. Since Mar Ukva did not involve the government in an internal Jewish matter, God rewards Mar Ukva and imprisons Geniva. Richard Kalmin suggests that the negative portrayal of Geniva must originate from sources hostile to Geniva since no larger purpose in the narrative is discernible and an extremely sympathetic portrayal of Geniva is found in two other stories in the Babylonian Talmud.241 I suggest that a larger purpose in the narrative may be discernible. The function of this tale may be in order to reinforce the earlier claim made in the aggadah. Just as a person should not instill excessive fear in his household, the sages should control their aggression against one another. The Talmud might be making a play on words, as the name Geniva is the word for stealing or thievery. It should be considered that the character of Geniva may be a literary device within the aggadah. Geniva may be stealing time from Mar Ukva or sapping his energy with tiresome questions and attacks on Mar Ukva's legal rulings.

The subject of the relationships among the sages is brought up again in the aggadah in lines 57 and 60.

57. Rav Gebihah from Argiza offered an explanation (of the verse from Joshua 15:22): "Anyone who has anger against

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241 Kalmin, Sages, Stories, Authors and Editors, 26-7. See Gittin 31b and 62a.
his fellow but remains quiet, He who dwells forever will execute judgment on his behalf.”

60. **Rav Acha from Bei Chozaah said the following for this (verse):** “If a man has a complaint against his neighbour for taking away his livelihood and yet holds his peace He that abides in the bush will cause justice for him.”

A correlation between the marital state of men and women as being analogous to the covenental relationship between God and Israel is explicitly established further on in this aggadic passage.

61. **The Exilarch said to Rav Huna:** “From where do we know that a bridal wreath is prohibited.”

62. **He said to him:** “It is from the rabbis.”

63. **We learned in a mishnah,** during the battle of Vespasian they prohibited the wearing of bridal crowns by bridegrooms and on the eirus.

Vespasian laid siege to Jerusalem a short time before the destruction of the Second Temple. In this aggadic exchange between the Exilarch and Rav Huna, the wedding scene is connected to exile. The wearing of bridal crowns is forbidden because of the destruction of the Second Temple.

67. **When the turban is on the head of the High Priest, a crown (may be placed) on the head of every (other) person.**

68. **But when the turban has been removed from the head of the High Priest, the crown must be removed from the head of every (other) person.**

The text makes a correspondence between the turban of the High Priest and the wedding crown of the bridegroom. With the destruction of the Second Temple and the

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243 See Jastrow, *A Dictionary of the Targumim, The Talmud Babli and Yerushalmi, And The Midrashic Literature*, 60. *Eirus* was an instrument used at weddings and funerals. The Soncino Talmud translates it as a drum. According to the *Schottenstein Edition of the Talmud Bavli* it was a tambourine-like instrument.

244 See Cohen, “Beginning Gittin,” 91.
removal of the position of High Priest, there is no symbol of the marriage of God and Israel, therefore bridal crowns, the symbol of marriages between men and women should not be worn. Within the discourse regarding divorce the Talmud is firmly establishing that the exilic status of the Jewish nation is as a divorced spouse from its covenental partner, God.
CHAPTER IV CONCLUSION

Scholars have noticed the many texts in Rabbinic literature that portray the covenantal relationship between the people of Israel and God as being analogous to marriage and the exile of the Jewish people as equivalent to divorce. The theme of exile being analogous to divorce is also portrayed in the aggadah in B. Gittin 6b. The expressions of the Rabbinic consciousness of the exile following the destruction of the Second Temple and the need to establish Rabbinic authority in Babylonia are evident within the halakhic and aggadic passages on divorce. The way Rabbinic discourse responds to its own project of realignment and reconstruction in Babylonia is played out in the halakhic and aggadic discourse in chapter one of tractate Gittin. The site of the Talmudic discourse on divorce, specifically in the passages that determine how divorce law must be carried out in different territories, becomes a significant place for the assertion of the authority of the emerging Rabbinic leadership in Babylonia.

A thematic intertwining of domestic violence with the theme of the violence among Rabbinic sages also occurs within this aggadah. The proof text from Judges 19 relates a tale of violence. The themes of violence toward wives and children who are deserted by their husbands are communicated through the proof text from the biblical book of Joel. The theme of marital violence is combined with the theme of violence among Rabbinic sages in Babylonia within the talmudic discussion of divorce. The violence perpetrated by Rabbinic sages toward each other is dramatically portrayed with the incarceration of Geniva.

A certain amount of creative editorial reworking is evident in this aggadah. The named authorities in the narrative are by and large from the third century, but some of the themes portrayed appear to stem from the stammaitic layer of Talmudic discourse. The
themes of violence among Rabbinic sages and men deserting their wives in order to devote years to Torah study are predominant within the aggadah and, as Rubenstein demonstrates, they are characteristics of the stammaitic culture.\textsuperscript{245}

Although Halakhah is often contextualized in opposition to Aggadah, the halakhic and aggadic discourse analyzed in this study reveals that the two categories of material are interspersed in the first chapter of tractate Gittin with no clear lines of demarcation between them. Some of the same Rabbinic sages issue halakhic rulings and aggadic opinions within chapter one of tractate Gittin. In addition, unity of thought and expression exists in both discourses. The halakhic discourse establishes that the practices of the Rabbinic sages in Babylonia regarding divorce law is equal to the practices of Rabbinic sages in Israel. The phrase, \textit{It was stated: (concerning) Babylonia, Rav said that, “It is like Israel regarding the (laws of) Gittin”} establishes the legal authority of Rabbinic sages in Babylonia. The aggadic passages follow up on this theme by discussing the specific nature of that authority which is determined by the statement, \textit{“These and those are the words of the living God.”}

Many scholars conclude that, while the Halakhah defines normative law and norms of conduct, the Aggadah primarily sets forth a worldview of monotheism.\textsuperscript{246} The findings of this thesis suggest that the opposition between Halakhah and Aggadah should be unsettled. Several aspects of normative law and norms of conduct are described in the aggadah. The laws regarding divorce writs that are sent from Babylonia to Israel, the necessity of scoring lines when writing a Torah scroll, procedures to follow in preparing for the Sabbath, the law

\textsuperscript{245} See Rubenstein, \textit{Culture of the Babylonian Talmud.}

\textsuperscript{246} See Neusner, \textit{The Halakhah and the Aggadah}, 4-6.
against eating a limb from a living animal, and the prohibition against bridal crowns are all aspects of normative law and conduct that are conveyed in this aggadic passage.

Avraham Weiss, Eli Yassif and, most recently, Jeffrey Rubenstein have all claimed that a lengthy collection of narrative traditions concerning the siege of Jerusalem, the destruction of the Second Temple, military defeat and persecution extends from B. Gittin 55b to B. Gittin 58a.\textsuperscript{247} Avraham Weiss calls these narratives “the aggadot on destruction,” and Eli Yassif refers to them as a “story cycle.” The findings of this thesis suggest that the aggadot on destruction theme begins as far back as the very first aggadah in tractate Gittin, whose themes include military defeat, the war of Vespasian, violence, persecution and destruction. This theme is also found in the concluding aggadah in the tractate in B. Gittin 90b that discusses the tears shed by the altar of the temple in the aftermath of its destruction.

This study has shown that an intertextual reading of Aggadah can assist in uncovering its latent rhetorical and historical features and can assist in situating Rabbinic narrative within its own cultural context. The intertextual references within this aggadah point to how this aggadah may have been read in the Rabbinic period.

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Translation of B. Gittin 6b:

1. R. Evyatar sent the following ruling to Rav Chisda: For writs of divorce that come from there (Babylonia) to here (the land of Israel) (the agent i.e. bearer of the writ of divorce) is not required to declare “It was written in my presence and signed in my presence.”
2. Shall we presume that he (R. Evyatar) was of the opinion that (the reason for requiring the declaration) is because they (the people from outside of Israel) are not familiar (with the requirement that a writ of divorce be made) for the sake of (the woman)?
3. Whereas these (people in Babylonia) are familiar (with the requirement.)
4. Do you think (this is so?, i.e., is this logical?)
5. But Rabbah agrees with Rava.
6. Rather, everyone (this is a term meaning every tanna) agrees that (a declaration is required because) we need to confirm (the signatures on the writ of divorce. Therefore a declaration should be required even for a writ of divorce brought from Babylonia to Israel.)
7. However, since there are many who go up to (Israel) and down to Babylonia witnesses will readily be found (to confirm the writ of divorce if it should be necessary.)
8. Rav Yosef said: “Who tells us that R. Evyatar is reliable?”
9. Furthermore, he is the one who sent (the following letter) to Rav Yehuda
10. People who come up from there (Babylonia) to here (Israel) have fulfilled in themselves (the idea expressed in the following verse): They have given the boy for a prostitute, and the girl they sold for wine, and they have drunk (Joel 4.3).
11. And (Rav Yosef continues) “he (R. Evyatar) wrote (this verse) without scored lines.”
12. And R. Yitzchak said “two (words from scripture) may be written (without lining the words), three (words) may not be written” (without lining them).
13. It was taught in a Baraita: three (words) may be written (without lines), four (words) may not be written (without lines).
14. Abaye said to him (Rav Yosef) “Is anyone who does not know this rule of R. Yitzchak not to be considered a great scholar?”
15. If it were a rule established by logical deduction, we might think so (that is we might assume that R. Evyatar’s mistake demonstrates that he is not reliable).
16. But (R. Yitzchak’s ruling) is an oral tradition, and it is an oral tradition that R. Evyatar had not received.
17. Furthermore, this R. Evyatar is the one whom the Master (God) gave his approval.
18. For it is written, “And his concubine was unfaithful to him” (Judges 19:2).
19. R. Evyatar said: “He found a fly with her.”
20. R. Jonathan said: “He found a hair with her.”
22. He asked him “What is the Holy One Blessed Be He doing?”
23. (Elijah) answered him, “He is involved with the concubine in Giveah.”
24. (R. Evyatar asks Elijah) “What does (God) say?”
25. He (Elijah) says to him (R. Evyatar): “(God says) Evyatar my son states this and Jonathan my son states this.”
26. (R. Evyatar) asked (Elijah): “Can there possibly be uncertainty in the mind of the Heavenly One?”
27. (Elijah) answered him: “These and those are the words of the living God.”
28. He (the Levite) found a fly and did not become angry, he found a hair and became angry.
29. Rav. Judah said “The fly was in a plate (of food), and the hair was in that place (on her
body).”
30. The fly was merely disgusting but the hair was dangerous.
31. Others say, “Both (the hair and the fly) were in the plate, the fly was accidental, the hair
was negligent.”
32. Rav Chisda said: “A man should never instill excessive fear in his household.
33. For the concubine in Giveah, her husband instilled excessive fear in her, and many
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34. Rav Judah said in the name of Rav: “Whoever instills excessive fear in his household will
eventually commit three sins: illicit relations, bloodshed and the desecration of the
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35. Rabbah b. Bar Chanah said: “That which the Rabbis taught: there are three things a man
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37. A man needs to say (these things) gently, so that the members of his household will
accept (them) from him.
38. Rav Ashi said: “I never heard that rule of Rabbah b. Bar Chanah but I fulfilled it based on
(my own) reasoning.”

B. Gittin 7a:
39. R. Abbahu said: “A person should not instill excessive fear in his household, for a great
man instilled excessive fear in his own household, and they fed him a “major thing”
(prohibited food). Who was he? R. Chananiah ben Gamliel.”
40. Do you mean to say that they actually fed him with it?
41. Now, with the beasts of the righteous, the Holy One Blessed Be He does not bring any
mishap through them. Certainly with the righteous themselves (he would not allow a
mishap to occur by allowing them to eat something prohibited).
42. Rather, they attempted to feed him a “major thing.” And what was (this prohibited food)?
A limb severed from a live animal.
43. Mar Ukva sent (a question) to R. Elazar. “People who stand over me, I have it within my
power to hand them over to the authorities, what is the law?”
44. He scored lines and wrote (the following verse in reply to Mar Ukva): “I said I will take
heed to my ways that I sin not with my tongue, I will keep a curb on my mouth while the
wicked is before me (Psalm 39:2).”
45. Even though a wicked one is against me, I will keep a curb on my mouth.
46. He (Mar Ukva) sent to him (R. Elazar): “They torment me greatly, and I am unable to
stand it.”
47. He (R. Elazar) sent to him (Mar Ukva): “Wait silently for the Lord and long for him
(Psalms 37:7). Wait silently for the Lord and he will cause corpse upon corpse to fall for
you.
48. Arrive early to the study hall and leave late on account of them and they will disappear
on their own.”
49. The words left R. Elazar’s mouth and Geniva was placed in chains.
50. They sent to Mar Ukva: “How do we know that music is prohibited?”
51. He etched lines (on a paper) and wrote (the following verse) to them: “Rejoice not O Israel in joy like the nations (Hosea 9:1)."

52. But he should have sent them (their answer) from here: With music, they shall not drink wine, old wine shall be bitter to those that drink it (Isaiah 24:9).

53. If (Mar Ukva had proved his point) from that (verse) I would have said that this ruling (applies only to) instrumental music but vocal (music) is permitted. (Mar Ukva) informs us (by citing the other verse that all forms of musical rejoicing are prohibited).

54. Rav Huna bar Nathan said to Rav Ashi: “What is the reason for the verse, Kinah, Dimonah and Ad’adah (Joshua 15:22)?”

55. He said to him (Rav Ashi to Rav Huna bar Nathan): “(The verse) is listing the towns of the land of Israel.”

56. He said to him (Rav Huna bar Nathan to Rav Ashi): “Do I not know that (the verse) is listing the towns of the land of Israel?”

57. Rav Gebihah from Argiza offered an explanation (of the verse from Joshua 15:22): “Anyone who has anger against his fellow but remains quiet, He who dwells forever will execute judgment on his behalf.”

58. He said to him: “If that is so, the verse, Tziklag, Madmannah and Sansannah (Joshua 15:31) should also convey a lesson.”

59. He said to him: “If Rav Gebihah from Bei Argiza were here he would have offered an explanation for this (verse as well).”

60. Rav Acha from Bei Chozaah said the following for this (verse): “If a man has a complaint against his neighbour for taking away his livelihood and yet holds his peace He that abides in the bush will cause justice for him.”

61. The Exilarch said to Rav Huna: “From where do we know that a bridal wreath is prohibited.”

62. He said to him: “It is from the rabbis.”

63. We learned in a mishnah, during the battle of Vespasian they prohibited the wearing of bridal crowns by bridegrooms and on the eirus.

64. Meanwhile Rav Huna rose and left the room.

65. Rav Chisda said to him (the Exilarch): “A verse is written “Thus says the Lord God remove the turban and take off the crown. This (will) not (remain like) this; exalt him that is low and abase him that is high.” (Ezekiel 21:31)

66. Now what relationship does the turban have to do with the crown?

67. Rather it is to tell you that when the turban is on the head of the high priest, a crown (may be placed) on the head of every (other) person.

68. But when the turban has been removed from the head of the high priest, the crown must be removed from the head of every (other) person.

69. Meanwhile Rav Huna returned and found them still discussing the matter.

70. (Rav Huna) said to (Rav Chisda): “I swear to you that (the prohibition) is from the Rabbis. However, Chisda is your name and charming are your words.”

71. Ravina found Mar bar Rav Ashi who was weaving a (wedding) crown for his daughter.

72. (Ravina) said to (Mar bar Rav Ashi): “Do (you) master not hold (that this is prohibited by the verse) remove the turban and take off the crown?”

73. He replied: “The men (have to follow) the example of the high priest, but not the women.”

74. What is (the meaning of the words in this passage), this not this?
75. Rav Avira expounded, sometimes he said it in the name of Rav Ami and sometimes he said it in the name of Rav Assi:

76. “When the Holy One, Blessed Be He, said to Israel, “Remove the turban and take off the crown,”

77. The ministering angels said before the Holy One, Blessed is he: Master of the universe is “this” for Israel who at Mount Sinai said “we will do” before “we will hear”?

78. (God) answered (the angels): Is “this” not for Israel who demeaned the One Who is High and exalted the lowly one by setting up a graven image in the sanctuary.

79. Rav Avira expounded, sometimes he said it in the name of Rav Ami and sometimes he said it in the name of Rav Assi:

80. “What is the meaning of the verse: Thus saith the Lord though they are united and likewise many, even so they shall be shorn off and it shall pass away?” (Nahum 1:12)

81. If a person sees that his livelihood is barely sufficient for him, he should give charity from it, and more so if (his livelihood) is plentiful.

82. What is (the meaning of) even so they shall be shorn off and it shall pass away?

83. A baraita of the academy of R. Ishmael taught: whoever shears some of his possessions and devotes them to charity is saved from the judgment of Gehenna.

84. This is analogous to two sheep that were passing through (a body of) water, one of which was shorn and one which was not shorn.

85. The shorn one passed (safely), while the one that was not shorn did not pass (safely).

86. “And though I have afflicted you.” (Nahum 1:12)

87. Mar Zutra said “Even a man who receives his support from charity should devote (something) to charity.”

88. “I will not afflict you any more.” (Nahum 1:12)

89. Rav Yosef taught a baraita: (if he does that) “Heaven will not again inflict poverty upon him.”