CONTENTS

List of Contributors ........................................................................................................... xi
Yaakov Elman: List of Publications .......................................................... xv
Preface .......................................................................................................................... xxiii

The Re-Presentation of ‘Biblical’ Legal Material at Qumran:
Three Cases from 4Q159 (4QOrdinancesa) ........................................ 1
Moshe J. Bernstein

Medieval and Modern Philology: Notes on the First Sugya of BT
Nazir ......................................................................................................................... 21
Daniel Boyarin

What Must the Jew do to Help the Cooking? An Analytic
Resolution to bAZ 38 .......................................................... 33
Shalom Carmy

Biblical Influence on Virgil ............................................................................. 43
Louis H. Feldman

“For this Schoolhouse is Beautiful”: A Note on Samaritan ‘Schools’
in Late Antique Palestine .................................................................................. 65
Steven Fine

Sorting Out the Wages of Adultery: Execution, Ordeal or
Divorce .............................................................................................................. 77
Shamma Friedman

“One Day David Went Out for the Hunt of the Falconers”: Persian
Themes in the Babylonian Talmud ....................................................... 111
Geoffrey Herman

The Agonistic Bavli: Greco-Roman Rhetoric in Sasanian Persia .... 137
Richard Hidary

A Late Antique Babylonian Rabbinic Treatise on Astrology .......... 165
Richard Kalmin

© 2012 Koninklijke Brill NV ISBN 978 90 04 23544 1
Redesigning *Tzitzit* in the Babylonian Talmud in Light of Literary Depictions of the Zoroastrian *kustīg* .................................................. 185
*Yishai Kiel*

Irano-Talmudica II: Leviathan, Behemoth and the ‘Domestication’ of Iranian Mythological Creatures in Eschatological Narratives of the Babylonian Talmud ................................................................. 203
*Reuven Kiperwasser & Dan D.Y. Shapira*

Learning from the *Tāg*: On a Persian Word for ‘Crown’ in Jewish Aramaic ......................................................................................... 237
*Aaron Koller*

The *adwadād* Offence in Zoroastrian Law .............................................. 247
*Maria Macuch*

*Qui coierit cum muliere in fluxu menstruo . . . interficientur ambo* (Lev. 20:18): The Biblical Prohibition of Sexual Relations with a Menstruant in the Eyes of Some Medieval Christian Theologians .................................................................................. 271
*Evyatar Marienberg*

‘Until Tzadok Arose’ in the Damascus Document: Tzadoq and his Appointment as High Priest in Early Jewish Interpretation ........ 285
*Chaim Milikowsky*

Astrology and the Head of the Academy .............................................. 301
*Jeffrey L. Rubenstein*

The Curving Shore of Time and Space: Notes on the Prologue to Pushkin’s *Ruslan and Ludmila* ............................................................... 323
*James R. Russell*

The Samaritans in Amoraic Halakhah .................................................. 371
*Lawrence H. Schiffman*

Parva—a Magus ..................................................................................... 391
*Shai Secunda*

© 2012 Koninklijke Brill NV  ISBN 978 90 04 23544 1
Religious Actions Evaluated by Intention: Zoroastrian Concepts
Shared with Judaism ................................................................. 403
Shaul Shaked

Hairy Meat? On Nērangestān, Chapter 47.1–20 ............................ 415
Prods Oktor Skjærvø

Yefet in the House of Shem: The Influence of the Septuagint
Translation of the Scroll of Esther on Rabbinic Literature .......... 441
Joseph Tabory

Scripture Versus Contemporary (Interpretive) Needs: Towards a
Mapping of the Hermeneutic Contours of Zoroastrianism .......... 465
Yuhan Sohrab-Dinshaw Vevaina

Hebrew Section

שעודה ליל המדר: בן של הלנה
ל_disconnect
בצ
ציבור קרבן
שטיינפלד ארי צבי
כפי אריה שטיינפלד

© 2012 Koninklijke Brill NV ISBN 978 90 04 23544 1
Like an athlete he undertook a contest with heresies,
And as if with his finger, he showed their powerlessness.
He resembled a wrestler in his retorts,
And he beat falsehood to the ground before the eyes of the onlookers.
The various ways of fighting were regarded by him as a theatre,
And in his whole life he never allowed himself to be conquered.¹

Perhaps the most striking thing about the bavli is its nature as a continual
and unending dialogue, from beginning to end—its agonistic nature.²

In his comprehensive and carefully nuanced article on orality in the
Babylonian Talmud (BT), Yaakov Elman concludes that the BT’s redaction
was essentially oral, even if writing may have played a limited role
in the process. In the course of his study, Elman argues that Walter Ong’s
generalization that oral cultures lack the distance from a text required
for objective analysis³ does not apply to the rabbis. Rather, the rabbis honed
their analytic skills in their interpretation of Scripture, which they then
transferred to their oral debates.⁴ As Ong himself notes, once a person

¹ A panegyric to Theodore in Narsai’s mēmrā on the Three Nestorian Doctors, published
in F. Martin, “Homélie de Narsès sur les trois docteurs Nestoriens,” Journal Asiatique 14
Nestorian Doctors as an Example of Forensic Rhetoric,” in Symposium Syriacum III, (ed.
R. Lavenant; Rome: Pontificio Istituto Orientale, 1983), 94.


³ See Walter J. Ong, Orality and Literacy: The Technologizing of the World (London:

or a culture becomes literate, even their oral communications take on characteristics of writing, “which is to say that they organize, to varying degrees, even their oral expression in thought patterns and verbal patterns that they would not know of unless they could write.”5 Because the rabbis were literate and not purely oral,6 their structures of thought were already informed by writing.

Elman, cited in the epigraph, does, however, apply to the rabbis another of Ong’s points that oral cultures tend to sound “extraordinarily agonistic in their verbal performances…. When all verbal communication must be by direct word of mouth, involved in the give-and-take dynamics of sound, interpersonal relations are kept high—both attractions and, even more, antagonisms.”7 Jeffrey Rubenstein agrees with this assessment and, tracing the thematization of hostility and violence in the Talmud as a metaphor for halakhic argumentation, shows that this agonism is more prevalent in the BT than in the Palestinian Talmud (PT). For example, the BT states that unlike the scholars in the Land of Israel who are gracious to each other in legal debate, the scholars in Babylonia “damage (mehablin) each other in legal debate.”8 The BT similarly teaches: “Three hate each other, and these are they: dogs, fowl, and [Zoroastrian] priests. And some say: prostitutes. And some say, the scholars of Babylonia.”9 Rubenstein finds that it is particularly the stammaim, the fifth- to seventh-century redactors of the BT, who portray the rabbinic academy as “a competitive environment characterized more by struggle than by mutual collaboration. Combine the valorization of argumentation and the competitive

5 Ong, Orality and Literacy, 56. See also pp. 103–04.
7 Ong, Orality and Literacy, 44–45. Ong elaborates in idem, “The Agonistic Base of Scientifically Abstract Thought: Issues in Fighting for Life: Contest, Sexuality, and Consciousness (1982)” in An Ong Reader: Challenges for Further Inquiry, (eds. Thomas Farrell and Paul Soukup; Cresskill: Hampton Press, 2002), 480: “We can notice the agonistic style of thinking in Greek antiquity, when Socrates taught by attacking, relentlessly, like a bull in a bull ring. But Socrates was only adapting an antique, even archaic, intellectual style to the new stage of consciousness to which the Greeks were rising. As we now know, all oral cultures have a deeply agonistic base for their language and thought and, often enough, for their lifestyle. Oral modes of storing and retrieving knowledge are formulaic in design and tend to be agonistic in operation.”
9 bPes 113b. Translation from Rubenstein, Culture, 54.
spirit with the ‘agonist’ ethos of the oral milieu and you have a hostile climate.”

However, considering that the amoraim and stammaim were literate, the contribution of the BT’s oral setting to its agonistic nature was probably less important than it would be for a pristine oral culture. Therefore, I would like to argue that the agonistic character of the BT is due not only to its own oral culture, but results also from the Hellenistic culture in Persia, and specifically from the agonism inherent in Greco-Roman rhetoric. As Ong reminds us:

Homeric and the pre-Homeric Greeks, like oral peoples generally, practiced public speaking with great skill long before their skills were reduced to an ‘art’, that is, to a body of sequentially organized, scientific principles which explained and abetted what verbal persuasion consisted in…. Oratory has deep agonistic roots. The development of the vast rhetorical tradition was distinctive of the West and was related, whether as cause or effect or both, to the tendency among the Greeks and their cultural epigoni to maximize oppositions.

Rhetorical treatises thus institutionalized the agonism inherited from the preceding oral culture. The rhetorical tradition expresses this agonism in its emphasis on the ability to argue both sides of an issue (*disputare in utramque partem*). Cicero tells us that “Aristotle trained young men…. that they might be able to uphold either side of the question.” Quintilian similarly states: “Some think that the Academy is the most useful [school for developing eloquence], because of its habit of arguing both sides of the question is closest to the practice of forensic Causes.”

The rabbis share the same educational goals: “R. Yose from Mamleh, R. Yehoshua of Sikhnin in the name of R. Levi: Children during the time of David, even before they tasted sin, knew how to interpret the Torah

---

10 Ibid., 64.
[by adducing] forty-nine [arguments that something is] impure and forty-nine [arguments that the same thing is] pure.” The BT also notes the necessity of this talent in court: “Said Rav Yehudah in the name of Rav: One only seats in the Sanhedrin one who knows how to purify the reptile based on Scripture.”

In a previous article, I have discussed the presence of Greco-Roman rhetorical reasoning and arrangement in the PT. This article will analyze such examples in the BT as well. However, I would first like to explore possible conduits by which the classical rhetorical tradition may have entered the Babylonian rabbinic purview.

A scholarly assumption has long been that there was little Hellenistic influence in the Babylonian Talmud, except perhaps through communication with Palestinian rabbis. This is symptomatic of the more general “tendency of many scholars to underestimate the philosophical exchange between Byzantium and Sasanian Iran.” Joel T. Walker instead argues for a “much broader pattern of cultural exchange.” In the Jewish context, Charlotte Elisheva Fonrobert points to this permeable border to explain how “neo-Platonism would have made inroads at least into the Sasanian royal world in Ctesiphon, a city which, in turn, had a strong presence of rabbinic sages.” Similarly, Daniel Boyarin has most recently argued for “extensive cultural contact and interaction between the Rabbis of late Babylonia and the Greco-Christian cultural world.”

---

15 Pesikta de-Rav Kahana, Parah ‘adumah, pis. 4:2, to Numbers 19:2 (ed. Mandelbaum, 1:56). All translations of rabbinic texts are my own.
16 bSan 17a. See parallel at ySan4:1 (22a).
19 Ibid. Walker’s argument centers on the flight of Damascius and his colleagues to the court of Khosrow in 532 CE after Justinian closed the School of Athens. Although Damascius’ stay in Persia lasted only one year, the story reflects the “the richness of intellectual life at the late Sasanian court, as well as the intensity of its contacts with Greek and Syrian intellectuals” (ibid., 68).
stretches the application of this hypothesis beyond the evidence, the basic claim that the Babylonian Talmud reflects a significant degree of Hellenism, whether through a common Hellenistic culture in Persia or through direct contact between the Syriac Christians and late Babylonian rabbis, can hardly be denied.

Shaye Cohen shows significant parallels between the Babylonian Talmud’s portrayal of the patriarch and the description of the scholarch in Greek sources, which relate to further similarities between the BT’s depiction of the rabbinic academy and the Greek evidence of the workings of the philosophical schools. Cohen, however, provides no mechanism for such “Hellenization of Babylonian Jewry in the fourth and fifth centuries.”

One possible conduit for the entrance of Greco-Roman literature into Sasanian Persia is the relocation of the School of the Persians in Edessa, forcibly closed by the Emperor Zeno in 489 CE because of Christological disputes, to Nisibis, several hundred miles eastward. The School of Nisibis was founded by Narsai (died c. 503), one of the most important writers and theologians of the Eastern Church, and continued until the seventh century. In addition to this most famous school, the School of Seleucia was founded in the mid-sixth century in Seleucia-Ctesiphon, the capital of the Sasanian Empire and an important center of rabbinic learning known in the BT as Mehoza. Besides these schools, many other monastic and independent schools, as well as smaller village schools, were founded throughout Mesopotamia in the sixth century CE.

---


Already three decades ago, Isaiah Gafni noted the similarities between these Eastern Christian schools and the Babylonian Yeshivot. Syriac Christians and Aramaic Rabbis shared terminology such as rav, metivta, siyyuma, and qam be-resh. Both schools had a two semester schedule such that students could go earn a living by working the field during the summer and winter harvest seasons. Both communities maintained public lectures, called the pirka by the rabbis and ‘elltha by the Eastern Christians, and the office of the resh galuta had its parallel in the East Syrian Catholicos. Many stories, interpretations, and ideas made their way from Christian sources into the Babylonian Talmud.

Most significantly, Adam Becker argues that both communities followed a scholastic program of study and systematic textual interpretation and held such study to be a transformative act of piety and devotion. Using José Ignacio Cabezón’s model of activities representative of scholasticism, Michael Swartz shows that the rabbis, especially in the BT, display many characteristics of scholasticism, including upholding the authority of tradition, contributing to that tradition through commentary, participation in dialectic, and reconciliation of disparate sources. Swartz elaborates:

[T]he Gemara often takes the form of an ongoing conversation among sages, many of whom lived centuries apart from each other. This conversation is
moderated, as it were, by an anonymous Aramaic text (called the “stam”) that can take the role of a skeptical observer—asking questions regarding opinions presented, pointing out contradictions and logical inconsistencies, and arranging source materials for comparison. This method of presentation can be considered a kind of dialectical argumentation about traditional sources for exegetical purposes. It is thus in the Talmud that many of the characteristics we can identify with scholasticism are best expressed in Judaism.\(^{36}\)

In fact, most of the methodologies identified by Cabezón and Swartz are most prominently practiced by the BT’s stammaim.

The connection between Syriac schools and the rabbis may also help explain how many features of Greco-Roman rhetoric got into the BT. The influence of Greco-Roman rhetoric on Syriac writers is well established. John W. Watt writes: “There is every reason to suppose that Greek literature and rhetoric were studied by philhellenes of Syria and Mesopotamia just as much as Greek grammar, philosophy, and medicine.”\(^{37}\) Although no rhetorical treatises in Syriac are extant before that of Anton of Tigris (9th cent. CE), there are indications that rhetoric was being studied and used in Persia since the fifth century.\(^{38}\) As an example of use of Greek rhetoric, Eva Riad points to the inclusion of prefaces by Syriac writers, a genre that emerged from classical forensic speech.\(^{39}\) Examples of such prefaces are found already in the fourth century and became increasingly customary in the fifth and sixth centuries.\(^{40}\)

Of course, Greek traditions could have entered the BT by means of many other possible conduits, such as itinerant sophists visiting Babylonia, traveling rabbis importing what they learned in the West (from Palestinian colleagues or from the general milieu), or Jews with some Greco-Roman education conversing with rabbis. In fact, this pursuit of “influence” is hardly necessary. As Riad writes, “Even the most genuine Syriac writers, considered most free from Greek influence, like Afrem and Afrahat, lived

---

\(^{36}\) Swartz, “Scholasticism,” 94.


\(^{40}\) Ibid., 19–23.
in a milieu imbued with Hellenistic thought patterns.” The Babylonian amoraim similarly lived in a Hellenized environment and rabbinic Judaism, in all its forms, is in many ways a manifestation of Hellenism. These latter possibilities can account for Hellenism in the amoraic layer of the BT dating from the third to fifth centuries. Nevertheless, a connection between the Syriac Christian schools and their contemporary stammatistic academies can be most useful in explaining the extraordinary leap in dialectics and specific rhetorical methods that we find in the redactional layers of the BT.

In the rest of this article, I will focus on one aspect of classical rhetoric found in both early Syriac writings and in the BT: the arrangement of sections in an oration. Cicero lists five stages in the study of rhetoric: invention, arrangement, expression, memory, and delivery. Within the second, he identifies six sections found in a typical oration: “exordium, narrative, partition (divisionem), confirmation, refutation (confutationem), [and] peroration (conclusionem).” The anonymous Ad Herennium lists the same stages and concisely explains the purpose of each:

The Introduction (exordium) is the beginning of the discourse, and by it the hearer’s mind is prepared for attention. The Narration (narrationem) or Statement of Facts sets forth the events that have occurred or might have occurred. By means of the Division (divisionem) we make clear what matters are agreed upon and what are contested, and announce what points we

---

41 Riad, Studies, 40.
42 See Boyarin, Socrates and the Fat Rabbis, 29; and Lee Levine, Judaism and Hellenism in Antiquity: Conflict or Confluence? (Peabody: Hendrickson Publishers, 1999), 96–198.
44 Cicero, On Invention, 1.9 [H.M. Hubbell, LCL].
45 Ibid., 1.19. Aristotle, On Rhetoric: A Theory of Civil Discourse, (trans. George A. Kennedy; New York: Oxford University Press, 2007), 3.13–19, discusses these parts in more or less the same way. On Invention, attributed to Hermogenes, discusses the following parts of the oration: prooemion (equivalent to Cicero’s exordium), prokatastasis (introduces the narration), diēgēsis (narration), prokataskeuē (partition), kataskeuē (proof), and epilogos (peroration); see George A. Kennedy, Invention and Method: Two Rhetorical Treatises from the Hermogenic Corpus (Atlanta: Society of Biblical Literature, 2005).

Although these treatises are written centuries earlier than the amoraim and Syriac writers discussed below and hundreds of miles apart, the fundamentals of rhetorical theory remain relatively static over time with only minor variations from one writer to the next. Since no Syriac rhetorical handbook is extant from late antiquity, the earlier Latin and Greek handbooks must serve as the best approximation to the instruction taught at Syriac schools. See further at Hidary, “Classical,” 37 n. 17.
intend to take up. Proof (confirmationem) is the presentation of our arguments, together with their corroboration. Refutation (confutationem) is the destruction of our adversaries’ arguments. The Conclusion (conclusionem) is the end of the discourse, formed in accordance with the principles of the art.46

Many Syriac writers seem to have been aware of this system, whether they read rhetorical handbooks or only learned it by imitation, and utilized it in their own compositions. Balai of Qenneshrin, who may have been chorbishop in Qenneshrin and in nearby villages, was active in the late-fourth and early-fifth centuries and wrote, among other things, a work entitled Sermons on Joseph. Robert Phenix has analyzed this work and found many techniques used by Balai in common with the Greco-Roman rhetorical tradition. Significantly, Phenix has shown that at least two of Balai’s prefaces to his sermons follow precisely the order of sections recommended in Ad Herennium,47 thus demonstrating “the plausibility of the influence of classical rhetoric on the arrangement of some of the speeches” in Sermons on Joseph.48

Alexander Böhlig has analyzed the anonymous Syriac treatise Liber Graduum, also written in the late-fourth or early-fifth centuries. He classifies this work as deliberative rhetoric and has similarly found that many of the sermons in this work follow the more basic four parts of arrangement: exordium, narrative, argument, and peroration—though the structure varies depending on the subject matter.49 Jost Blum shows that the sermons of Jacob of Sarug also follow the same arrangement.50

To return to Narsai, Kathleen McVey has analyzed one of his mēmrē, probably dating to 489 CE when Zeno closed the School at Edessa. She has discovered that it is “a piece of forensic rhetoric in the Greco-Roman style” and that it “conforms to the definition of the forensic speech as given by Quintilian,”51 following the very same arrangement into six parts listed above. McVey concludes: “The influx of Greek learning into Syriac theological education in the fifth century AD and the context of the fifth

46 Ad Herennium, 1.4 [Harry Caplan, LCL].
48 Ibid., 198.
51 McVey, “Mēmrā of Narsai,” 87.
century Christological controversies provide a plausible setting for the introduction of this rhetorical form into Syrian literature.\textsuperscript{52}

In the rest of this article, I will present a set of BT sugyot whose structure follows the arrangement advocated by classical rhetoric. Significant aspects of classical rhetoric, including arrangement, arguing both sides of an issue, and creation of suspense, are evident in bKet 49a, which comments on mKet 4:6. The Mishnah teaches:\textsuperscript{53}

A father is not obligated to feed his daughter. This is the interpretation that R. Eleazar ben Azariah presented before the sages in the vineyard of Yavneh: [The ketubah reads:] “The sons will inherit and the daughters will be fed.” Just as the sons do not inherit until after the death of their father, so the daughters are fed only after the death of their father.

The Gemara comments:\textsuperscript{54}

\begin{itemize}
  \item [Narration]
    \begin{itemize}
      \item מתניתין האב אINחיב ב Matters of \textsuperscript{55} ב Matters of \textsuperscript{55}
      \item בח חיות \textsuperscript{55} ב Matters of \textsuperscript{55}
      \item היב החות נוטח הדילא \textsuperscript{56} ב Matters of \textsuperscript{56}
      \item הא \textsuperscript{56} ב Matters of \textsuperscript{56}
    \end{itemize}
  \item [Proof]
    \begin{itemize}
      \item בהervices \textsuperscript{57} ב Matters of \textsuperscript{57}
      \item הרוב \textsuperscript{58} ב Matters of \textsuperscript{58}
      \item ולא \textsuperscript{59} ב Matters of \textsuperscript{59}
      \item \(\text{מדרש} \) \(\text{מדרש} \) \(\text{מדרש} \) \(\text{מדרש} \)
    \end{itemize}
\end{itemize}

\textsuperscript{52} McVey, “Mēmrā of Narsai,” 87.
\textsuperscript{53} Text follows ms. Kaufman.
\textsuperscript{54} Text follows ms. Vatican 487, unless otherwise noted. I have accepted the corrections within the manuscript to the base text without indication. See further Moshe Hershler, ed., \textit{Tractate Ketubot: The Babylonian Talmud with Variant Readings} (Jerusalem: Mekhon haTalmud haYisre'eli haShalem, 1972), 1:361–65. See chart of all ms. variants at http://rabbinics.org/charts. Significant variants are indicated in notes below.
\textsuperscript{55} Ms. Vatican 487 reads \(\text{יודו} \) but is likely a mistake. I have emended to \(\text{דהוטו} \).
\textsuperscript{56} Ms. Vatican 487 reads instead: \(\text{דהוטו} \) \(\text{דהוטו} \) \(\text{דהוטו} \). I have emended based on all other mss.
\textsuperscript{57} Rashbam to bBB 141a comments that the words “because they study Torah” are not part of the baraita but rather explanatory glosses by the Talmud.
\textsuperscript{58} All other mss. read \(\text{אמר} \).
A father is not obligated in feeding his daughter.” He is not obligated in feeding his daughter but he is obligated in feeding his son. Even for his daughter, there is no obligation but there is a *mitzvah*.59

Who is the author of our Mishnah?

[A] It is not R. Meir.
[B] It is not R. Yehudah.
[C] It is not R. Yohanan ben Beroqa.

As it was taught: There is a *mitzvah* to feed the daughters, all the more so sons who study Torah, the words of R. Meir.

R. Yehudah says, There is a *mitzvah* to feed the sons, all the more so daughters because of their disgrace.

R. Yohanan ben Beroqa says, There is an obligation to feed the daughters after the death of their father, but during the lifetime of the father, he need not feed either these [the sons] or those [the daughters].

Who is the author of our Mishnah?

[A] If it is R. Meir, but he said one ought to feed sons.
[B] If it is R. Yehudah, but he said one ought to feed sons.
[C] If it is R. Yohanan ben Beroqa, he said there is not even a *mitzvah*.

The sugya includes four of the six recommended parts of arrangement. Cicero writes that the exordium, whose purpose is to “commend the speaker to his audience,”60 can be skipped if the case is likely to be easily accepted by the audience.61 We cannot know if this sugya was ever performed in front of an audience, but it is likely that the projected audience would be a group of students and colleagues who would already have accepted the authority of the speaker. Another possibility is that in a live

---

59 The word *mitzvah* cannot be translated literally as “commandment” because in this context it is distinguished from obligation. Rather, it means a praiseworthy deed that the father ought to do but is not legally obligated to do.

60 Cicero, *On Invention*, 1.25.

61 Ibid., 1.21.
delivery, the rabbi would have begun his lecture with an exordium; however, this section was not recorded in the sugya since it has no rhetorical or legal value beyond its performative setting. Each performance required a different exordium to fit the speaker, audience, and occasion.62

The sugya, therefore, begins with the narration, which is made up of the Mishnah under discussion as well as two laws deduced from it. Since the Mishnah says only that daughters need not be fed,63 the Talmud derives that the law must be different for sons, whom the father is obligated to feed. Furthermore, even for daughters, the Mishnah says only that there is no obligation but the Talmud infers that there is a mitzvah for the father to feed his daughters; otherwise the Mishnah should have said that he does not even have that lower level of responsibility. The Mishnah, along with these two starting interpretive assumptions, comprises the case that will be under discussion.

Cicero advises that in the partition, “the matters which we intend to discuss are briefly set forth in a methodical way. This leads the auditor to hold definite points in his mind.”64 The partition in this sugya outlines the three-part structure of the upcoming argument. This section sets forth that the Mishnah cannot be authored by any of the three tannaim who rule on this issue. The use of three proofs is typical of classical oratory.65

---

62 There is some evidence of rabbinic use of exordiums in the report that Rava regularly began his lectures with words of humor (bShab 30b = bPes 117a), even though the Talmud did not feel his jokes worthy of preservation. See further on the rhetorical value of humor in Quintilian, Institutes of Oratory, 6.3. Other sages would begin their lectures with homilies in honor of their hosts (bBer 63b).

63 In fact, this entire chapter of Mishnah only speaks of the rights and obligations of daughters and does not relate at all to sons, for whom the law may very well be the same. Nevertheless, the Talmud interprets the Mishnah midrashically in a manner similar to the way in which it interprets Scripture.

64 Cicero, On Invention, 1.31. Here is a sample partition from Cicero, The Speeches, (trans. John Henry Freese; Loeb Classical Library; Cambridge: Harvard University Press, 1945), 153; Pro Sexto Roscio Amerino §35:
As far as I can judge, there are three obstacles by which Sextus Roscius is faced today: the accusation brought by his adversaries, their audacity, and their power. The accuser Euricius has undertaken the fabrication of the charge; the Roscii have claimed the role of the audacious villains; but Chrysogonus, who has the greatest influence, uses the weapon of power against us. I feel that it is my duty to discuss each of these three points.

Cicero continues to take up each of these three points in turn. See further at Friedrich Solmsen, “Cicero’s First Speeches: A Rhetorical Analysis,” Transactions and Proceedings of the American Philological Association 69 (1938): 542–56; and Hidary, “Classical,” 53–54.

65 Tripartite sugyot are common in the BT; see Shamma Friedman, “Some Structural Patterns of Talmudic Sugyot,” Proceedings of the Sixth World Congress of Jewish Studies 3 (1977): 391–96 (Hebrew). The context of classical rhetoric explains why tripartite structures may have been so prevalent.

© 2012 Koninklijke Brill NV ISBN 978 90 04 23544 1
Next comes the body of the proof from a baraita. Both R. Meir and R. Yehudah agree with the second derived assumption made above that fathers ought to feed their daughters. However, they both disagree with the assumption that there is an absolute obligation to feed sons, stating instead that it is only a mitzvah. Therefore, they cannot be the authors of the Mishnah. R. Yohanan ben Beroqa opines that there is no responsibility whatsoever for the father to feed his children during his lifetime, so he certainly cannot be the author of the Mishnah.

The next section revisits each opinion in turn and makes explicit why each tanna cannot be the author of the Mishnah. To the extent that this was clear from the baraita itself, this review can be considered the peroration, whose purpose in general is to "speak in recapitulation of what has been shown."66 This completes the first half of the sugya, which presents the challenge that apparently no tanna can be the author of the Mishnah. There is no refutation section here, perhaps because the second half of the sugya will in fact refute the arguments presented so far. The second half of the sugya resolves the challenge of authorship:

[A] If you want I can say it is R. Meir.
[B] If you want I can say it is R. Yehudah.
[C] If you want I can say it is R. Yohanan ben Beroqa.

[A] If you want I can say it is R. Meir. This is what [the Mishnah] says: The father is not obligated to feed his daughter and the same is true for his son. But there is a mitzvah for his daughter and all the more so for his son.

67 The word אימא is missing in ms. Vatican 487, but I have restored it based on all other mss.
68 Ms. Vatican 487 reads ויכה but is likely a mistake. I have emended to כי as in all other mss.
sons. The reason [the Mishnah] includes only the daughter is that even though there is no obligation there is still a mitzvah.

[B] If you want I can say it is R. Yehudah. This is what [the Mishnah] says: The father is not obligated to feed his daughter and the same is true for his son. But there is a mitzvah for his son and all the more so for his daughters. The reason [the Mishnah] includes only the daughter is that there is no obligation even for the daughter.

[C] If you want I can say it is R. Yohanan ben Beroqa. This is what [the Mishnah] says: The father is not obligated to feed his daughter and the same is true for his son and the same is true that there is not even a mitzvah. [The reason the Mishnah specifies only non-obligation for daughters is that] since it already teaches the obligation to daughters after their fathers’ death, [the Mishnah] also teaches that he is not obligated [before death].

While the first half of the sugya proved that no tanna could possibly be the author of the Mishnah, the second half shows that all three tannaim mentioned in the baraita could potentially be the authors of the Mishnah. This is a wonderful example of arguing both sides of an issue, which, as we noted above, was a central feature of both rhetorical and rabbinic discourse. The speaker would show great dialectical skill in first creating a problem by proving no possible authorship and then rebutting every one of his own arguments to open a full range of possible authors. By rejecting all possibilities, the BT sugya creates a sense of suspense—another technique of classical rhetoric. The suspense is fully resolved when all possible authors are resurrected. Quintilian describes a technique similar to that used in this sugya: “The orator often prepares his way, dissembles, lays traps, and says things in the first part of the speech which will prove their value at the end.”

The first half of the sugya is highly structured and follows the general pattern of arrangement recommended by classical rhetoric, thus defining itself as a unit. The response in the second half is also highly structured and shares the feature of the partition, which announces the outline of the argument that will be made. These three features, following a structured outline, arguing on both sides of the issue, and creating suspense, together reveal the Hellenistic imprint on this sugya.

To be sure, the usage of rhetorical arrangement differs in some respects from the typical usage by Roman writers. The use of rhetorical form by the redactors likely derives from loose imitation rather than formal rhetorical

69 Quintilian, *Institutes of Oratory*, 9.2.22, provides an example and names this technique *sustentatio*.

70 Ibid., 10.1.21.
study. Greco-Roman speeches fit into categories of forensic, deliberative and epideictic; this sugya can be categorized only tenuously as forensic: “who is responsible for authoring the Mishnah?” Cicero’s orations, at least in their written form, typically fill dozens of pages and are much more complex than the minimal outline that he recommends in his own handbook; this sugya is quite simple and weighs in at under 400 words. On the other hand, this sugya may be only an outline of what would have been a more elaborate presentation.\textsuperscript{71} The sugya does still display significant Hellenistic impact, even if the rabbis did adapt the form to fit their needs.

Besides being aesthetically and intellectually pleasing, however, what is the persuasive goal of these rhetorical techniques? At face value, the BT’s goal is to reconcile the Mishnah with the baraita by identifying which of the three opinions in the baraita can match the law of the Mishnah. However, had this been the only goal, the answer could have been simple and straightforward. The Mishnah fits perfectly with the opinion of R. Yohanan ben Beroqa, who says that there is no obligation on the father to feed his daughters during his lifetime. R. Yohanan ben Beroqa’s distinction between the father’s obligation during his lifetime and the obligation afterwards is also found in R. Eleazar ben Azariah’s exegesis of the language of the ketubah, itself a proof for the anonymous opinion in the Mishnah. In fact, this is the third possibility [C] in the sugya’s resolution. Most BT sugyot that introduce the question מתניתין מני simply provide one answer.\textsuperscript{72} That this sugya problematizes what could have been a simple solution suggests that the redactors had an additional motivation.

The redactors may have been bothered by the morality of the law of the Mishnah, which seems overly lenient on the responsibility that common sense places on a father to feed his young children, and did not want such a view to be stamped with the authority of the Mishnah.\textsuperscript{73} This moral

---


\textsuperscript{72} See bShab 150a, bPes 79a, 86a, bRH 33a, bYoma 78b, 81b, bSukk 23a, 54a, bMeg 7b, bHag 19b, bYeb 64b, bKet 97b, bNed 66a, 87a, bBQ 33a, bSan 67a, 75a, 105a, bMakk 13a, bHor 3a, 7a, bMen 93a, bTem 13a, bMe’ilah 8a and 19b. While most of these sugyot are stammainic, bErub 71a, bGit 71b and bShab 150b cite this type of sugya in the name of R. Yohanan, Rav Hisda and Abaye, respectively. This simple structure may be the earlier amoraic form of what the stammainm develop later into the form of classical arrangement.

\textsuperscript{73} See Rashbam to bBB 141a, who finds a source for this sentiment in Isaiah 58:7. The same verse is similarly used in Genesis Rabbah 17 (ed. Theodor-Albeck, p. 154), Leviticus Rabbah 34 (ed. Margulies, p. 882), and bKet 52b.
consideration is made explicit in the continuation of the Talmud, quoted below. The responsibility of a father to feed his daughters even during his lifetime is required by the plain sense of the language of the *ketubah* (see mKet 4:11) and it is only R. Eleazar ben Azariah’s midrash that rereads this line. In fact, the version of this baraita found in tKet 4:8 quotes R. Yohanan ben Beroqa as ruling that a father does have an obligation to feed his daughters:74

פותיה לולת את הבנות ואת יתום את הבנים ר’ יוחנן בן ברכיה אומרים

There a *mitzvah* to feed one’s daughters and all the more so one’s sons.

R. Yohanan ben Beroqa says there is an obligation to feed one’s daughters.

The PT cites this version of the Tosefta and makes no attempt to reconcile it with the Mishnah, thus recognizing that the Mishnah’s ruling differs from and is more lenient on the father than both of the opinions in the Tosefta. The BT’s version of the baraita, on the other hand, places R. Yohanan ben Beroqa’s view at the opposite extreme of leniency on the father, thus presenting the BT’s redactors with a ready identification of the Mishnah.75 The BT’s redactors, however, do not take this easy path. Rather, the BT introduces the category of *mitzvah* into the Mishnah, which it borrows from the first two opinions in the baraita, apparently in order to distance the Mishnah from the extreme view of R. Yohanan ben Beroqa in favor of the first two more morally palatable views.

The rejection of all possibilities in the first half of the sugya serves to wipe the slate clean so that an alternate interpretation can be introduced. Had the sugya stated upfront that the Mishnah follows R. Meir and R. Yehudah without having first rejected R. Yohanan ben Beroqa as the author, then its conclusion would not have been as persuasive. By

---

74 The Tosefta seems to be more original since R. Yohanan ben Beroqa did not generally apply midrashic methods of interpretation to human language. See Saul Lieberman, *Tosefta ki-fshutah* (New York: The Jewish Theological Seminary of America, 1955–1988), Ketubot, p. 245, citing Tosafot to bKet 53b. The same conclusion is reached by David Weiss Halivni, *Megurot u-mesoret*, (6 vols.; Tel Aviv: Dvir, and Jerusalem: Jewish Theological Seminary of America and Magnes, 1968–2003), Nashim, 192. The obligation of the father to feed his daughters is also assumed in Mekhilta d’R. Shimon bar Yohai 21:3, cited by Ramban to Exodus 21:3.

75 If the baraita is not simply the result of a transmission error of the original Tosefta (see previous note), then perhaps it is an emendation by a tradent who wanted to reconcile the Mishnah with the Tosefta. The BT redactors, receiving this emended text, then had the task of further reconciling, or perhaps unreconciling, the two sources.
pushing off the arrival at the most obvious answer and creating a sense of suspense, the sugya opens up the space necessary to consider various other possibilities as well.

The continuation of the Talmud brings to the fore the frustration of the amoraim with how leniently this law treats the responsibility of the father:

אמר ר' אילא אמר ר' שמעון בן לקיש מהוסס ר' יהודה בר חנינא 76 הרק仙 שארם u יש תני בנו בנווועה הקסמים הלךא חוטה אי אין הלךא חוטה

This statement suggests that he 
[1] מהא שדה

[2] ביכו והו לקמיי דרב הסדא אמר והו הכיל להא אסימא בז蚯רא

הלךא איתנה ויאמו עורב בא בני ההוא יברלא עמי בעי...[3] בהו אתי לקמיי דרב ואמר מהו הכיל להא דמיאני ביך ממידה

ולא אמר לי אלא דלא אדמי באלי אדמי אפשי באלי וה-Cola בהא דלא

דרב אפשי ילוי נמי ביכ אמי אפימי ומני אקורא ממאו והו לזרק

R. Ila said in the name of R. Shimon ben Laqish in the name of R. Yehudah bar Hanina: It was decreed at Usha that a father must feed his young sons and daughters.

Does the law follow him [R. Ila] or does the law not follow him?

[1] Come and hear: When they [people with a case against a father] came to Rav Yehudah, he told them, “A jackal gave birth and [the child] is thrown upon the people of the town.”

[2] When they would come before Rav Hisda, he told them, “Turn over a mortar in public and let someone stand up and announce, ‘a raven wants its child but this man does not want his child...’”

[3] When they came before Rava, he told him [the father], “Are you satisfied that your children should be fed from charity?”

We only apply [this law] to someone not wealthy but a wealthy person, we force him [to pay] against his will. As the case of Rava who forced Rav Natan bar Ami [to pay] and expropriated from him four hundred zuz for charity.

Although there is a tradition of a decree at Usha to rectify the original ethnically problematic law, this tradition is not followed because, as the PT says, we do not know who voted at that session. 77 That tradition is more wishful thinking than real. Instead, various amoraim must use extra-legal means of coaxing, pressuring, and shaming stingy fathers to fulfill

76 Ms. Vatican 487 is missing the words שמה ארתי. I have added them based on all other mss.

77 yKet 4:8, 28d.
their moral obligations to feed their children.\textsuperscript{78} The PT cites another similar case:\textsuperscript{79}

נין אמא בנו רבי יוחנן אמר לא עקבה לא עקבה שליח אמא
לך אמת לא עקבה רימית אמא בנך

Uqba came before R. Yohanan. [R. Yohanan] told him, “Uqba, feed your children.” He replied, “From where does the master [derive this law]?” He said, “Uqba you wicked person, feed your children.”

The BT attempts to solve the problem of having no legal source for forcing, or at least encouraging, recalcitrant fathers to feed their daughters. The BT therefore reads the opinions of R. Meir and R. Yehudah, who at least legislate that there is a \textit{mitzvah} for the father to feed his daughters, back into the law of the Mishnah. The exploration of all possible interpretations here not only serves as a scholastic exercise but also has a practical benefit. The sugya achieves its goal by temporarily removing the most likely candidate, R. Yohanan ben Beroqa, from being a possible author of the Mishnah and raising our curiosity so that we are more willing to accept all of the answers proposed in the resolution.

The same technique and structure are utilized in bMeg 6b commenting on mMeg 1:4.\textsuperscript{80}

\textit{Narration}

אמר אמא לוכיו רבי יוסי בר אלעזר אמר לא עקבה לא עקבה
אמר אמא לוכיו רבי גמליאל בר שמעון אמר לא עקבה לא עקבה
אמר אמא לוכיו רבי יהודה בר רבי אלעזר אמר לא עקבה לא עקבה

\textit{Partition}

אלא רבי עקבה בר רבי יהודה [A]
אלא רבי אלעזר בר רבי יהודה [B]
אלא רבי שמעון בר גמליאל [C]

\textsuperscript{78} The combination here of law and narrative creates what Barry Wimpfheimer, \textit{Narrating the Law: A Poetics of Talmudic Legal Stories} (Philadelphia: University of Pennsylvania, 2011), 16, calls a “thick” sugya wherein the various competing cultural forces at play within rabbinic society are all represented. This creates a truly dialogical text that defies simple codification. Only the combination of marriage law, ethics, shame punishment, and charity law can comprehensively portray the rabbis’ thought about this issue.

\textsuperscript{79} \textit{yKet} 4:8, 28d.

\textsuperscript{80} Text of Mishnah follows ms. Kaufmann; Gemara follows ms. Göttingen 3. See chart of all ms. variants at http://rabbinics.org/charts/.
Proof

A. אוכת קורין שנה נתעברה怎能KEN first El, אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 81

B. ר' אלעזר בר' יוסי אומר פעמים ר' כרכר בן הקצוב Ain Ken Ken Ken characterized by

C. כרכר בן גמליאל אמר פעמים ר' יוסי אוכת בראשוןVEL first El, אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 82

אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 83

 ещё בחריפותuegos ושארינו בחודש ב

אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא

אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 84

אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 85

אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 86

אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 87

Peroration

A. אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 88

B. אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 89

C. אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 90

Resolution

A. אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 91

B. אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 92

C. אוכת קורין שכל מתissent בשיני הגהות בראשון ומקרא 93

References

81 See parallel at tMeg 1:6.
82 The sentence from until is present in mss. Göttingen 3, Columbia X893-T141, Vatican 134 (with an insertion of ו) and printed editions but absent from mss. London 400, Munich 95, Munich 140 and Oxford 366. See also Lieberman, Tosefta ki-fshutah, Megillah, 1132.
83 Ms. London, Munich 95, Columbia, Vatican 134, and printed editions introduce Rav Papa’s statement with a question: “…”(London) or “…”(Rabbinic Literature).
84 Ms. Göttingen reads here but I have emended to according to all other mss.
85 Ms. Göttingen inserts here “…” but I have omitted it based on all other mss.
86 Ms. Göttingen and Columbia and printed editions read “…” Mss. London, Munich 95, Munich 140, Oxford, Vatican 134, and T-S AS 78.49 from the Geniza do not have these words but instead read simply “…”.
87 Printed editions read “…” against all mss.
Mishnah
If they read the Scroll [of Esther] in the first Adar and the year was intercalated, they read it in the second Adar. There is no difference between the first Adar and the second Adar except for reading the Scroll and gifts to the poor.

Gemara
Therefore, regarding reading the series of [four Pentateuchal] portions, this [first Adar] and the other [second Adar] are the same.

Partition
Who is the author of our Mishnah?
[A] It is not the first Tanna
[B] It is not R. Eleazar the son of R. Yose
[C] It is not Rabban Shimon ben Gamaliel

[Proof]
[A] As it was taught: If they read the Scroll in the first Adar and the year was intercalated, they read it in the second Adar, for all commandments that can be practiced in the second can be practiced in the first except for reading the Megillah.
[B] R. Eleazar the son of R. Yose says in the name of R. Zekhariah the son of the butcher, we do not read it in the second Adar, for all the commandments that can be practiced in the second can also be practiced in the first.
[C] Rabban Shimon ben Gamaliel says in the name of R. Yose, we read it again in second Adar, for all commandments that can be performed in the second cannot be performed in the first.

But they are agreed regarding eulogizing and fasting, which are prohibited in this [first Adar] and the other [second Adar].

Rav Papa said, the series of portions differentiates between Rabban Shimon ben Gamaliel and the first Tanna. For the first Tanna opines that [the portions] should be read ideally in the second [Adar] but if they already did [read them] in the first [Adar], they did so [legitimately]. This excludes reading the Scroll, for even if they read [the Scroll] in the first [Adar] they must read in the second [Adar]. R. Elazar the son of R. Yose opines that even reading the Scroll should ideally be in the first [Adar]. And Rabban Shimon ben Gamaliel opines that even regarding the series of portions, even if they read [them] in the first [Adar] they must read in the second [Adar].

Peroration
[A] If it is the first Tanna, there is a question from gifts to the poor.
[B] If it is R. Eleazar the son of R. Yose, there is a question from reading the Scroll.
[C] If it is Rabban Shimon ben Gamaliel, there is a question from the series of portions.
[Resolution]

[A] It is actually the first Tanna who taught reading the Scroll but the same law applies to gifts to the poor, for one is dependent on the other.

[C] Or if you want I can say, it is actually Rabban Shimon ben Gamaliel and [the Mishnah] is lacking and this is how it should be taught: There is no difference between the fourteenth of the first Adar and the fourteenth of the second Adar except for reading the Scroll and gifts to the poor. Therefore, regarding eulogies and fasting, this one and that one are the same. But it does not deal with the series of portions.

Rav Hyya bar Ashi said in the name of Rav, the halakha follows Rabban Shimon ben Gamaliel who spoke in the name of R. Yose.

This sugya follows a similar structure as that in bKet 49. bMeg 6b includes an amoraic elaboration in the proof section and only two possibilities in the resolution section, but otherwise, both follow the outline of classical rhetorical arrangement. The two sugyot utilize this rhetorical style for similar goals as well: to reinterpret the Mishnah in accordance with what the redactors believe should be the halakha. mMeg 1:4 states that only the recitation of Esther and gifts to the poor need to be performed in the second Adar, implying that everything else—including reading of the four portions88—can be performed in the first Adar. The final sentence of the sugya, however, decides the halakha in accordance with R. Shimon ben Gamaliel in the baraita that the four portions must be recited in the second Adar. The Talmud must therefore reinterpret the Mishnah to be compatible with R. Shimon ben Gamaliel.

As David Weiss Halivni argues, the Mishnah corresponds best with the first Tanna.89 The explanation given in the first resolution [A] that the requirement to provide gifts to the poor depends on the reading of the Scroll is already established by Rav Yosef at bMeg 4b, “because the eyes of the poor look towards the reading of the Scroll.” The language of the first phrase of the Mishnah matches that of the first Tanna almost word for word, and the exclusion formula in the second half of the Mishnah suggests that the two months are similar in most respects, likely including the series of portions. This being the case, had the Talmud simply stated

88 Four portions are recited on various Sabbaths during and just before Adar: sheqalim (Ex. 30:11–16), zakhor (Deut. 25:17–19), parah (Num. 19:1–22), and hahodesh (Ex. 12:1–20).
89 Halivni, Megorot u-mesorot, Megillah, 473–74. Halivni also points to the Scholium to Megilat Ta’anit, which cites the second half of mMeg 1:6 followed by Rabban Shimon ben Gamaliel, suggesting that they are in opposition.
upfront that the Mishnah follows R. Shimon ben Gamaliel and that the Mishnah must be interpreted to refer only to the fourteenth of the month, the listeners would not have been convinced. They would have objected, rightly, that there is a better option—that the Mishnah follows the first Tanna. The sugya, therefore, first rejects all possible attributions so that the listener will be more receptive to accepting any and all possible solutions.

Yet another example of using rhetorical arrangement for the goal of reconciling the Mishnah with the halakha can be found at bPes 28a–29a, commenting on mPes 2:2.90

90 Text of the Mishnah follows ms. Vatican 109. Text of the Gemara follows ms. Oxford 366, unless otherwise noted. See complete ms. chart at http://rabbinics.org/charts/. I have skipped a number of lines in the middle of the sugya that are not relevant to my argument. Besides, Halivni, Meqorot u-mesorot, Pesahim, 350–51, argues that these lines are stammatic additions to the original Amoraic sugya.

91 See tPes 1:8.
Leaven belonging to Gentiles that was owned during Passover is permitted for use [after Passover]. [Leaven] belonging to Jews is prohibited, as Scripture says, “No [leaven] shall be found with you” (Ex. 13:7).

Who is the author of our Mishnah?

[A] It is not R. Yehudah.

[B] It is not R. Shimon.

[C] It is not R. Yose the Galilean.

What is it? For it was taught:

[A] Leaven, both before its time [from noon on the 14th of Nisan] and after its time [after Passover], one transgresses a negative prohibition. During its time [during Passover], one transgresses a negative prohibition and is liable to karet. These are the words of R. Yehudah.

[B] R. Shimon says, leaven, both before its time and after its time, one does not transgress anything. During its time, one transgresses a negative prohibition and is liable to karet [...].

[C] R. Yose the Galilean says, you should be astonished at yourself! How can leaven be prohibited for use all seven days?
[Peroration]
Who is the author of our Mishnah?
[A] If it is R. Yehudah, he said leaven without qualification, [implying] even that of a Gentile [would be prohibited].
[B] If it is R. Shimon, even [leaven] of a Jew is permitted.
[C] If it is R. Yose the Galilean, even during its time, use is permitted.

[Resolution]
[A] Rav Aha bar Ya'aqov said, it is actually R. Yehudah and he derives [the law of] eating leaven from [the law of] seeing leaven. Just as with seeing leaven, you may not see your own but you can see that belonging to others and that dedicated upon High [to the Temple], so too eating leaven, you may not eat your own but that belonging to others [on Passover] you may eat [after Passover]. Technically, the Mishnah should have taught that [leaven] owned by a Gentile is also permitted for eating but since it taught that [leaven] of a Jew is prohibited for use, it also taught that [leaven] of a Gentile is permitted for use. And technically, it should have taught that [leaven of a Gentile] is permitted [for use] even within its time, but since it taught about [leaven] of a Jew after its time, it also taught about [leaven] of a Gentile after its time.
[B] Rava said, it is actually R. Shimon. R. Shimon imposes a [rabbinically enacted] penalty since he violated the prohibition against seeing.

The Mishnah teaches that leaven that was owned by a Jew on Passover may not be eaten, sold, or used for any purpose forever, even after Passover. The Mishnah cites Exodus 13:7 in support: since one may not have leaven in one’s possession, violation of this ban causes such leaven to be prohibited from use for all time. This opinion accords best with the view of R. Yehudah of the baraita that leaven owned on Passover is prohibited forever, a view not shared by R. Shimon. That the Mishnah cites a verse and R. Yehudah imposes a biblically authorized punishment shows that both view the law as biblical. In fact, the PT equates these two views: “Who taught, ‘Do not see…’? It is R. Yehudah.”

Rava, however, states, “The halakha is that leaven…after its time, whether mixed with its kind or not with its kind, is permitted, in accordance with R. Shimon.” This ruling by Rava may have a more ancient source, since tPes 1:8 transmits R. Shimon’s opinion as that of the Sages, whose opinion would be preferred over the minority opinion of R. Yehudah. Since Rava, as well as the redactors of this sugya, decided that halakha...
should follow R. Shimon, it was necessary to reconcile R. Shimon with the Mishnah by interpreting the prohibition in the Mishnah to be of only rabbinic authority. As in the previous two examples, this reinterpretation is accomplished by first rejecting all possible attributions of the Mishnah so that the most obvious attribution to R. Yehudah would not dominate the field. Once the field is cleared, then two possibilities can be presented as equally persuasive, and the one preferred by halakha easily accepted. Methods of classical rhetoric such as arrangement, suspense, and arguing both sides of an issue, are again utilized by the redactors of this sugya for the persuasive goal of showing the Mishnah to be in line with the final halakha.

Many other BT sugyot are structured, in whole or in part, according to classical rhetorical arrangement, and often for goals similar to those in the examples above. bRH 16a, for instance, includes a partition that rejects four possibilities, all of which remain rejected, and only a fifth possible attribution is accepted. The context there is not legal but rather deals with the question of how often God judges the world. The goal of that sugya is to move away from the Mishnah’s view that the world is judged once a year, to a more philosophically acceptable view that the world is judged every day. Both the PT and the BT challenge the Mishnah with questions such as: why does God wait until the end of the year to kill some people who deserve capital punishment if their sentences were already decided at the beginning of the year; and why should we pray for poor and sick people if they have already been judged for the year? However, only

99 In fact, the sugya gives the impression that Rava’s interpretation fits the Mishnah even more smoothly. For resolution [A], the Talmud inserts a lengthy line of reasoning to justify why the language of the Mishnah is restricted to permitting only the use of leaven owned by a Gentile and only after Passover. No such justification is provided for Rava, even though he would have to interpret the Mishnah the same way. In fact, the continuation of the sugya, not cited here, says that the verse included in the Mishnah is easily explained according to Rava’s reading but explained only with difficulty according to Rav Aha bar Ya’aqov’s reading. The Talmud says this despite the fact that the prohibition is only rabbinic for Rava but biblical for Rav Aha bar Ya’aqov. These two glosses suggest that the redactors of the sugya want to show that Rava’s explanation of the Mishnah is preferable, even on purely exegetical grounds, to that of Rav Aha bar Ya’aqov.

100 While Halivni, ibid., argues that the original sugya is amoraic, due to the amoraic attributions in the resolution, it is still possible, and I think likely, that the rhetorical structure of the overall sugya is stamaitic.

101 Other variations to מתניתין are: פלוני, תנא מאן, סר אלא לאל פלוני, and מנה. See Ezra Zion Melamed, Pirqe mevo le-sifrut ha-Talmud (Jerusalem, 1973), 72, 120 and 378–83. The use of these various terms requires a separate study.

102 See yRH 1:3, 57a, and bRH 16a.
the BT uses classical rhetorical arrangement to force the Mishnah into the position of a minority view, thus allowing for the promotion of other views.

Sherira Gaon already notes the tendency of the Talmud to assign names to anonymous views in the Mishnah in order to reject them:


When Rabbi saw [to prefer] one view and the later rabbis did not see [to prefer] it, they explained it [in such a way] that they would not have to rely on it. For example, if [Rabbi] taught a minority view anonymously because it made sense to him [that halakha should follow that view], but it did not make sense to the later rabbis . . . they would tell you it follows Rabbi or they would teach it as a minority view and we do not practice according to it.103

Thus, we find that two different interpretive approaches were available to amoraim and stammaim who needed to disagree with the anonymous view of the Mishnah: to label the anonymous view as a minority opinion (bRH 16a and the sugyot cited by Sherira Gaon), or to expand the Mishnah to allow for multiple possible authors, including the one preferred by the redactors (the three sugyot analyzed above). The first form assigns the anonymous view to a minority and thus rejects the Mishnah, while the latter form allows the Mishnah to follow multiple views thus reconciling the halakha with the Mishnah, even though it does so at the expense of reinterpretting the Mishnah. The latter form is therefore the only option in bMeg 6b, analyzed above, where the plain Mishnah fits with the anonymous view of the baraita, which would represent the majority view. The latter form also fits the tendency in the BT to explore all interpretive possibilities and keep open as many options as possible.104 In other cases, however, the language of the Mishnah may simply not allow for such reinterpretations to be accomplished convincingly, thus permitting only the first form.105

In the three examples analyzed at length above, the latter form of argument is accomplished through the use of classical rhetorical arrangement. bRH 16a, however, follows the structure of classical rhetorical arrangement even

105 Cicero, On Invention, 2.142, writes that the orator should find any ambiguity present in a document in order to interpret that source towards his side of the argument. However, such ambiguity may not always be present.
though it uses the first form. That sugya could have simply assigned the Mishnah to the fifth view right away without having begun by rejecting the first four possibilities. In that case, however, the rhetorical arrangement does serve to introduce the alternative opinions so that they can be discussed and given more prominence later on.

Several other sugyot include all sections of classical arrangement but only two possibilities are entertained rather than the usual three.\textsuperscript{106} bTan 28a, however, settles on only one of three possibilities. The same is true in bBQ 86a (middle of page) where the final answer is already indicated in the partition.\textsuperscript{107} bMeg 23a settles on only one of two possibilities.\textsuperscript{108} In yet other sugya we find no separate sections for proof and peroration.\textsuperscript{109} Further research is required to analyze the use and function of classical rhetorical arrangement across these variations.\textsuperscript{110} One lesson that does emerge already from this paper is the extent to which many BT sugyot should be read rhetorically, that is, as persuasive compositions meant to lead the listener towards a particular legal, homiletical, or exegetical goal, rather than simply loose anthologies of sources and theoretical discussions. While this article has analyzed only a very small subset of the rhetorical techniques found in the BT, further research may help us to reconstruct what the rabbis’ textbook on the art of rhetoric might have looked like, had they written such a work.

In sum, the strikingly agonistic nature of the BT derives not only from its oral setting, but also from the agonistic roots of Greco-Roman rhetoric as transmitted through the scholastic and rhetorical culture of the Syriac Christians. Narsai’s agonistic panegyric\textsuperscript{111} cited in the epigraph could easily describe many Babylonian amoraim. The BT’s use of classical rhetorical

---

\textsuperscript{106} bBetz 18a, bKet 64b, and bBQ 86a (bottom of page). bShab 37a, bBQ36a, bBM 51a and bShev 3a also include two possibilities but no separate sections for proof and peroration.

\textsuperscript{107} See similarly at bBetz 12b.

\textsuperscript{108} See similarly at bHul 26a. bBM 11b offers two possibilities but then concludes on a third, that the Mishnah follows the school of R. Ishmael. The same strategy is used in bRH 28b, discussed above.

\textsuperscript{109} See above n. 106.

\textsuperscript{110} Another form that includes a partition is found at bBer 4b: “If you want I can say from Scripture, if you want I can say from reason . . .,” as well as dozens of similar formulations.

\textsuperscript{111} On the close relationship between agonism and panegyric, see Ong, \textit{Orality and Literacy}, 45. Fulsome praise is but the flip side of antagonistic argumentation in the “highly polarized, agonistic, oral world of good and evil, virtue and vice, villains and heroes” (ibid.). Narsai beautifully combines the two by employing over-the-top praise to describe Theodore’s ability to conquer his opponents in debate.
arrangement in its highly structured sugyot parallels similar usage by Narsai, Balai, and the anonymous author of Liber Graduum. The practice of arguing both sides of a dispute and creation of suspense are also well-established rhetorical techniques. The rabbis had a good sense for the art of public speaking. We cannot know whether the Babylonian amoraim inherited concepts of rhetoric from their Palestinian counterparts, how often the stammaim overheard Christian sermons, or to what extent Syriac writing style was itself a symptom of a larger Hellenistic atmosphere. Nevertheless, no matter how we reconstruct these lines of communication and cultural trends, it remains clear that the BT’s agonism and rhetorical style owes much of its character and form to Greco-Roman rhetorical oratory.