

“The Kidnapping of Rabbi Tarfon” (b. Ned. 62a): An Example of Stammaitic Halakhic Substitution in Bavli Narratives

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I. Introduction

The placement of an aggadic story in a passage of the Babylonian Talmud (“Bavli”) is usually due to a thematic connection to a preceding tradition or statement, including a certain Halakha or mention of a rabbi, or as part of an exegetical analysis of sequential verses of the Torah following the citation of a base verse.¹ Scholars have repeatedly shown that the halakhic passage in which a story appears can both change the content and literary message of the story itself and that in the Bavli the changes were the result of the intentional activity of the Babylonian storytellers, whom I identify as the Stam.² Furthermore, scholars have noted the intertwined relationship

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1 On the various ways that stories are integrated into the Bavli, see Jeffrey L. Rubenstein et al., “Halakha and Aggada in Post-Tannaic Literature,” in *The Literature of the Sages: A Re-Visioning*, ed. Christine Hayes (Leiden: Brill, 2022), 565–600.

2 See, among others, Ofra Meir, “Hashpa’at Ma’ase Ha-‘arikhah ‘al Hashkafat Ha-‘Olam Shel Sipurei Ha-’Aggadah,” *Tura* 3 (1994): 67–84; Jeffrey L. Rubenstein, *Talmudic Stories: Narrative Art, Composition, and Culture* (Baltimore: Johns Hopkins University Press, 1999); Yonatan Feintuch, “Uncovering Covert Links between Halakhah and Aggadah in the Babylonian Talmud: The Talmudic Discussion of the Yom Kippur Afflictions in B. Yoma,” *AJS Review* 40 (2016): 17–32; Yonatan Feintuch, “Reading Talmudic Stories in Multiple Halakhic Contexts: The Hasid in the Graveyard, Rav Ada b. Abba and the Lovesick Man,” *Journal of Jewish Studies* 68 (2017): 284–307. On the Stam’s activity in Aggadah, see most programmatically, Jeffrey L. Rubenstein, “Criteria of Stammaitic Intervention in

between Halakha and Aggadah within Bavli stories themselves.³ Less studied, however, is the stammaitic storytellers' use of Halakha for narrative purposes.⁴ A related phenomenon, occurring in tens of stories in the Balvi, is the stammaitic incorporation of new halakhic material into the aggadic narratives that the storytellers inherited.⁵ In these narratives, the

Aggada," in *Creation and Composition: The Contribution of the Bavli Redactors (Stammaim) to the Aggada*, ed. Jeffrey L. Rubenstein (Tübingen: Mohr Siebeck, 2005), 417–40. For an overview of scholarship on Stammaitic editing of Aggadah, see Jeffrey L. Rubenstein, "Introduction," in *Creation and Composition: The Contribution of the Bavli Redactors (Stammaim) to the Aggada*, ed. Jeffrey L. Rubenstein (Tübingen: Mohr Siebeck, 2005), 1–20. Throughout this paper, I use the terms "Stam," "stammaitic storytellers," and "Babylonian storytellers" interchangeably. Although I believe that the authors of these stories are to be identified with the late, anonymous Stammaim, some scholars have argued that the Saboraim are responsible for many Bavli stories. See, for example, Daniel Sperber, "On the Unfortunate Adventures of Rav Kahana: A Passage of Saboraic Polemic from Sasanian Persia," in *Irano Judaica*, vol. 1, ed. Shaul Shaked (Yad Ben-Zvi, 1982).

- 3 See, for example, Barry Scott Wimpfheimer, *Narrating the Law: A Poetics of Talmudic Legal Stories* (Philadelphia: University of Pennsylvania Press, 2011), 31–62 and, most recently, Rubenstein et al., "Halakha and Aggada in Post-Tannaic Literature." The classic statement on the relationship between these two genres of discourse is Ḥayyim Nahman Bialik, "Halakhah v-Aggadah," in *Kol Kitve H. N. Bialik*, 24th ed. (Devir, 1964).
- 4 Although not always using the term "Stam," the following studies analyze the narrative function of Halakha: Eliezer Segal, "Law as Allegory? An Unnoticed Literary Device in Talmudic Narratives," *Prooftexts* 8 (1988): 245–56; Devora Steinmetz, "Like Torah Scrolls That Are Rolled Up": The Story of the Death of Rabbi Eliezer in Sanhedrin 68a," in *Tiferet Leyisrael: Jubilee Volume in Honor of Israel Francus*, ed. Joel Roth et al. (Jewish Theological Seminary of America, 2010), 169; Alon Goshen-Gottstein, "A Lonely Sage on His Death-Bed: The Story of Rabbi Eli'ezer (Sanhedrin 68a), an Ideological Analysis," in *Studies in Talmudic and Midrashic Literature in Memory of Tirtzah Lifshitz*, ed. Moshe Bar-Asher et al. (Mosad Bialik, 2005), 94 [Hebrew].
- 5 Many of these stories are analyzed in my dissertation, Isaac Roszler, "Legal Accretions in the Narratives of the Babylonian Talmud," (PhD diss., New York University, 2025). While Steinmetz, "Like Torah Scrolls That Are Rolled Up" and Goshen-Gottstein, "A Lonely Sage on His Death-Bed" do analyze a story in which this occurs, they do not see it as part of a larger phenomenon. Though looking at a larger corpus, Segal, "Law as Allegory?," only looks at one story in which the Stam adds halakhic material to a preexisting story.

Babylonian storytellers changed or added Halakha in older stories for various literary purposes, be it to solve plot holes, add narrative complexity, or create polemical tales.

This paper analyzes “The Kidnapping of Rabbi Tarfon” (b. Ned. 62a) and details how and why the stammaitic storytellers substituted the Halakha utilized in the Palestinian parallel (the “operating Halakha”) with a different operating Halakha in the Bavli’s story.⁶ Specifically, I analyze the substitution of the original Halakha, derived from m. Shev. 4:2—which describes the acts one must do in order to eat Sabbatical Year produce—with a Halakha recorded in a Babylonian baraita, which details when figs are considered ownerless in the field. I argue that the storytellers substituted the Halakha in order to create a polemical narrative against the baraita’s ruling.

As the Bavli only has devoted Talmudic commentary to Tractate *Berakhot* in the Order of *Zeraim*, it could be argued that a halakhic switch was unavoidable: a story premised on a mishnah from the Order of *Zeraim* must, by necessity, be placed in a non-native halakhic context in the Bavli.⁷ However, two reasons militate against this. First, while it is true that the Order of *Zeraim* was not studied *qua* an Order of Mishnah in Babylonia beyond the first generation of Amoraim, these *mishnayot* were still

6 As Hayden White, “The Value of Narrativity in the Representation of Reality,” *Critical Inquiry* 7 (1980): 17, has noted, all narratives, whether stated explicitly or not, assume a legal system. I only use the term “operating Halakha” when the narrative itself makes specific reference to the Halakha. Otherwise, it is the Halakha assumed in the background of the story, though never stated.

7 Yaacov Sussman definitively showed that there were no Babylonian passages, i.e. “Talmud,” devoted strictly to the study of the Order of *Zeraim* and *Tahorot*. See his conclusions in Yaacov Sussmann, “Babylonian Sugyot to the Orders Zera’im and Tahorot” (PhD, Jerusalem, Hebrew University, 1969), 277–87 [Hebrew]. While agreeing with Sussman’s conclusion that the Orders of *Zeraim* and *Tahorot* were not studied in their own rights in Babylonia, David Rosenthal, “Arikhot Qedumot Hameshuqa’ot Be-Talmud Ha-Bavli,” in *Mehkerei Talmud*, ed. Yaacov Sussmann and David Rosenthal, vol. 1 (Jerusalem: Magnes Press, 1990), 181–200, provides an alternative scheme for the creation of the Bavli, whereby amoraic discussions, including associative connections, were added layer by layer to create the Talmud that exists now. Thus, according to him, the idea of a dedicated Babylonian “Talmud” to the Order of *Zeraim* is somewhat of a misnomer.

discussed by later Babylonian Amoraim and tradents in connection with other topics in the four Orders of the Mishnah that were studied: *Moed*, *Nashim*, *Nezikin*, and *Kodashim*.⁸ Second, it is not uncommon for complete passages surrounding a mishnah in the Order of *Zeraim* to be cited in different Bavli contexts. This suggests the storytellers could have reworked a Palestinian story based on a Halakha from Order of *Zeraim*, while still preserving its connection to the original mishnaic context even within the new Babylonian setting.⁹

At the same time, the lack of dedicated Bavli tractates to the Order of *Zeraim*, as well as many of the Halakhot in the Order of *Zeraim* not being practiced in Babylonia, likely produced a looser connection between the original operating Halakha of the story and the new surrounding halakhic context, creating the conditions for Halakhic substitution and additions. As shown in the analysis below, however, the halakhic changes cannot solely be attributed to the new halakhic context or differing Babylonian praxis.

- 8 As discussed *infra*, sections of m. Shev. 4:2, which records the operating Halakha in the Palestinian parallel, are cited in b. Mo'ed Qat. 13a, b. Bekh. 34b, and b. Git. 44b. On early Babylonian Amoraic discussions concerning the Order of *Zeraim*, see Baruch M. Bokser, *Samuel's Commentary on the Mishnah. 1: Mishnayot in the Order of Zera'im* (Leiden: Brill, 1975).
- 9 Rosenthal, "Arikhot Qedumot Hameshuqa'ot Be-Talmud Ha-Bavli," 181–200, looks at two different ways material from the Orders of *Zeraim* and *Taharot* are used in the Bavli: 1) to help define words; and 2) as a set tradition that contains a phrase associated with a previously discussed matter. One example he cites is the "Oven of Akhnai" story in b. B. Metš. 59a-b, cited in connection with m. Kel. 5:10, which is cited because of Ima Shalom's use of the proverb, *All of the gates of heaven are closed except for the gates of wrongdoing*. While Rosenthal argues that the entire story, including the proverb, was already a set tradition, Jeffrey L. Rubenstein, *Talmudic Stories: Narrative Art, Composition, and Culture* (Baltimore: Johns Hopkins University Press, 1999), 57, convincingly argues that this proverb is a Babylonian stock phrase used by later stammaitic storytellers. In any event, the idea that a reworked Palestinian story originally connected to a mishnah in *Zeraim* and *Taharot* can appear in the Bavli remains true. More recently, Yoel Kretzmer-Raziel, "The Contribution of Sugyot Based on Tractate Pe'ah to the Conceptual Development of Property Law," *Shenaton Ha-Mishpat Ha-Ivri* 30 (2020): 237–94 [Hebrew], has shown the introduction of halakhic material from *Zeraim* in the Bavli allows halakhic concepts to be further refined by dialectal analysis of both the *Zeraim* topic and the native topic.

Rather, it appears that the decision whether to alter, remove, or substitute an agriculturally based Halakha had as much to do with narrative and plot development as with halakhic recontextualization and differences between the two centers of rabbinic Judaism.

II. The Kidnapping of Rabbi Tarfon (b. Ned. 62a):

In its redacted context, the story of “The Kidnapping of Rabbi Tarfon” takes place during the time when a majority of the mats used to dry figs were folded, which, according to an adjacent baraita discussed below, renders the figs ownerless. B. Ned. 62a (MS Munich 95) reads:

I. A certain man found R. Tarfon ¹⁰ eating [figs] ¹¹ at the time when a majority of the mats ¹² [used to dry figs] were folded. ¹³	I. ר' טרפון אשכחיהו גבר' בזמן שהוק' רוב המקצו' דקאכיל
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10 Pseudo-Rashi, ad loc., s.v. אשכחיהו. MS Vat. 110 reads Shimon. This is a scribal error, as even later in the manuscript it reads *R. Tarfon*. The reading of MS Vat. 110 is, in general, very defective in this story.

11 MS Vat. 110 adds, *and he was eating the permitted* [figs]. I discuss this reading *infra*.

12 I argue *infra* that the phrase *a majority of* is a latter addition.

13 The phrase עד שיכפלו המקצועות is subject to debate. Many traditional and modern commentators argue that it means during the time that the knives used for cutting the figs are put away. See, for example, Hanokh Albeck, ed., *Shisha Sidrei Mishna* (Jerusalem: Mosad Bialik, 1955), 3:172; 365, s.v. עד שיכפלו המקצועות. This is also the approach that Yonah Fraenkel, *Darkhe Ha-Agaddah V'eha-Midrash* (Israel: Masadah: Yad la-Talmud, 1991), 1:267; 2:630n.42, adopts, though he notes other interpretations exist. My translation follows Yehuda Feliks, *Mishnat Shevi'it* (Jerusalem: Re'uven Mass Press, 1987), 196, and Saul Lieberman, *Tosefta Ki-Fshutah* (New York: The Jewish Theological Seminary of America, 1955), 1:194, who both follow Maimonides' understanding of the phrase to mean the time when the mats used to dry the figs are rolled up. There are two reasons to prefer this reading. First, the verb כפל or קפל in Hebrew generally means to roll up or peel, which would seem to be inappropriate for knives. While Michael Sokoloff, *A Dictionary of Jewish Babylonian Aramaic*, 2nd ed. (Ramat-Gan: Bar Ilan University Press; Baltimore: Johns Hopkins University Press, 2020), s.v. קפל#1 notes that, in Aramaic, the word has a larger semantic meaning including “uncovering” or “removing,” I think it unlikely that the stammaitic storytellers would have understood the phrase in the mishnah and baraita outside its usual Hebrew meaning, especially as Sokoloff, *DJBA*, 1008, s.v. קפל#2, notes that the word can also mean “to roll up” in Aramaic when used in reference to garments. Second, as I argue *infra*, the storytellers created a measure for measure punishment in which R. Tarfon being

II.	He [the owner] put him [R. Tarfon] in a bag, took him, and brought him to throw him in the river.	II. אחתיה בשק' ושקלי' ואמטייה למשדייה בנהר'
III.	[R. Tarfon] said: "Woe to Tarfon that this one shall kill him!"	III. א' אוי לו לטרפון שזה הרגו
IV.	That man heard [this], left him, and ran away.	IV. שמע ההו' גבר' שבקי' וערק
V.	R. Abbahu said in the name of R. Hananya ben Gamliel: ¹⁴ "All the days of that righteous man's life, he was pained (מצטער) ¹⁵ over this matter. He said: "Woe is me that I used the crown of Torah [for my own benefit];"	V. א"ר אבהו משו' ר' חנני' ב"ג כל ימיו של אותו צדיק היה מצטער על דבר זה א' אוי לי שנשתמש' בכתר' של תור'
i.	as Rabbah bar bar Hanna said in the name of R. Yohanan: "Anyone who uses (המשתמ') the crown of Torah is uprooted from the world."	i. דא' רב' בר בר חנ' א"ר יוחנן כל המשתמ' בכתר' של תור' נעקר מן העול'
ii.	This is derived from a <i>kal ve-homer</i> : Just as Belshazzar, who used (שנשתמ') holy vessels—which had become profane vessels, as it says: <i>And ruffians shall invade it and profane it</i> (וחללוה) (Ezek. 7:22), ¹⁶ as	ii. ק"ו ומה בלשצר שנשתמ' בכלי הקדש שנעשו חול שנ' ובאו בה פריצי' וחללוה כיון שבאו בה פריצי' נעש'

thrown in a sack parallels the Halakha of taking figs during this time. In my reading, R. Tarfon being thrown ("rolled") into the sack (=mat) corresponds to the time when drying mats are rolled. This measure for measure punishment would be lost if the meaning were to be when the knives were "removed," as a sack does not inherently parallel a knife. Marcus Jastrow, *A Dictionary of the Targumim, the Talmud Babli, and Yerushalmi, and the Midrashic Literature* (New York: Judaica Press, 1985), 1402, s.v. קפל, translates the phrase as: "If most of the figs have been packed (most of the knives have been folded up)," which appears forced.

- 14 MS Vat. 110 reads *Avganya* (אבגניה) *ben Gamliel*. This appears to be a scribal error, as there is no rabbi with that name. R. Abbahu was a third generation Palestinian Amora, while R. Hananya (Hanina) ben Gamliel was a third generation Tanna. Aharon Hyman, *Toledot Tannaim ve'amoraim* (London, 1910), 2:481, s.v. ר' חנינא [Hebrew], suggests, based on this source and R. Hananya ben Gamliel's statement in b. Qidd. 81b that a student that mocked R. Tarfon came to sin, that R. Hananya ben Gamliel was a disciple of R. Tarfon. However, these two statements are ambiguous, at best, as to any possible relationship, fictional or otherwise, the two may have had. On the chronological difficulties of placing R. Hananya (Hanina) ben Gamliel, see Moshe Beer, "The Term 'Crown of Torah' in Rabbinic Literature and Its Social Significance," *Zion* 58 (1990): 403n.28 [Hebrew].
- 15 As discussed *infra*, Eliezer Diamond, *Holy Men and Hunger Artists: Fasting and Asceticism in Rabbinic Culture* (Oxford: Oxford University Press, 2004), 172n.85, suggests that מצטער means to "fast" in this instance.
- 16 JPS 1985 translates this verse as: *ruffians shall invade it and defile it*. Unless stated otherwise, all translations are taken from JPS.

when the robbers came they [the vessels] became profane (חול)—was uprooted from the world, as it is written: <i>That very night, Belshazzar, [the Chaldean king,] was killed</i> (Dan. 5:30), one who uses the crown of Torah [for their own benefit] how much more so [will he be uprooted!]	חול נעקר מן העול' דכ' ביה בלילי' קטיל בלשצר מלכ' המשתמ' בכתר' של תור' על אח' כמ' וכמ'
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At first glance, this appears to be a relatively straightforward story. R. Tarfon goes to an unspecified area to collect figs at the time when a majority of the mats used to dry figs were folded.¹⁷ The owner, who does not know that his own figs are halakhically permitted to everyone, ostensibly, believes R. Tarfon is stealing the fruit.¹⁸ R. Tarfon is saved when he mentions his own name and his kidnapper, who respects Torah scholars, recognizes the man he has in the sack and subsequently frees him. This, however, comes at a cost. R. Tarfon feels regret for the rest of his life from having benefited from his standing as a scholar. There are serious questions, however, about the plot of the story. Why was R. Tarfon victimized if he was following the proper Halakha? Why was he mistreated in this specific manner? And, finally, why does R. Tarfon feel such regret for having saved himself?

In his analysis, Fraenkel suggests that the narrative is composed of three parts: the eating (I-II), the talking while in the sack (III-IV), and R. Abbahu's statement (V).¹⁹ Fraenkel sees R. Abbahu's statement as the key to interpreting the story—R. Tarfon somehow used the crown of Torah for his benefit. While some interpreters might understand that it was R. Tarfon's use of his own reputation as a Torah scholar—this appears to be the understanding of the Stam in the questions after the story—Fraenkel suggests that it was his use of his halakhic knowledge that one may take figs after the majority of the knives, his understanding of the word מקצועות, have been put away.²⁰ R. Tarfon should have known the owner would

17 As discussed *infra*, the fact that the area that the story occurs is unspecified is significant.

18 The exact reason that the owner attacks R. Tarfon is never explicitly stated in the story, though it is explained in a stammaitic comment that follows.

19 Fraenkel, *Darkhe Ha-Agaddah*, 1:267.

20 Fraenkel, *Darkhe Ha-Agaddah*, 2:630n.42, uses this as his default definition of the Halakha in the baraita, but notes that it is irrelevant to his analysis if the Halakha refers to something else.

assume the figs were not ownerless and would think anyone taking them was a thief. The story, then, is about R. Tarfon using his knowledge of a Halakha in an unfair manner with an uneducated individual. The punishment, R. Tarfon being thrown into a sack and yelling his name—thus benefiting from his standing as a Torah scholar—is an uncontrollable, reflexive act that is not in itself a sin, mirroring R. Tarfon's own actions in taking the fruits to begin with. Only after uttering his own name and causing the farmer to run does R. Tarfon realize he will never be able to repay the farmer for the food he has eaten, even as he is under no legal requirement to do so.²¹ R. Tarfon's utterance, "*Woe is me that I used the crown of Torah [for my own benefit]*" (V), has a dual meaning: on one level, it refers to him using his Torah knowledge to save his own life, but on the deeper level, it refers to the obligation a Torah scholar has in using his halakhic knowledge responsibly.²²

There is a fourfold problem with this explanation. First, it assumes that R. Tarfon did something wrong in taking the figs, but he is actually following the Halakha according to the baraita. Indeed, a later layer of the Stam is perplexed that he would be punished for this:

And R. Tarfon, because he ate at the time that the majority of drying mats were rolled up, why was this man angry with him? They said: "[Because] people had been stealing grapes from this man all year and when he found R. Tarfon, he thought he was the one stealing them." If so, why did R. Tarfon trouble himself [the rest of his life]? Because R. Tarfon was a wealthy man, and he should have appeased him [the kidnapper] with money.²³

Second, if he is entitled to eat the fruit, as the baraita rules, then R. Tarfon should not feel he is under any obligation to pay back the farmer, as he has committed no wrong. Third, in one story immediately preceding this one,

21 Fraenkel does not explain why R. Tarfon would feel obligated to pay the owner back.

22 Fraenkel, *Darkhe Ha-Agadda*, 1:267.

23 B. Ned. 62a (MS Munich 95):

ור' טרפון כיון דכי אכל הוקפלו רוב המקצו' הוה אמאי צערי' ההו' גבר' אמרי ההו' גבר' הו' גניבי ליה עינבי כול' שת' וכיון דאשכחי' לר' טרפון סבר הינו הו' דגנבינהו אי הכי אמאי ציער נפשי' משו' דר' טרפון עשיר גדול הוה והיה לו לפייסו בדמים.

an unnamed farmer asks why R. Yose bar R. Yehuda bar Ilai does not eat the figs, even though the majority of the mats have been folded, which seems to indicate that farmers do know this Halakha.²⁴ Finally, although Fraenkel draws a parallel between the manner of R. Tarfon’s assault and R. Tarfon’s involuntary screaming, the actual ordeal of almost being drowned does not seem commensurate with his inappropriate use of halakhic knowledge, even if he should have known the uneducated person would react in this way.

A comparison with the Palestinian parallel shows the complex transmission and transformation of the story and illuminates the plot. Our analysis will look at the Palestinian Talmud (“PT”) parallel, the halakhic sources in the Mishnah and Tosefta presupposed in the story, a comparison between the Bavli and the Palestinian parallel in the PT, as well as a possible diachronic reconstruction of the Bavli’s version of the story.

a. The Palestinian Parallel

The Palestinian parallel appears in a passage in the PT discussing m. Shev. 4:2 (MS Kaufmann):

שדה שניתקווצה תיזרע {ב} מוצאי שביעית שניטיבא או שנ[ד] יירא לא תיזרע {ב} מוצאי (שב) שביעית שדה שניטיבא בית שמי אומ' אין אוכלין פירותיה בשביעית ובית הלל או' אוכלין בית שמי או' אין אוכלין פירות שביעית בטובה ובית הלל או' בטובה ושלא בטובה ר' יהודה אומ' חילוף הדברים זה מק[ו] לי בית שמי ומחומרי בית הלל

A field that was cleared of thorns [during the Sabbatical Year] may be sown during the eighth year. [A field] that was improved or that was made into a sheep pen may not be sown during the eighth year. A field that was improved—Beit Shammai say: “One may not eat its fruits during the Sabbatical Year” and Beit Hillel say: “One may eat.” Beit Shammai say: “One may not eat

24 While it is true that in another story in this collection R. Hama bar R. Hanina needs to explain to his servant that the Halakha permits taking the figs, in the eyes of the storytellers, there is likely to have been a distinction between farmers and servants’ knowledge of agricultural Halakha. R. Asher ben Jehiel (“*Rosh*”), ad loc., s.v. אמאי צעריה ההוא גברא, also assumes that any person with property would know this Halakha.

Sabbatical Year fruits *be-tova*” and Beit Hillel say: “Whether or not *be-tova*.” R. Yehuda says: “The opinions are reverse. This is among [the cases] in which Beit Shammai are lenient and Beit Hillel are stringent.”²⁵

The mishnah records an argument between Beit Shammai and Beit Hillel concerning whether one may eat Sabbatical Year fruit *be-tova* or not (the meaning of which will be discussed below). In the first version of the debate recorded in the mishnah, Beit Shammai states one may not eat such fruit *be-tova* and Beit Hillel argues one may eat the fruit whether or not *be-tova*. R. Yehuda, however, switches the opinions. M. Ed. 5:1 accords with R. Yehuda’s opinion, while Sifra, Bahar 1:5 (ed. Weiss, 106) records essentially the same language as m. Shev. 4:2.²⁶ While the textual tradition concerning Beit Shammai and Beit Hillel’s opinions is further complicated by conflicting readings in different manuscripts and medieval commentators, the PT story below assumes that they are polar opposites—Beit Hillel believes one *must* eat the fruit *be-tova* and Beit Shammai believes they *must not*.²⁷

- 25 Translation, with changes, from Yair Furstenberg, “Tractate Shevi’it,” in *The Oxford Annotated Mishnah: A New Translation of the Mishnah with Introductions and Notes*, ed. Shaye J. D. Cohen, Robert Goldenberg, and Hayim Lapin, vol. 1 (Oxford: Oxford University Press, 2022), 161–62.
- 26 In the printed edition of m. Ed. 5:1, Beit Hillel’s opinion is recorded as *one may only eat be-tova* - "בטובה אֵלֶּצְ אֵין אוֹכְלִין". However, m. Ed. 5:1 (MS Kaufmann) reads *one does not eat be-tova* - "אֵין אוֹכְלִין בטובה (ושלא בטובה)", which is the opinion of Beit Shammai in m. Shev. 4:2. See, however, the opinion of R. Abraham ben David of Posquières (“*Ra’avad*”) in the following note.
- 27 On the different readings of the argument, see Feliks, *Mishnat Shevi’it*, 95–96. See also Jacob Naḥum Epstein, *Mevo’ot Le-Sifrut Ha-Tannaim; Mishna, Tosephta Ve-Midreshei Halakhah* (Jerusalem: Magnes Press, 1957), 94. As noted *infra*, some modern scholars assume that by the time of R. Tarfon the “normative” practice had become to only eat fruit *be-tova*. This certainly is the practice the storytellers assume. These scholars, however, do not explain why Beit Hillel’s practice went from having the option to eat fruit *be-tova* to this being required. The combined comments of *Ra’avad*, m. Ed. 5:1, s.v. אוֹכְלִין פִּירוֹת שְׁבִיעִית בטובה וכו’ and Sifra Bahar 1:5n.8 (ed. Weiss, 106), may support the reading of the Beit Hillel and Beit Shammai as polar opposites. See generally Feliks, *Mishnat Shevi’it*, 95–96.

The phrase *be-tova* is subject to debate. Some traditional and modern scholars define it as giving thanks to the owner, while R. Samson ben Abraham of Sens, followed partially by Lieberman, claims it is a form of asking permission.²⁸ Maimonides, followed by Safrai, explains the term to mean reciprocity, that is, that one receives permission from the landowner to eat from the landowner's field and, in return, the landowner eats from his.²⁹ In a wide-ranging article, Mor adopts Safrai's approach and argues that the phrase *be-tova* should be understood in the Greco-Roman context of different types of acts of *beneficium*, i.e., favors given with an expectation of reciprocal favors and not just the one sided act of giving thanks to the owner.³⁰ In her reading, *be-tova* is not strictly speaking a halakhic concept, but refers to this Greco-Roman practice. Whichever approach one takes towards the term, the fact that Beit Hillel requires *be-tova* to be practiced shows the landowner's ownership claim is not completely severed during the Sabbatical Year.

The understanding of *be-tova* plays a large role in interpreting the Palestinian version of R. Tarfon story, as recorded in y. Shev. 4:2, 35b (MS Leiden):

- 28 R. Samson ben Abraham of Sens ("*Tosafot Sans*"), m. Ed. 5:1, s.v. אוכלין פירות שביעית בטובה. Lieberman, *Tosefta Ki-Fshutah*, 1:582-583. On Lieberman's approach, see *infra* and Sagit Mor, "The Term 'as a Favour' in the Literature of the Sages: The Adoption of Hellenistic-Roman Models of Philanthropy and Friendship by the Sages," *Zion* 79, no. 3 (2014): 357n.79 [Hebrew]. *Ra'avad*, Parshat Bahar 1:5, J. H. Weiss, ed., *Sifra* (Vienna: Jacob Schlossberg, 1862), 106 and Albeck, *Shisha Sidrei Mishna*, 1:148, interpret the practice as giving thanks to the owner. Feliks appears to take the approach that it means both to ask permission and give thanks. See Yehuda Feliks, *Talmud Yerushalmi: Tractate Shevi'it*, 2nd ed., vol. 1 (Jerusalem: Re'uven Mass Press, 2000), 238 [Hebrew]; Feliks, *Mishnat Shevi'it*, 90. The suggestion by Albeck, *Shisha Sidrei Mishna*, 4:452, that *be-tova* in m. Ed. 5:1 means against the will of the owner cannot be sustained.
- 29 Maimonides, *Commentary to the Mishnah*, ad loc., s.v. שלא בטובה [Hebrew]; Shmuel Safrai, "The Practical Implementation of the Sabbatical Year after the Destruction of the Second Temple," *Tarbiz* 35, no. 4 (1966): 314-16 [Hebrew]. This approach is also adopted by Jastrow, *Dictionary*, 521, s.v. טובה.
- 30 Mor, "The Term 'as a Favour,'" 345-50.

I. Like [when] ³¹ R. Tarfon went down to eat cut figs (קציעות) from his [own], ³² not <i>be-tova</i> like Beit Shammai.	I. כהדא ר' טרפון ירד לאכל קציעות מתוך שלו שלא בטובה כבית שמי
II. [When] the guards ³³ saw him, they began to beat him.	II. חמוניה סנסיריה ושורון חבטון עלוי
III. When he saw he was being put in danger, he said to them: "By your lives! Say in the house of Tarfon: 'Prepare burial shrouds for him [R. Tarfon]!'"	III. כד חמא גרמיה בסכנה אמ' לון בחייכון אמרון גו בייתה דטרפון עתדין ליה תכריכין
IV. When they heard this, they prostrated themselves.	IV. כד שמעון כן אישתטחון על אפיהון
V. [and] said to him "Rabbi, forgive us!"	V. אמרין ליה ר' שרי לן
VI. He said to them: "It shall be on me [a punishment] for every (hit of the) stick that	VI. אמ' לון ייתי עלי על כל חוטר וחוטר דהוה נחית עלי הוינא שרי לכון על קדמיא

- 31 This appears to refer back to the mishnah. See *Pnei Moshe*, ad loc., s.v. כהדא; Feliks, *Yerushalmi Shevi'it*, 2000, 1:238.
- 32 R. Elijah of Fulda ("*Mahara Fulda*"), ad loc., s.v. כהדא דר' טרפון, states this occurred in R. Tarfon's own field while R. Solomon Sorilio, ad loc., s.v. קציעות, states this took place in his garden. I will be treating these two areas, as opposed to a field, as the same area with the same halakhic status. In general, I will use "field," though some halakhic literature may refer to this area as a "garden." In contrast, both Fraenkel and Mor, discussed *infra*, do not believe that R. Tarfon went into his own field, but to a communal place where the figs were drying. As argued *infra*, this appears to be the proper interpretation.
- 33 Michael Sokoloff, *A Dictionary of Jewish Palestinian Aramaic* (Ramat-Gan: Bar Ilan University Press, 1990), 383–84, s.v. סנטר. The etymology of the word is unclear. Feliks, *Yerushalmi Shevi'it*, 1:238, suggests the word comes from *saltuarius*, which Charlton T. Lewis and Charles Short, *A Latin Dictionary: Founded on Andrews' Edition of Freund's Latin Dictionary: Revised, Enlarged, and in Great Part Rewritten* (Oxford: Clarendon Press, 1879), 1621, s.v. saltuarius, define as "one who has the care of a forest or of an estate." The Comprehensive Aramaic ("CAL"), s.v. sntr, available at: <https://cal.huc.edu/oneentry.php?lemma=sn%2Br%20N&cits=all>, suggests it is a semantically strange use of the word *senator*. Samuel Krauss, *Griechische Und Lateinische Lehnwörter Im Talmud, Midrasch Und Targum*, vol. 2 (Berlin: Calvary, 1899), 403, s.v. סנטר and Nurit Shoval-Dudai, *A Glossary of Greek and Latin Loanwords in Post-Biblical Jewish Literature* (Jerusalem: The Academy of the Hebrew Language, 2019), 119, s.v. סנטר [Hebrew], suggest the word comes from the Greek συντήρησις, meaning to guard. While the etymology of the word remains unclear, its meaning in context is unambiguous.

landed on me; I forgive you for the former ones [i.e. the previous hits]."³⁴ VII. On these two matters R. Tarfon acted in accordance with Beit Shammai and was put in danger: this [matter] and in the recitation of Shema. VIII. R. Abbahu [said] in the name of R. Ḥanina ben Gamliel: "All the days of R. Tarfon he would fast over this matter and say: 'Woe is me that I glorified myself by the crown of Torah.'"	VII. באילין תרתין מיליין נהג ר' טרפון בבית שמי וסכין בהדא ובקריאת שמע VIII. ר' אבהו בשם ר' חנינא בן גמליאל כל ימיו שלר' טרפון היה מתענה על הדבר הזה ואומר אי לי שנתכבדתי בכתרה שלתורה
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According to the story, R. Tarfon agrees with Beit Shammai that one may not eat another's fruit during the Sabbatical Year *be-tova* (I). While going to get his own fruit, he is seen by guards, who, not recognizing him, begin to beat him (II). Recognizing that he is in danger and fearing for his life, R. Tarfon yells to his attackers to tell those in his home to bring out his burial shrouds (III). Upon realizing their victim's identity, the guards beg for forgiveness, which R. Tarfon willingly gives (IV-VI). The story ends with two codas: 1) an anonymous narrator states that this event and R. Tarfon's decision to recite Shema while lying down, recorded in m. Ber. 1:3, are the two times that R. Tarfon acted in accordance with Beit Shammai and endangered his life (VII); and 2) R. Abbahu cites R. Ḥanina ben Gamliel, a third generation Tanna, that R. Tarfon fasted for the rest of life over benefitting from Torah, i.e., from his reputation as a Torah scholar (VIII).³⁵ The story has perplexed traditional and modern commentators, who have dealt with four interpretive cruxes in varying ways: 1) Why did R. Tarfon go into his own field during the Sabbatical Year, when all fruits should be ownerless?; 2) Why did the guards attack him?; 3) What role does the Halakha of *be-tova* plays in the story?; and 4) What is the connection with the crown of Torah? Lieberman suggests, based on t. Shev. 8:1, that guards were sent by the court to collect ownerless figs during the Sabbatical Year to be pressed into barrels and put in the city's storehouse.³⁶ It was these

34 As discussed *infra*, Fraenkel separates this line into two.

35 On the etiology of this line, see *infra*.

36 Lieberman, *Tosefta Ki-Fshutah*, 1:583. Mor, "The Term 'as a Favour,'" 356, rightfully notes that the tosefta never specifically states guards were hired, just workers. Traditional commentators' resolutions to this problem are unsatisfying on

guards that beat R. Tarfon on his own property because he did not collect figs with their permission—"שלא בטובת השומרים (בלי רשותם)"—and he was only saved by his reputation as a scholar. Safrai agrees with Lieberman that t. Shev. 8:1 is the assumed, although never stated, background to the story, although he uses it in a different way. Recognizing that there are legendary aspects to the tale, he argues that the story depicts the historical reality of the struggle of the individual, R. Tarfon, against the official adoption of the opinions of Beit Hillel during the generation of Yavne, which, per Talmudic tradition, was heralded by a heavenly voice (*bat kol*).³⁷ This, as well as R. Tarfon's recitation of Shema in accordance with Beit Shammai, are there to show this struggle of the individual against the collective.

In contrast to Lieberman and Safrai, who see t. Shev. 8:1 as the assumed in the background of the story, Fraenkel argues that m. Shev. 8:6—which prescribes that one who collects figs for himself during the Sabbatical Year, cut and dry the figs (קציעות) outside the field in a deserted drying area (חורבה) and not in the usual place one goes to dry food (מוקצה)—is assumed in the background of the story.³⁸ Fraenkel argues that R. Tarfon went to retrieve his fruits from the deserted drying area and the guards there, who did not recognize him, beat him.³⁹ In Fraenkel's reading,

either textual or contextual grounds. R. Elijah of Vilna, *Biur ha'gra*, ad loc., removes the words שלו, מתוך שלו, while R. Solomon Sirilio, ad loc., s.v. חמוניה סגטיריה, suggests that that these guards were guarding the fields of gentiles. Siriolo's approach was rejected by Lieberman, *Tosefta Ki-Fshutah*, 1:583, while both suggestions were rejected by Feliks, *Yerushalmi Shevi'it*, 2000, 1:238–39. Although MS Vat. 133 is missing the word שלו, as Feliks, 1:239n. 88, notes, this is almost certainly a scribal error.

- 37 Shmuel Safrai, *Bi-Yeme Ha-Bayit Uve-Yeme Ha-Mishnah: Mehqarim Be-Toldot Yisra'el*, vol. 2 (Jerusalem: Magnes Press, 1994), 163–65; Safrai, "Practical Implementation," 314–17; Mor, "The Term 'as a Favour,'" 357–58. This approach was also followed by Benzion Rosenfeld, *Lod and Its Sages in the Period of the Mishna and the Talmud* (Jerusalem: Yad Ben-Zvi, 1997), 59–60 [Hebrew]. Safrai never clearly states which version of Beit Hillel's ruling was adopted, but does imply that the practice by the time of R. Tarfon was that one ate fruit *be-tova*.
- 38 Yonah Fraenkel, *The Aggadic Narrative: Harmony of Form and Content*, ed. Meir Ayali (Tel Aviv: Hakibbutz Hameuhad, 2001), 114 [Hebrew].
- 39 Fraenkel, 114n.76, appears to suggest that the guards in this area were not there to guard the Sabbatical Year fruit, but other items. Indeed, he states it matters not whether they were city guards or R. Tarfon's own guards. Mor, "The Term 'as a

R. Tarfon acted in accordance with Beit Shammai, that one eats Sabbatical fruit without permission (*be-tova*), as once the owner of the field has taken his fruit for himself, the remaining fruits then become ownerless. The plot of the story, then, is that R. Tarfon, a firm believer in the Halakha of Beit Shammai did not want to go into other people’s fields and take their fruit out of fear of being accused of doing so without permission, the “normative Halakha” of Beit Hillel. He also would avoid going to his own field, as that was open to the poor, who would ask permission from him to eat the fruit—an act he did not want to be party to.⁴⁰ Stuck between these two undesirable options, he went to take *from his* (I) own fruit, which he already collected and was now drying in the deserted area. When he went there, he was beaten by the guards, who thought he was a thief.⁴¹ The story ends with the honor received by R. Tarfon from the guards, who call him *Rabbi* and bow to him when asking for forgiveness (IV-V).⁴²

Fraenkel’s interpretation is derived from seeing the entire story as a chiasmus.⁴³ In his analysis, based on his own structural division, *I forgive you on the first ones* (VIb) corresponds to R. Tarfon going to his field to eat not *be-tova* (I), and *while he said to them: ‘It shall be on me [a punishment] for every (hit of the) stick that landed on me’* (VIa) corresponds to [*When*] *the guards saw him, they began to beat him* (II).

Favour,” 358n.83, is perplexed by this interpretation and suggests that Fraenkel is relying on t. Shev. 8:1, and Lieberman’s interpretation, that the guards were agents of the court.

40 Although somewhat unclear, Fraenkel, *The Aggadic Narrative*, 115;115n79, appears to argue that R. Tarfon would rather abandon his field than be asked by the poor for permission. This thesis stems from the Fraenkel’s assumption that, by the time of R. Tarfon, it was accepted that individuals would ask permission from the owner to eat fruit and R. Tarfon, who followed Beit Shammai’s opinion, he would not have wanted to have other people to act contrary to the “normative” law of Beit Hillel.

41 Fraenkel, 114–15.

42 Fraenkel, 119n.86.

43 In general, Fraenkel believes in “internal closure,” whereby every part of the story is connected to another part, the beginning is related to the end, and the end assumes the beginning. See his approach in Fraenkel, 34. Fraenkel, 113, divides the story differently than I do, and we do not have corresponding numbers. He splits line VI into two, while I do not. Additionally, he does not include lines VII and VIII in his analysis. I, however, think they are crucial to understanding the transmission of the story. For this analysis, I have used my line numbers.

Fraenkel interprets this correspondence to mean that R. Tarfon forgave the guards for everything *even before* the beating because he deliberately went into the field knowing that it would incite the guards.⁴⁴ Noting that R. Tarfon does not explicitly identify himself but rather only hints to his identity (III), Fraenkel further suggests that R. Tarfon did not unambiguously share his identity, as it would have undermined his going to the field not *be-tova*, as the guards would know the fruit was his. This is why R. Tarfon forgave the guards, even for the hits that put him in mortal danger, as he knew the beating was going to happen.⁴⁵

Finally, combining the approaches of Safrai and Fraenkel, Mor suggests that R. Tarfon did not make a reciprocal agreement with the other owners, thus acting against the established halakhic norm of Beit Hillel, and went to the deserted place where the figs were being dried. As he was eating his own figs from the communal drying place “without permission,” the guards did not recognize him and beat him. In other words, it was the breach of order for not asking permission, the Halakha of Beit Hillel, that led to his beating.⁴⁶

The idea that this story represents an accurate history, even if filled with legendary material, is to be, *pace* Safari, rejected. Additionally, it is unclear if the story actually has a chiasmic structure, especially if, *contra* Fraenkel, one does not divide R. Tarfon’s single verbal act in line VI into two separate statements. If one includes line VII—that R. Tarfon fasted over this all the days of his life—as part of the story, the chiasmus is ruined. Even if one were to accept Fraenkel’s chiasmus, it seems very odd that R. Tarfon would intentionally put himself in harm’s way just to follow the stricter Sabbatical laws of Beit Shammai. It also is very difficult to understand why he would, beforehand, forgive the guards for their inevitable attack when he goes to the deserted drying area to eat his own

44 Fraenkel, *The Aggadic Narrative*, 117, convolutedly argues that R. Tarfon knew that the only way to fully follow the opinion of Beit Shammai was to go into the drying area to eat his figs *and* be mistaken by the guards. In other words, the guards could not assume that the fruit was his, but they also needed to be there to attack him in order that they know that he was following Beit Shammai and not merely eating of his own fruit. This possible motivation is very difficult to understand.

45 Fraenkel, 118–19. Fraenkel also comes to this conclusion using the chiasmic structure.

46 Mor, “The Term ‘as a Favour,’” 358.

food according to the stricter standard. He is, after all, being strict and one is not usually punished for accepting a stringency upon oneself.⁴⁷

Setting aside these issues, the traditions to which modern scholars have pointed to appear to have been assumed by the Amoraic storytellers of the PT’s story. T. Shev. 8:1 provides the most compelling explanation for the literary motif of the guards in the area. Additionally, as explained below, Fraenkel is almost certainly correct that m. Shev. 8:6 is in the background of the story and that R. Tarfon went to the drying area, not his own field. Less clear is Safrai’s suggestion that the *bat kol* tradition exclaiming the Halakha follows Beit Hillel was known to the storytellers. It is true that this tradition exists in Palestinian Amoraic literature. However, it is unclear if the teaching that the Halakha follows Beit Hillel was universally believed when the story of R. Tarfon was created, or whether that the passage itself is polemicizing against the approach of Beit Shammai.⁴⁸ Regardless of whether the storytellers knew this tradition, they

47 In contrast to Safrai, Fraenkel does not make any reference to the *bat kol* tradition, but rather states that by the time of R. Tarfon the Halakha was decided according to Beit Hillel in this case. In omitting the *bat kol* tradition, it is possible that Fraenkel has in mind t. Suk. 2:3, t. Yev. 1:13, and t. Ed. 2:3, which paradoxically state that while the Halakha accords with Beit Hillel, one can choose to follow Beit Shammai’s stringencies and leniencies. As discussed *infra*, while y. Yev. 1:6 (3b), y. Sotah 3:4 (19a), y. Qidd. 1:1 (58d), and y. Ber. 1:4 (3b), explain that the statement that the Halakha accords with Beit Hillel was post-*bat kol* and anyone that does not follow Beit Hillel is liable for death, it is unclear whether the Palestinian storytellers were familiar with this tradition. On these sources, see Moshe Simon-Shoshan, “These and Those Are the Words of the Living God, but ...”: Meaning, Background, and Reception of an Early Rabbinic Teaching,” *AJS Review* 45 (2021): 382–410.

48 Simon-Shoshan, 398–99, writes: “Thus, by the time “These and those ...” emerged, as rabbinic Judaism transitioned from the tannaitic to the amoraic era, the rulings of Beit Hillel had largely become normative. A categorical ruling in favor of Beit Hillel was apparently already in circulation, but its authority was not fully established. It was not included in the Mishnah. In the Tosefta, it is accompanied by a dissenting view. Understood in this context, “These and those ...” represents an important step in the consolidation of Hillelite hegemony. It re-presents the categorical ruling of the Tosefta, this time without any accompanying dissent, and attributes it to a divine fiat, establishing its authority as beyond challenge. We cannot know the exact balance of power at the time that “These and those ...” was propagated. It may be that “These and those ...”

certainly believed that Beit Hillel should generally be followed and utilized this story to reinforce that idea.

The approaches of Safrai, Fraenkel and Mor, however, do not exhaust the literary meaning of the story, which I believe lies elsewhere. M. Shev. 4:2 recognizes that produce during the Sabbatical Year is ownerless and can be eaten by anyone that comes into the field. Beit Shammai's opinion is that one may not take fruit *be-tova*—some type of act, be it asking for permission from or offering reciprocity or giving thanks to the landowner. Beit Hillel, however, argues that even though the fruit is ownerless, one eating fruit from a field must do a *be-tova* act to the landowner.⁴⁹ No matter which interpretation of the phrase *be-tova* one takes, Beit Hillel's does not completely sever ownership over the fruit during the Sabbatical Year. By following Beit Shammai's approach, R. Tarfon fundamentally denies this connection between the owner and the produce. R. Tarfon's rejection of this relationship parallels the lack of recognition the guards have for him when he enters the common drying area of the figs to eat his own fruit. His punishment, being beaten by guards that do not recognize him while he is taking *his own fruit*, is, therefore, measure for measure: he is the landowner whose ownership is being denied.⁵⁰ It is only upon learning R. Tarfon's identity as the owner that the guards stop beating him and ask forgiveness, thereby emphasizing just how fundamental the concept of *be-tova* is.⁵¹ It is also only after being beaten that R. Tarfon understands the importance of this connection, which is why he forgives the guards for the beating that he incurs (VI).

merely reflected the widespread acceptance of this ruling at the time, giving a legal and theological imprimatur to a fait accompli. It is also possible that the categorical ruling in favor of Beit Hillel was still disputed by some. If so, "These and those ..." was part of a partisan effort to gain universal acceptance for such a legal principle.

49 Cf. Mor, "The Term 'as a Favour,'" 355.

50 Under this reading, R. Tarfon's statement to prepare his burial shrouds is a genuine plea. *Contra* Fraenkel, he had no foreknowledge of an attack, and he really does fear for his life.

51 While it is true that the guards stop beating him when they recognize that he is a scholar and R. Tarfon regrets using his stature as a scholar for his own benefit, the fact that this act occurs while getting his own fruit emphasizes the strong connection between the owner and produce during the Sabbatical Year.

Thus, to summarize the halakhic material in the story prior to making its way to Babylonia, the Palestinian storytellers weaved three tannaitic traditions into their story. The story’s operating Halakha is based on m. Shev. 4:1, which details the debate between Beit Hillel and Beit Shammai whether during the Sabbatical Year one may eat fruit *be-tova* or not. The story also appears to assume two other tannaitic traditions, although it does not state so explicitly. First, t. Shev. 8:1, which describes a literary motif in which guards are sent to keep watch over Sabbatical Year food; and second, m. Shev. 8:6, which prescribes that one who collects figs for himself during the Sabbatical Year, cut and dry the figs (קציעות) outside the field in a deserted drying area (חורבה) and not in the usual place one goes to dry food (מוקצה).

b. From the Palestinian Parallel to the Bavli

Moving to the Bavli, it is clear that Babylonian version of the story is significantly different, even if it shares major points in common with its Palestinian parallel, as shown below:

Y. Shev. (4:2, 35b)	B. Ned. 62a
I. Like [when] R. Tarfon went down to eat cut figs from his [own] not <i>be-tova</i> like Beit Shammai. II. [When] the guards saw him, they began to beat him. III. When he saw he was being put in danger, he said to them: “By your lives! Say in the house of Tarfon: “Prepare burial shrouds for him [R. Tarfon]!” IV. When they heard this, they prostrated themselves. V. [and] said to him “Rabbi, forgive us!” VI. He said to them: “It shall be on me [a punishment] for every (hit of the) stick that landed on me; I forgive you for the former ones [i.e., the previous hits].”	I. A certain man found R. Tarfon eating [figs] at the time when a majority of the mats [used to dry figs] were folded. II. He [the owner] put him [R. Tarfon] in a bag, took him, and brought him to throw him in the river. III. [R. Tarfon] said: “Woe to Tarfon that this one shall kill him!” IV. That man heard [this], left him, and ran away. V. R. Abbahu said in the name of R. Ḥananya ben Gamliel: “All the days of that righteous man’s life, he was pained over this matter. He said: “Woe is me that I used the crown of Torah [for my own benefit];” i. as Rabbah bar bar Ḥanna said in the name of R. Yoḥanan: “Anyone

VII. On these two matters R. Tarfon acted in accordance with Beit Shammai and was put in danger: this [matter] and in the recitation of Shema. VIII. R. Abbahu [said] in the name of R. Hanina ben Gamliel: “All the days of R. Tarfon he would fast over this matter and say: ‘Woe is me that I glorified myself by the crown of Torah.’”	who uses (‘המשתמ’) the crown of Torah is uprooted from the world.” ii. This is derived from a kal ve-homer: Just as Belshazzar, who used (‘שנשתמ’) holy vessels—which had become profane vessels, as it says: And ruffians shall invade it and profane it (והללוה) (Ezek. 7:22), as when the robbers came they [the vessels] became profane (חול) — was uprooted from the world, as it is written: That very night, Belshazzar, [the Chaldean king,] was killed (Dan. 5:30), one who uses the crown of Torah [for their own benefit] how much more so [will he be uprooted!]
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In the PT, the story is recorded in a passage commenting on m. Shev. 4:2, while in the Bavli it is connected to a passage around m. Ned. 8:4, which discusses a different, although related Halakha concerning the timeframe of vows taken to not taste food or drink. The settings of the two stories differ: while in the PT R. Tarfon goes to the fig drying area, in the Bavli the place is not mentioned, though ostensibly it is a privately owned area.⁵² In the PT there are multiple people attacking R. Tarfon, who then subsequently fall on their faces and beg for forgiveness, while in the Bavli there is only one attacker, who puts him in a sack to be thrown in the river and runs away when he finds out R. Tarfon’s identity. The codas of the stories also differ: 1) Only in the PT is the reader told that this event and saying Shema while lying down are the two instances where R. Tarfon put himself in danger by acting in accordance with Beit Shammai’s opinion (VII); 2) The form of R. Hananya/Hanina’s statement differs between the two Talmuds (PT VIII & Bavli V);⁵³ and 3) Only the Bavli ends with the

52 Fraenkel, *Darkhe Ha-Agaddah*, 1:267, assumes that it is the owner of the field that attacks R. Tarfon. Pseudo-Rashi, ad loc., s.v. אַחֲתִיָּהּ, seems to suggest it is the guard of the field.

53 While he is referred to as Hananya in the Bavli, this is the same scholar in the PT known as Hanina. On the name, see Hermann L. Strack and Günter Stemberger,

statement of Rava bar Bar Hanna and his *kal ve-chomer* inference about Belshazzar (Vi-ii). Given the differences here, it is no surprise that in his Tosafot-like commentary, R. Moshe Margoliot (“*Pnei Moshe*”) suggests that these are two separate events that happened to R. Tarfon.⁵⁴ It is, however, clear that they are the same story with similar plot points—R. Tarfon wanting to eat figs, getting into danger, and feeling regret over benefiting from the Torah—but the Bavli’s version has undergone substantial changes.⁵⁵

Some modern scholars have noted that, in contrast to the PT, the story in the Bavli mentions a river, a known Babylonian motif.⁵⁶ However, other modern readers of rabbinic stories view the Bavli’s version as having “forgotten” the details and context of the Palestinian story.⁵⁷ As will be shown, however, it is clear that there were many creative changes

Introduction to the Talmud and Midrash, 2nd ed. (Minneapolis, Minn: Fortress Press, 1996), 75. Hyman, *Toledot Tannaim ve’amoraim*, 2:481, s.v. ר' חנינא בן גמליאל, also lists the statement in b. Ned. 62a as part of R. Hanina’s statements.

- 54 *Mareh ha-Panim*, ad loc., s.v. כהנה ר' טרפון. Not all traditional commentators thought they were separate stories. R. Aryeh Leib Yellin (“*Yafeh ‘Enayim*”), b. Ned. 62b, s.v. ר"ט אשכנזי ההוא גברא, writes that they are the same event.
- 55 These themes and some differences are noted by Feliks, *Yerushalmi Shevi'it*, 2000, 1:239–40. As will be shown, however, the overall message of the stories is completely different.
- 56 David Rosenthal, “The Transformation of Eretz Israel Traditions in Babylonia,” *Cathedra* 92 (1999): 22n.97 [Hebrew]; Isaiah M. Gafni, “Another ‘Split Diaspora’? How Knowledgeable (Or Ignorant) Were Babylonian Jews About Roman Palestine And Its Jews?,” in *Jews, Christians and Zoroastrians: Religious Dynamics in a Sasanian Context*, ed. Geoffrey Herman (Gorgias Press, 2015), 37–38.
- 57 Safrai, *Bi-Yeme Ha-Bayit*, 2:2:583, suggests that much of the original story in the PT was forgotten (נשתכח) in transmission to the Bavli and a new Halakha and Babylonian motifs were added to fill in the gaps. Looking at the stories through a literary lens, Fraenkel, *The Aggadic Narrative*, 113n.74, recognizes the Bavli’s version as a parallel, but merely notes that the Babylonian version is “*independent, important, and has its own completely different characteristics*” (emphasis added). Meanwhile in his commentary on the Bavli version, Fraenkel, *Darkhe Ha-Agaddah*, 2:629n.40, notes that the PT version has its own topic. Thus, while Safrai appears to ignore the possibility of a more active reworking, in which the material was not simply forgotten via transmission and was shaped by tradents and stammatitic storytellers, Fraenkel recognizes they are different, but is uninterested in studying the historical force that created the new story.

introduced into the original, Palestinian version, which were done intentionally by the later Babylonian storytellers.

Central to these changes is the operating Halakha that the story revolves around. In contrast to its native context in m. Shev. 4:2, in the Bavli the story is recorded in the passage surrounding m. Ned. 8:4 (MS Kaufmann):

עד הקיץ עד שיהא הקיץ עד שיתחילו העם להכניס בכללות עד שיעבור הקיץ
עד שיכפילו המקצועות עד הקציר עד שיתחילו העם לקצור קציר חטים אבל
לא קציר שעורים הכל לפי מקום נדרו אם היה בהר בהר ואם היה בבקעה בבקעה

[If one takes a vow and says]:⁵⁸ “Until the summer” [or] “Until it is summer”— [that is] until the people start to collect [figs] with baskets. “Until the summer has passed”— [that is] until the mats [used to dry the figs] are rolled up.⁵⁹ “Until the reaping”— [that is] until the people begin to reap wheat but not [the time] of reaping barley. Everything goes according to the place of the person’s vow: If the person [said the vow] while in the mountain— [the timing goes according to the agricultural calendar of the] mountain. And if the person was in the field— [the timing goes according to the agricultural calendar of the] field.

Two baraitas appear prior to R. Tarfon’s story. One states that the subject of the vow is permissible when a *majority*—not *all*— of the mats are rolled up (MS Munich 95) (תנא עד שיקפילו רוב המקצועות)⁶⁰ and the following one (b. Ned. 62a [MS Munich 95]):

תנא הוקפלו רוב המקצועות מותרו משו' גזל ופטורו מן המעשרו

It is taught [in a baraita]: [If] the majority of mats are rolled up, [the figs] are permitted [as it pertains] to stealing and are exempt from tithes.

58 See m. Ned. 8:1.

59 The reading of the mishnah as specifically referring to figs follows the interpretation of y. Ned. 8:2, 41a and b. Ned. 61b. See also Albeck, *Shisha Sidrei Mishna*, 3:172.

60 Pseudo-Rashi, b. Ned. 61b, s.v. תנא הוקפלו רוב המקצועות, explains that this law refers to both figs left in the field and on the tree.

According to the baraita, after the majority of drying mats have been rolled up and put away, one can take any figs that are left over and it is not considered stealing, ostensibly because the owners have relinquished ownership over the figs after this period.⁶¹ It is in connection to this baraita, and not the mishnah, that the story of R. Tarfon is brought.

I suggest that the Babylonian storytellers created a story in which R. Tarfon was not following the proper Halakha, according to their view.⁶² While the baraita on b. Ned. 62a reads: [*If the majority of mats are rolled up, [the figs] are permitted [as it pertains] to stealing and exempt from tithes*], the earlier, Palestinian tradition appears to be different. T. Demai 1:3 (ed. Lieberman) reads:

הבכרות והסייפות בגנה חייבות בבקעה פטורות אלו הן הבכרות עד שלא ישיבו
שומר הסייפות משיקפלו המקצעות ר' לעיי או' משם ר' ליעזר הבכרות לעולם
חייבות מפני שהן משתמרות

The early-ripening figs and the late-ripening figs⁶³—in the garden are liable [for tithing] and in the field (בקעה) are exempt. These are the early-ripening figs—before one appoints a guard; the late-ripening figs—when the drying mats are rolled up. R. Illai says in the name of R. Eliezer: "The early-ripening figs are always liable because they are guarded."⁶⁴

61 R. Nissim of Gerondi ("Ra'n"), ad loc., s.v. מותרות משום גזל.

62 Arguably, MS Vat. 110's addition of *and he was eating the permitted [figs]* undermines my reading. This line, however, is only recorded in this manuscript and appears to be a later addition. The scribe of MS Vat. 110, who made many mistakes in general, was convinced that R. Tarfon was following the proper Halakha.

63 Jastrow, *Dictionary*, 979, s.v. סייפות, defines סייפות as "late (stunted) fruits," however, Saul Lieberman, *The Tosefta According to Codex Vienna* (Jerusalem: The Jewish Theological Seminary of America, 1955), 1:62, s.v. והסייפות, defines them specifically as figs that are left over at the end of the season. Lieberman, *Tosefta Ki-Fshutah*, 1:194, notes that late-ripening figs are not quality fruit but still are not exempt from tithing in gardens.

64 Lieberman, *Tosefta Ki-Fshutah*, 1:194, notes that t. Dem. 1:3 is missing the word *majority*, but draws no conclusions. Y. Dem. 1:1, 21c alters R. Eliezer's opinion to state the figs are assumed to be watched (בהזקת משתמרות) to fit with the anonymous voice of the PT that questions why it depends on the presence of a guard there.

It appears that in the earliest version of the law, t. Demai 1:3, late-ripening figs were liable for tithing in a garden but not in a field. This would imply that figs in a garden were considered owned.⁶⁵ This tradition, however, appears to have already undergone a change in Palestine, as y. Demai 1:1, 21c makes no distinction between gardens and fields: *The early-ripening figs and the late-ripening figs, these are exempt [from tithing]... the late-ripening figs— when the drying mats are rolled up*. Here, it would seem, that late-ripening figs are considered ownerless regardless of where they are found. The baraita in the Bavli, following the PT, makes no distinction between places, though it has the addition that only when *the majority of mats* are rolled are the figs not liable for tithing or theft. This change was likely influenced by the immediately preceding baraita commenting on the mishnah (b. Ned. 61b), which states that a vow forbidding fruit lasts *until the majority of the mats are folded* (תנא עד שיקפילו רוב המקצעי), and likely post-dates the creation of the story.⁶⁶ Thus, when the Babylonian story was created, there were two competing Halakhot, that of the baraita, in which the late-ripening fruit are ownerless when the drying mats are rolled up

65 Cf. *Pesiqta Rabbati*, *Aseret ha-Dibrot (Perek Kamayta)*, 21, where R. Hiyya is quoted explicitly as stating that fruits in the garden are liable for theft. Lieberman, *Tosefta Ki-Fshutah*, 1:194, explains that these fruits are assumed to be guarded, even if there is no guard actually there.

66 It is likely that the Halakha of the Bavli's baraita and the following three stories have the added line *the majority [of the mats]* as a result of these two baraitas being transmitted together. While it is true that the form of the Babylonian baraita differs from the PT and t. Demai 1:3 in foregrounding the status of the mats to be prior to status of the figs, I do not believe this is dispositive that the addition of *the majority* was added prior to the creation of the story itself. In my reconstruction, the original Babylonian baraita read: *[If] the mats are rolled up, [the figs] are permitted [as it pertains] to stealing and exempt from tithes*. The addition of *the majority* appears to be of Babylonian provenance, as y. Ned. 8:4, 41d, commenting on the m. Ned. 8:4, does not mention *the majority*. While it does remain a possibility that the insertion of *the majority* occurred simultaneously in both baraitas, there are reasons to think that it originates in b. Ned. Commenting on m. Ned. 8:1's statement that if one took a vow forbidding an item for *this year* it is forbidden for the whole year, b. Ned. 61a records a stammatitic comment that one might think the phrase is referring to months in *a majority of years*, i.e., where there is no leap month. It appears, then, that the idea of *a majority* originated in b. Ned. and was only later added to the baraita about figs in the field.

regardless of the place, and that of t. Dem. 1:3, the original tradition, that in gardens even late-ripening figs are liable for tithes and, by extension, theft, as they are considered owned.

b. Ned. 62a	y. Demai 1:1, 21c	t. Demai 1:3
[If] the (majority of) mats are rolled up, [the figs] are permitted [as it pertains] to stealing and exempt from tithes.	The early fruits and the late-ripening figs, these are exempt [from tithing]... the late-ripening figs...when the drying mats are rolled up.	The early-ripening figs and the late-ripening figs—in the garden are liable [for tithing] and in the field are exempt. These are the early-ripening figs—before one appoints a guard; the late-ripening figs—when the drying mats are rolled up. R. Illai says in the name of R. Eliezer: "The early-ripening figs are always liable because they are guarded."

That the Halakha ruling that late-ripening figs were always ownerless was contested, even in the Bavli, can be seen in the two stories immediately preceding "The Kidnapping of R. Tarfon" on b. Ned. 62a. In the first, R. Yehuda *ha-Nasi* eats the late-ripening figs and R. Yose bar Yehuda does not, even after being told by the field's owner that the drying mats had been rolled up. A later, anonymous voice comments, however, that R. Yose bar Yehuda's continual refusal to eat them was because he thought the owner said it in a malicious way (משום סניית מילתא).⁶⁷ In the second

67 Sokoloff, *DJBA*, 788, s.v. סנאית. Pseudo-Rashi, ad. loc., s.v. משום סניית מילתא. Jastrow, *Dictionary*, 1007, s.v. סנייתא, translates the reason provided as, *He thought that man spoke so from a dislike of the thing (spoke ironically because he was angry)*; This line is a stammatit addition, as can be seen based on the differences in the parallel version of the story in y. Demai 1:1, 21c. The PT's story revolves around a different, although related, Halakah of an owner guarding fruits of his field. If a worker comes to take fruit after the collection time for figs passes and the owner objects, then the fruit is liable for tithing (see t. Ma'as. 3:12). In the story, a guard in the field yells at the rabbis and R. Yehuda *ha-Nasi* tells R. Yoḥanan to eat from the figs because the owner has relinquished ownership of them. R. Yoḥanan responds by stating that the guard yelling at them shows that the owner still cares about the figs. A challenge to R. Yoḥanan is brought from m. Ma'as. 3:9, which rules that

story, R. Ḥama bar R. Ḥanina eats the late-ripening figs, but his servant refuses until he is told that R. Ishmael bar R. Yose ruled they are permitted to eat after the drying mats have been rolled up.⁶⁸ The fact that R. Yose bar Yehuda and R. Ḥama bar R. Ḥanina's servant initially refused to eat the figs, and a later anonymous voice needed to explain why R. Yose bar Yehuda continued to refuse, indicates that this was not a universally accepted law. I suggest, then, that the Babylonian storytellers held onto the original Palestinian law, recorded in t. Demai 1:3, that late-ripening figs in gardens are considered to be owned.

If this analysis is correct, when R. Tarfon went to gather the late-ripening figs in a private area, ostensibly someone else's garden, the storytellers crafted a polemical tale—that is, a story that not only disagrees with a halakhic position, but actually attempts to undermine its validity through the narrative—in which R. Tarfon had no legal right to the fruits despite the fact that the mats had been rolled up.⁶⁹ The storytellers

certain plants in a courtyard are liable for tithes, implying that if they are in a garden or field they are not and are, by extension, ownerless. The anonymous answer of the PT, as explained by *Pnei Moshe*, ad loc. s.v. ומשני תמן יכול וגו', is that in m. Ma'as. those plants are constantly growing, so replacements for anything taken in the garden can easily be found. Here, however, there are no figs left over, giving the guard grounds to yell at them, as he wants to keep them for the owner. The story, however, appears to contradict the law in t. Demai 1:3, which states figs in the garden require tithes after the mats are rolled up. The challenge is even stronger if Lieberman, *Tosefta Ki-Fshutah*, 2:704, is correct in his suggestion that t. Ma'as. 3:12, which refers to the time as אסיפת תאנים, is actually referring to when the late-ripening figs (סייפות) appear. R. Moses Margoliot in *Mareh ha-Panim*, ad loc., s.v. הבכורות והמסייפות, differentiates the two laws by noting that the plants in the mishnah grow themselves and are in courtyard that people are generally found, whereas a garden with figs is usually guarded and closed off.

68 MS Vat. 110 and the printed editions read: *R. Ishmael bar R. Yose in the name of his father*. There are reasons to assume this statement is pseudepigraphic. As noted, t. Demai 1:3 disagrees with this law. Although the toseftan tradition in the PT was changed to state that late-ripening dates are exempt when the mats are rolled up, it is not mentioned in the name of R. Yose ben Ḥalafta. The addition of the *majority* of mats also appears to be stammaitic. Note that this story was apparently used as the narrative framework for a very similar story, using a different Halakha, in b. B. Mets. 22a.

69 Based on the version of the story in PT and Tractate Kallah's version, discussed *infra*, it is likely that the original story took place in a garden not a field. Note that in the

ingeniously changed a preexisting story, similar to the one that is now in the PT, to show R. Tarfon being punished measure for measure for not following the proper Halakha. The punishment of being thrown in a sack and tossed in a river is almost an exact inversion of what R. Tarfon intended to do: instead of acquiring fruits when the majority of mats used to *dry* fruits have been *rolled up*, R. Tarfon was “rolled up” into an unfolded sack (= mats) to be thrown into a wet river. It was only when R. Tarfon uttered his name that he was saved, which he regretted the rest of his life. This story, which polemicizes against the Babylonian baraita that rules that late-ripening fruits are always ownerless after the drying mats have been rolled up, was eventually included in a collection of similar stories concerning the Halakha of figs and placed next to the very Babylonian baraita the story polemicizes against.⁷⁰

preceding stories in the Bavli, the rabbis are merely said to come to a certain place (להרוג אחרים), which could be a field. Due to being transmitted with these stories, I believe the specific place R. Tarfon was standing eventually fell out of the narrative.

- 70 Whether the story was specifically added for that purpose is too difficult to ascertain. It is possible that it was organically added, as it is a similar story to the rest. It is clear, however, that the story undermines the law in the baraita. Note, however, that this story is part of a cluster of three stories, a number very common in the stammatitic layer. In her insightful response to my analysis of the story, Christine Hayes suggested the possibility that the storytellers of this and the other two stories in b. Ned. 62a were not utilizing t. Demai 1:3, but were inspired by the ambiguity created by the phrase *the majority of mats* in the baraita. She suggested that in the story of “The Kidnapping of Rabbi Tarfon” that there was either a factual disagreement as to whether a majority of the drying mats had been folded or the kidnapper disagreed with the concept of only the majority of mats to make the figs ownerless. She further suggested that the story might be better seen as a parody rather than R. Tarfon not following the proper Halakha. Her arguments are primarily based on the fact that in the Bavli’s version of the baraita there is no focus on place—field and garden—and that it is unclear whether the stammatitic storytellers would have known t. Demai 1:3. Hayes’ suggestions have much merit to them and cannot be dismissed outright. I, however, disagree with her reading for four reasons. First, the story nowhere indicates that is the understanding of the *dramatis personae* and, given that the introduction of the story states the story as happening when (*the majority of*) *the mats are folded*, it would put too much of a burden on the audience to figure out R. Tarfon and his assailant’s respective understandings. Second, as mentioned *supra*, the addition of *the majority* to the Babylonian baraita appears to be a result of the baraita cited right before it on b. Ned. 61b, that a vow forbidding

c. Proposed Reconstruction of the Bavli Story

While this halakhic understanding makes R. Tarfon's punishment in the Bavli more understandable, the process that led to the change is not completely clear. The first step to reconstructing the story is understanding the relationship between the Halakhot in the PT and Bavli. On the surface, aurally there is a similarity between dried figs (קציעות) and drying mats (מוקצה). The relationship goes much further, however. As noted above, Fraenkel compellingly argues that m. Shev. 8:6, discussing where people would go to dry their figs during the Sabbatical Year, was the assumed background of the story in the PT. While there is some debate as to the meaning of the word מוקצה there, it appears to mean the usual place where one dries their fruit. As was already pointed out by Feliks, the word מוקצה and מקצוע, the blanket used to dry figs, are synonymous terms.⁷¹ Thus, it seems very likely that in creating the story to reaffirm their stance about figs in gardens being owned, the Babylonian storytellers looked to the assumed halakhic background to the story in the PT, about the place where one dries their figs on mats, and adapted it as the operating Halakha in the Bavli's story.

This new operating Halakha in the Bavli, however, does not explain all the changes made to the story. I suggest that prior to the creation of the Palestinian parallel in the PT, the statement of the third/fourth generation Tanna, R. Ḥanina ben Gamliel, in y. Shev. 4:2, 35b — *All the days of R.*

fruit lasts *until the majority of the mats are folded* (תנא עד שיקפילו רוב המקצועי). It is likely that *the majority* was added to the baraita, as well as to the stories, *after* all the stories were already created. This could have been a result of transmitting the baraitas with the stories together. Third, while parody might explain the tone of the story, it is not clear what exactly this is parodying. R. Tarfon is following the Halakha; he is not doing anything out of the ordinary. It seems strange that the Stam would want to parody a Rabbi attempting to get food by following the Halakha. Fourth, if this is just a disagreement between R. Tarfon and his assailant as to whether, in fact, a majority of mats were folded, why should R. Tarfon suffer? This seems like an honest mistake. Rather, narratively it is more logical to see R. Tarfon as not following the Halakha of t. Demai 1:3. Additionally, as discussed *infra*, the version of the story in Tractate Kallah 1:21 states the story occurred in a specific place—the פרדס. The Tractate Kallah narrative very possibly contains a pre-Bavli version of the story and, as I argue *infra*, it is possible that the specific place the story occurs, namely a garden, fell out of the Bavli's version.

71 Feliks, *Mishnat Shevi 'it*, 196.

Tarfon he would fast over this matter and say: 'Woe is me that I glorified myself by the crown of Torah' (VIII)— was said in response to m. Ber. 1:3 (MS Kaufmann): [R.] Tarfon said: *I was coming on the road and I reclined to read [Shema] like Beit Shammai and I put myself in danger due to bandits. They said to him: "It was deserved for you to be liable for yourself due to violating the words of Beit Hillel."*⁷² It appears that the phrase 'Woe is me that I glorified myself by the crown of Torah' is derived from m. Avot 4:5b-c (MS Kaufmann):⁷³

ר' צדוק א"ר אל תעשם עטרה להתגדל בהן ולא קורדום לאכל מהן וכ[ך] היה הלל
א"ר [ו]ן דישתמש(ו) בתגא חלף הא(ו) כל הנאות מדברי תורה נוטל חייו מן העולם

R. Tzadok says: "Do not make them [words of Torah] into a crown to be aggrandized (להתגדל) by them, and not into a spade to eat from them." And thus did Hillel say: "One who uses the crown of Torah will pass away (בתגא חלף) [ו]ן דישתמש(ו)." This [implies] all that benefit from Torah have their lives taken away from the world.

R. Tarfon's *mea culpa* of *glorifying myself by the crown of Torah* is a paraphrase of R. Tzadok's teaching. This same teaching is said by Hillel, though in Aramaic. The irony that the idea is echoed in a Hillel tradition cannot be ignored. R. Hanina ben Gamliel's original statement, then, is not only that in m. Ber. 3:1 R. Tarfon violated *the words of Beit Hillel* by acting according to Beit Shammai's opinion concerning Shema, but R. Tarfon forfeited his life away by not following Hillel. In other words, it is the same idea as the anonymous collective voice in m. Ber. 3:1: "*It was deserved for you to be liable for yourself due to violating the words of Beit Hillel.*"

By the time of R. Abbahu, a third generation Palestinian Amora, this statement became a stand-alone tradition separate from m. Ber. 1:3 and only then was the Palestinian story created. Evidence for this can perhaps be seen in that while R. Hanina ben Gamliel's statement is completely in Hebrew, the story in y. Shev. 4:2, 35b is primarily in Aramaic. Although

72 M. Ber. 1:3 (MS Kaufmann)

אמר [ר'] טרפון אני הייתי בא בדרך והטייתי לקרות כדברי בית שמי (וס) וסכנתי בעצמי מפני הלסטים
אמרו לו כד"י הייתה לחוב בעצמך שעברתה על דברי בית הילל

73 Beer, "The Term 'Crown of Torah,'" 402–4, argues that only the Bavli's version was influenced by m. Avot 4:15. However, I believe the line in the PT also ultimately derives from R. Tzadok's statement.

Amoraim spoke in both Hebrew and Aramaic and the idea of the anonymous stratum of the PT being separate and apart from Amoraim is debated, here it is possible that the story was created by Amoraim and they utilized R. Hanina ben Gamliel's statement.⁷⁴ At a later stage, after the creation of the story, *On these two matters R. Tarfon acted in accordance with Beit Shammai and was put in danger: this [matter] and in the reciting of Shema* (VII) was inserted. The phrase clearly separates VI and VIII, is in Aramaic, and is a complete non-sequitur. This line also does not appear in the Bavli, which points to it being a later addition.

Evidence of the late insertion of line VII can also, perhaps, be found in the version of the story in Tractate Kallah. While the dating of Tractate Kallah is debated, Brodsky has argued that the work is Amoraic, predates the redaction of the Bavli and, in certain cases, may show the evolution of passages that ultimately ended up in the Bavli, though others dispute this.⁷⁵ Tractate Kallah 1:21 (ed. Higger, 159-60) reads:

I. Another story ⁷⁶ involving R. Tarfon, who was eating dried figs {in} ⁷⁷ his orchard (פרדס).	I. שוב מעשה בר' טרפון שהיה אוכל קציעות (מ){ב}פרדס שלו
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74 Leib Moscovitz does not believe it is possible to separate later, apodictic statements from Amoraic statements in the PT. Although not completely clear on the issue, Halivni does appear to argue the anonymous voice of the PT post-dates the Amoraim. See their approaches in Leib Moscovitz, "The Formation and Character of the Jerusalem Talmud," ed. Steven T. Katz, *The Cambridge History of Judaism: Volume 4: The Late Roman-Rabbinic Period*, 2006, 663–77; David Weiss Halivni, *The Formation of the Babylonian Talmud*, trans. Jeffrey L. Rubenstein (Oxford; New York: Oxford University Press, 2013), 193–95.

75 For Brodsky's conclusions, as well as an overview of the approaches that argue Tractate Kallah is post-talmudic, see David Brodsky, *A Bride without a Blessing: A Study in the Redaction and Content of Massekhet Kallah and Its Gemara* (Tübingen: Mohr Siebeck, 2006), 10–33. I use Higger's edition here, even though he has been criticized for making an eclectic edition. However, as noted by Brodsky, 9–10, Higger was generally faithful to the Munich manuscript of Tractate Kallah and almost all changes he made were to fill in abbreviations.

76 This story appears right after another narrative discussing R. Tarfon's wealth. While it is unclear when these two stories were combined, the fact that Tractate Kallah's version of the story does not mention that R. Tarfon could have paid off his abductor, despite coming in a passage discussing his wealth, indicates strongly that the version is pre-Stam.

77 Following manuscript 1 in Higger's critical apparatus.

II. His sharecropper came and found him [and] hit him with a large hit.	II. בא ערים שלו ומצאו, הכהו מכה רבה,
III. He did not say to him that “I am R. Tarfon,” before the sharecropper stood and recognized [on his own].	III. ולא אמר לו שאני ר' טרפון, עד שעמד אותו ארים והכירו,
IV. Once he [the sharecropper] recognized him, he ripped his clothes, tore out his hair, yelled, cried and fell to his feet.	IV. כיון שהכירו קרע בגדיו ותלש בשעריו, והיה צועק ובוכה ומתנפל לפני רגליו,
V. He said to him, “Master, my lord! Forgive me!”	V. אמר לו אדוני מרי, מחול לי.
VI. And all of this [happened] why? Because he [R. Tarfon] did not want to use the crown of Torah, for all that use the crown of Torah do not have a share in the world to come.	VI. וכל כך למה, שלא רצה להשתמש בכתר תורה, שכל המשתמש בכתר תורה אין לו חלק לעולם הבא.

The story generally follows the PT, but there are very important differences: There is only one sharecropper instead of multiple guards and R. Tarfon does not actually say his name, nor benefit from his standing as a Torah scholar. Given that in the PT—and in the later Bavli version—he does benefit, it seems that the storytellers of Tractate Kallah did not believe that R. Tarfon would do such a thing.⁷⁸ More importantly, there is no mention in the story about the Halakha of Beit Shammai or that R. Tarfon followed Beit Shammai on two occasions. There is also no statement of R. Abbahu in the name of R. Hanina ben Gamliel. Though it is possible the storytellers of Tractate Kallah wanted to disregard all Halakhic material—a possible, though idiosyncratic choice—that there is no trace of line VII in the story can, perhaps, indicate that line VII was added later, but it is certainly not definitive.

Technically speaking, the version of the story in the Bavli did not have to change the received Palestinian parallel in such drastic ways to make the point that R. Tarfon was not following the proper Halakha about collecting figs. For example, instead of having someone kidnap R. Tarfon, a guard could have beaten him, as in the PT and in Tractate Kallah's version. However, if that punishment were to have been left in, it would

78 It is tempting to see Tractate Kallah's version of the story as the bridge between the PT and the Bavli. Already multiple guards have changed to an individual sharecropper. While it is certainly possible, one can say with more certainty that there are versions of the story that don't record the line: *On these two matter R. Tarfon acted in accordance with Beit Shammai and was put in danger: this [matter] and in the reciting of Shema (VII).*

not have correlated with R. Tarfon's actions—illegally taking late ripening figs when the drying mats were rolled up. With the new punishment, the storytellers ingeniously invert R. Tarfon's intention. Instead of using rolled up *mats* to *dry* fruits, R. Tarfon was “rolled” in a sack (=mats) to be thrown into a wet river.

Outside the main halakhic framework, most other alterations bear the stamp of the Stammaitic storytellers. As already noted, the addition of the river, a Babylonian motif, was added by the Stam and is also missing in Tractate Kallah. The changes in the tradition of R. Abbahu in the name R. Ḥanina ben Gamliel's statement in the PT from *R. Tarfon would fast over this for all of his days and say 'Woe is me I that I glorified myself by the crown of Torah'* (כל ימיו שלר' טרפון היה מתענה על הדבר הזה ואומר אי לי שנתכבדתי (בכרתה של תורה) (VIII) to *All the days of that righteous man's life, he was pained over this. He said: "Woe is me that I used the crown of Torah [for my own benefit]"* (כל ימיו של אותו צדיק היה מצטער על דבר זה א' אוי לי שנשתמש') (V) is emblematic of stammaitic phrasing. The phrase כל ימיו של appears at least one more time in the Bavli. Occurring in the story “Ḥoni's Long Sleep” in b. Ta'an. 23a (MS Yad ha-Rav Herzog), the line reads: *R. Yohanan said: that righteous man was troubled over this verse for all the days of his life* (א"ר יוחנן כל ימיו של אותו מצטער על המקרא הזה).⁷⁹ Diamond argues that in our story,

79 While it is true that the Ḥoni story in the PT does not have this line, it is more likely that the line originated in “Ḥoni's Long Sleep” in the Bavli and was transferred to b. Ned. 62a. First, “Ḥoni's Long Sleep” already comes after other stories about Ḥoni, which makes more sense to have language of אותו צדיק, whereas here, this is the first story about R. Tarfon; and second, the verb צער appears to be out of place in b. Ned. 62a, even if it has the secondary meaning of fasting. It, however, makes contextual sense with Ḥoni, who is troubled about the meaning of a verse. Fraenkel argues that the line in “Ḥoni's Long Sleep” is actually more appropriate for the Palestinian version of the Ḥoni story but was only added by later storytellers. In other words, while it does not appear in the PT, it is connected to the Ḥoni story in general. While agreeing with Fraenkel that the line is originally of Palestinian provenance, Rubenstein argues that the Stam changed the original Palestinian line from *All the days of Ḥoni the Circle-Drawer* to *All the days of that righteous man*. If Rubenstein is correct, this adds further credence that this is a stammaitic borrowing from “Ḥoni's Long Sleep.” Compare Yonah Fraenkel, “Remarkable Phenomena in the Text-History of the Aggadic Stories,” in *Proceedings of the Seventh World Jewish Congress of Jewish Studies: Studies in the Talmud, Halacha, and Midrash*, vol. 3

“troubled” (מצטער) may be used in the less common sense of “fasting.”⁸⁰ If he is correct, then the Babylonian storytellers have brilliantly adopted the phraseology associated with “Honi’s Long Sleep” and moved it to a new location without actually changing R. Tarfon’s response to benefiting from the Torah.

Finally, the change from *I glorified myself by the crown of Torah* in the PT (VIII) to *that I used the crown of Torah* in the Bavli (V) appears to be a result of the influence of m. Avot 4:5—*And thus did Hillel say: One who uses the crown of Torah will pass away* (בְּתַנָּא חֵלְפִי). As argued above, m. Avot 4:5 appears to be the actual source of the line in the PT, and likely in transmission to Babylonia the two traditions, m. Avot 4:5 and VIII in the PT, were conflated to read *I used the crown of Torah* (V) in the Bavli.⁸¹ Only after this change was the story connected with the Belshazzar tradition (Vii)—*Just as Belshazzar, who used holy vessels....was uprooted from the world, as it is written: “On that night Belshazzar was killed” (Daniel 5:30), one who uses the crown of Torah [for their own benefit] how much more so [will he be uprooted!]* (ומה בלשצר שגשגתו בכלי הקדש...נעקר מן העול' דכ' ביה בלילי' קטיל בלשצר מלכ' המשתמ' בכתר

(Jerusalem: World Congress of Jewish Studies, 1981), 58 [Hebrew] and Jeffrey L. Rubenstein, *Stories of the Babylonian Talmud* (Baltimore: The Johns Hopkins University Press, 2010), 71. A similar line appears in the printed versions of b. Qidd. 82b at the end of the story of “R. Hiyya’s Adultery with his Wife”: כל ימיו של אותו צדיק היה מתענה עד שמת באותה מיתה. While the line seems to appear in the Genizah fragment Manchester B 7787, it is missing in the extant full manuscripts, MSS Munich 95 and Vat. 110-111, and is generally understood to not be authentic to the story. See Shlomo Naeh, “Freedom and Celibacy: A Talmudic Variation on Tales of Temptation and Fall in Genesis and Its Syrian Background,” in *The Book of Genesis in Jewish and Oriental Christian Interpretation*, ed. Judith Frishman and Lucas Van Rompay (Leuven: Peeters, 1997), 73n.4. There is also a partial correspondence to the phrase היה מצטער עליה לבלעה בכל יום in b. Yoma 12a, but this does not appear to be the source for the line in b. Ned. 62a.

80 Eliezer Diamond, *Holy Men and Hunger Artists*, 172n.85. As Diamond, 72–73, notes, the Bavli depicts many rabbis fasting over minor incidents. The proof Diamond uses for the word having this less common meaning derives from t. Ta’an. 1:7 and b. Ta’an. 10b.

81 Beer, “The Term ‘Crown of Torah,’” 402–3, appears to argue that only the Bavli was influenced by m. Avot 4:5. However, as argued *supra*, I believe in the PT’s version of the story was influenced by the mishnah.

(של תור' על אח' כמ' וכמ' שמש).⁸² as it was thematically connected to the passage and uses the verb שמש.

d. Transferring Agricultural Halakha

As noted above, with the exception of Tractate *Berakhot*, the Bavli does not contain any Talmudic tractate dedicated to the Order of *Zeraim*. Additionally, the Order of *Zeraim* did not appear to have been studied as part of the curriculum of Mishnah study after the first generation of Babylonian Amoraim. It should then not be a surprising that, whereas the Palestinian story appears in a discussion of m. Shev. 4:2—which discusses whether one may eat Sabbatical Year fruit *be-tova* or not—in the Bavli it is linked instead to m. Ned. 8:4. Although this latter mishnah makes reference to an agricultural Halakha, its focus is on the timeframe of vows taken to not taste food or drink, specifically when the drying mats are folded. Outside of the rabbinic curriculum, the fact that the agricultural practices of the Sabbatical Year were not practiced in Babylonia may have been a factor in changing the Halakha of the story.⁸³ That is to say, although the Rabbis in the Bavli certainly discussed the Sabbatical Year—and the story in the Bavli is still related to a Halakha with agricultural references—that the agricultural laws of the Sabbatical Year were not practiced *perhaps* gave the Rabbis greater leeway to change the operative Halakha in the Palestinian story for a different, even polemical purpose.

82 The Belshazzar tradition appears in many places and in each the verb שמש is used. See, e.g., Sifre Devarim, Parshat Eikev, Piska 48 (ed. Finkelstein-Horovitz, 114) and accompanying notes. The teaching in line Vi—*Rabbah bar bar Hanna said in the name of R. Yoḥanan: “Anyone who uses (המשמ) the crown of Torah is uprooted from the world.”*—may also be of stammitic provenance. Shamma Friedman, “Wonder Not at a Gloss in Which the Name of an Amora Is Mentioned: The Amoraic Statements and the Anonymous Material in the Sugyot of the Bavli Revisited,” in *Melekheth Maḥshevet: Studies in the Redaction and Development of Talmudic Literature*, ed. Aharon Shemesh and Aaron Amit (Ramat Gan: Bar Ilan University Press, 2011), 111–14 [Hebrew], notes that many times R. Yoḥanan is used as a stammitic stand in for anonymous Palestinian traditions. Indeed, while there is a basis for the teaching in PT’s line VIII, it is never presented as an actual teaching. My thanks to Eliav Grossman for this point.

83 See Sifra (ed. Weiss, 105); y. Shev. 6:1; Maimonides, *Mishneh Torah, Hilkhot Shemitta ve-Yovel* 4:25.

While there is no Babylonian Tractate *Shevi'it*—thus necessitating a new context—the story being connected to m. Ned. 8:4 should not be taken for granted. Although some type of transference of context needed to occur, that need only happen on a tractate level, as parts of a mishnah from the Order of *Zeraim*, with attached Palestinian traditions, can be quoted in a different Bavli context. Indeed, parts of m. Shev. 4:2 are cited in b. Mo'ed Qat. 13a, b. Bekh. 34b, and b. Git. 44b. Thus, there could have been a scenario where m. Shev. 4:2 was cited, and this story was brought by the editors tangentially.⁸⁴ It is, therefore, not outside the realm of possibility that the story, with its original Palestinian plot, could have accompanied m. Shev. 4:2 and appeared in the Bavli.

The linking of the story to m. Ned. 8:4 was not due to happenstance. Fraenkel persuasively argues that m. Shev. 8:6 served as the background of the PT story. That mishnah uses the word מוקצה, which as Feliks notes, is a synonym for מקצוץ, which is mentioned in m. Ned. 8:4. In other words, this is not just a mechanical connection, but a serious link between the story and the new halakhic context. Secondary stammaitic additions, such as the citation from “Honi’s Long Sleep” are also not a result of the change of context, but are part of the Stam’s larger method of reusing motifs found elsewhere in the Bavli.⁸⁵ Thus, at least with the case of “The Kidnapping of Rabbi Tarfon,” the transfer of the story from a Palestinian tractate in the Order of *Zeraim*, as well as the differing practices in Babylonia, perhaps laid the groundwork for certain halakhic changes to the stories—the dropping of the Sabbatical Year and the focus on collecting figs during this time of year—but the changes cannot be solely reduced to this recontextualization.

84 Although I have not been able to find an example from the Order of *Zeraim* in which this appears, it does occur in “The Oven of Akhnai” which is connected to m. Kelim 5:10 in both the PT and Bavli. See Rosenthal, “Arikhot Qedumot Hameshuqa’ot Be-Talmud Ha-Bavli,” 185–86, and my discussion in the notes *supra*. On the different ways in which material associated with a mishnah is reproduced—or omitted—when that mishnah appears in multiple places in the Bavli, see Avraham Weiss, *Hithavut Ha-Talmud Bi-Shlemuto* (New York: The Alexander Kohut Foundation, 1943), 172–217.

85 On this general phenomenon, see Rubenstein, *Stories of the Babylonian Talmud*, 207–8.

III. Conclusion

“The Kidnapping of Rabbi Tarfon” poses many challenges for the modern interpreter. The narrative is difficult to understand: why was R. Tarfon punished if he was following the proper Halakha? Additionally, why this specific punishment? Perhaps even more complicated is trying to trace how the story developed from the Palestinian parallel, which has a different operating Halakha and punishment. The key to understanding this transformation is to appreciate the role that Halakha plays in the narrative of the story. The operating Halakha in the PT revolves around the debate in m. Shev. 4:2 concerning whether one must eat Sabbatical Year fruit *be-tova* (Beit Hillel) or not (Beit Shammai). That is, must one either give thanks, ask permission, or provide reciprocity with the pre-Sabbatical Year owners of the fruit before eating it. Additionally, the Palestinian version of the story assumes both t. Shev. 8:1, which imagines guards being placed by the court to protect Sabbatical Year fruit, and m. Shev. 8:6, which states that individuals would cut and dry their figs (קציעות) outside the field in a deserted area (חורבה) and not in the usual place one goes to dry fruit (מוקצה). Thus, the earlier story’s plot was that R. Tarfon went to the deserted drying area to retrieve his own figs and the guards watching the drying figs beat him because he did not follow Beit Hillel’s halakhic ruling. This was a measure for measure punishment, as by following Beit Shammai, R. Tarfon believed the owners relinquished their ownership of their fruit, just as the guards denied R. Tarfon the right to eat his own figs.

Based on the usage of the word מוקצה in m. Shev. 8:6, the stammaitic storytellers intentionally placed the story to the new Halakhic context, m. Ned. 8:4, which discusses the related Halakha about the timing of vows—including the time *until the mats [used to dry the figs] are rolled up* (עד שיכפלין המקצעות)—and the accompanying baraita (b. Ned. 62a), which states: *[If] the (majority of) mats are rolled up, [the figs] are permitted [as it pertains] to stealing and are exempt from tithes*. As the storytellers held onto the older Halakha, now recorded in t. Demai 1:3, which makes a distinction between late-ripening figs—those that remain after the drying mats are rolled up—in a garden, which are liable for tithes and thievery, and those in a field that are not, they substituted the original operating Halakha in the story derived from m. Shev. 4:2 with the Halakha of the baraita on b. Ned. 62a. As a result, in the reworked Bavli narratives, when

R. Tarfon went to collect the figs in a garden after the drying mats had been rolled up, he committed theft. The stammaitic storytellers then created a measure for measure punishment that ingeniously inverted R. Tarfon’s intention: instead of acquiring fruits when the majority of mats used to *dry* fruits had been *rolled up*, R. Tarfon was “rolled up” into an unfolded sack (= mats) to be thrown into a wet river.

On the macro level, the measure for measure punishment of the story highlights how the stammaitic storytellers did not strictly understand Halakha as “law.” Rather, on occasion, they viewed it as narrative material that could be utilized in stories. In the instance of “The Kidnapping of Rabbi Tarfon,” the stammaitic storytellers substituted the Halakha of m. Shev. 4:2 in the Palestinian story with the Halakha of the Babylonian baraita in b. Ned. 62a to artfully undermine the latter. While the agricultural laws of the Sabbatical Year not being applicable in Babylonia may have weakened the connection between the story and the Halakha of m. Shev. 4:2, that the mishnah is cited elsewhere in the Bavli suggests that the original story could, at least hypothetically, have appeared in that context. Instead, the stammaitic storytellers embedded the Halakha of the Babylonian baraita into the Palestinian narrative to create a polemical story that undermined the validity of baraita’s Halakha.