CONTENTS

Metasystemic and Structural Indicators of Late-Stage Babylonian Stammaitic Compositions[1]

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Introduction, Part 1: Recognizing signs of late stammaitic compostion in halakhic and aggadic texts

Talmudic literature is heavily textually and exegetically oriented, as is typical of Byzantine era literary compositional style. Each new composition is replete with citations of texts from earlier eras, as borrowed quotations are adapted and woven into new contexts. A gem in a new setting takes on an entirely new appearance; a citation in a new context may be transformed in meaning. This innovation and renovation extends to the Talmud's citation and reuse of entire *sugyot*.[3] *Sugyot* such

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3   The summarizing remarks here are intended to engage the general understanding of a *sugya* as a linear composition, a running argument featuring several authoritative opinions, in which sources are drawn on to progress the discussion, point by point. I agree with Daniel Boyarin, *Socrates and the Fat Rabbis* (Chicago and London: University of Chicago Press, 2009) that Talmudic *sugyot*, for all their careful citation and argumentation, are really monologues dressed up as dialogues (cf. pp. 140–143; cf. n. 36 below). In adopting "exegetical" to characterize an orientation, I am adapting Laura S. Lieber's observation that "Judaism in antiquity was an exegetical culture" (*Yannai on Genesis: An Invitiation to Piyyut* [Cincinnati: HUC, 2010], 139). Here differentiation between Yannai's creative exegetical manipulation of his sources and those of his predecessors (writing "with" Scripture as opposed to writing "towards" Scripture, cf. pp. 162–164) should be considered as a way of differentiating the Bavli's way of composing

as the examination of the exemption of women from dwelling in a *Sukkah* (bSuk 28), as well as the fulsome treatment of the overall feminine exemption from positive time-bound commandments (bKid 34–35), can be shown to be demonstrably late Babylonian stammaitic (anonymous) productions, this based on the fact that each one incorporates and adapts earlier versions of stammaitic *sugyot.*[4] Those two *sugyot* were created in a later secondary revision of the primary stammaitic material. The late versions are not merely different formulations of the same material, but divergent treatments of that material. They produced different conclusions; indeed, the later versions may even contradict the earlier ones. One may well ask whether the later versions share conceptual interests, or stylistic qualities that could serve as signs useful for the identification of other late stammaitic compositions. Moreover, can one identify similar strategies in aggadic texts, such that one could comfortably assert the likelihood that they too were authored by late stammaitic redactor-authorships?

Both questions may be answered in the affirmative. Each of the aforementioned compositions explores issues that go beyond the mere provision of information about a particular *mitzvah*. Rather, they construct models that implicate the theoretical underpinnings of whole classes of *mitzvot*. In so doing, the authors are synthesizing their midrashic traditions in a manner both exhaustive and comprehensive. This conceptual comprehensiveness has a stylistic counterpart in their complex, carefully ordered literary structure. That structure supports and articulates those explorations: these *sugyot* have been both carefully thought out and meticulously designed.

"with" its sources from the Yerushalmi's more staid subservient posture with respect to them.

4   "Rhetorical Strategy and Dialectical Necessity in the Babylonian Talmud: the Case of Kiddushin 34a–35a," *Hebrew Union College Annual* 65 (1994): 177–231; "Pseudepigraphic Invention and Diachronic Stratification in the Stammaitic Component of the Bavli: the Case of Sukka 28," *HUCA* 68 (1997): 11–62.

Similar phenomena are operative in some aggadic compositions.[5] The Aḥer narrative (bHag 15), for example, shows an exquisite design that supports its examination of the implications of R. Meir's learning from, and with, an apostate like Aḥer. That inquiry actually cripples the text as a finished, unitary, literary story.[6] Although the issues addressed relate thematically to the Elisha narrative, the focus shifts from him to R. Meir.[7] Is it appropriate for us to establish a genre that the story does not fit, and then criticize it on that very account? Indeed, such a shift transforms the narrative in ways analogous to those in which the core *sugya* (*sugyot*) was (were) transformed in bSuk 28 and bKid 34–35.

The demonstration that *sugyot* and aggadic narratives share certain literary, ideological and ideational features can contribute to the revision, if not the reversal, of a tendency to see the composition of the *sugya* as so different in nature from the framing of an aggadic tale, that we must conclude that they have been produced by two different types of author-redactors, not necessarily from the same period. That tendency was summarized by Richard Kalmin:

> …the theory recently advanced by Jeffrey Rubenstein, according to which the *Bavli*'s anonymous commentators authored the Talmud's lengthiest, most complex stories… Rubenstein's theory raises an exceedingly difficult question: if the anonymous editors authored the Talmud's greatest stories, why do the overwhelmingly prosaic, legal preoccupations of these commentators throughout the Talmud reveal them to be

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5   J. L. Rubenstein, *Talmudic Stories Narrative Art, Composition, and Culture* (Baltimore: Johns Hopkins University Press, 1999) and *The Culture of the Babylonian Talmud* (Baltimore, Md.; London: Johns Hopkins University Press, 2003), spearheaded the effort to view Babylonian Talmudic aggada in terms of the new appreciation of the lateness of the stammaitic enterprise (on which, see *infra*). See nn. 26 and 28 below.

6   Rubensein (1999), 64–104; Rovner, "Aspects of Structure and Ideology in the Aher Narrative (bHag 15a and b)," *Jewish Studies, an Internet Journal* 10 (2012): 1–73.

7   The final scene, however, does reconnect allusively in its final words to the matter of Elisha.

the very antithesis of deft storytellers and imaginative artists? The anonymous editors of the Talmud are very unlikely candidates for the authorship of the Talmud's brilliantly artistic, dramatically gripping, and ethically and theologically ambiguous narratives.[8]

This approach does complicate the task of historically bound cultural analysis. Others have nuanced the issue by taking an ahistorical approach. Confronting the phenomenon of a grotesque, satiric, talmudic narrative style, i.e., an aggadic form that portrays rabbinical heroes from a range of uncomplimentary perspectives, Daniel Boyarin has also raised the possibility of stam narrators who are distinct from the stam of the *sugyot*, whose various compositions were combined by yet a third form of authorship, the stam of the integrated Talmud.[9] He is careful, however,

8   R. L. Kalmin, "The Formation and Character of the Babylonian Talmud", *The Cambridge history of Judaism 4: the Late Roman-Rabbinic Period*, ed. S. T. Katz (Cambridge; New York: Cambridge University Press, 2006), 840–876, p. 846. As S. Y. Friedman put it, "Dialectic commentary was [the *sugya* composers'] forté, and they may well have left the [aggadic] functions to specialists in those fields" ("A Good Story Deserves a Retelling: the Unfolding of the Akiva Legend," *JSIJ* 3 [2004]: 1–39, p. 3).
        Kalmin later observes there, however, "What else do anonymous editors accomplish by rereading the *sugya* in this fashion? They transform a series of loosely connected traditions, traditions linked together by no more than their focus on a common theme, into a multilayered, tightly woven discourse composed of carefully interconnected parts" (p. 873). That summary can certainly apply to many of the lengthy aggadic complexes analysed by, Rubenstein for example, and the one examined herein. Cf. S. Y. Friedman, ibid., 1–4, and see n. 5 there citing L. Jacobs' remark on the techniques employed by *sugya* redactors for "literary effect."

9   Boyarin (2009). Boyarin references Kalmin on pp. 194–195, and suggests that the sugyot are not as "unartistic" as Kalmin suggests by way of contrast with the Bavli's narrative art. The ensuing analysis here will flesh out that claim. Barry Wimpfheimer, *Narrating the Law* (Philadelphia: University of Pennsylvania Press, 2011), 148–149, also mentions Kalmin, and suggests that "the rest of this chapter stands as an answer to" the distinction Kalmin drew between imaginative aggadah and prosaic halakhah. While the author's intention is somewhat unclear, he presumably intends to show that the "halakhah" is not so "prosaic." Although I

to stipulate that the stam of the *sugya*, the aggadic narrator and the stam who assembled the Talmud, are not necessarily three historically distinct groups, but rather three authorial functions; he abstains from taking a stand on whether or not they are in fact historically differentiated.[10]

Boyarin's evidence actually reveals the identity of a complex, integrated talmudic authorial personality, one that uses aggadah to express internal (and external) conflicts and engage in self-critique. Just as an individual may have several personas, or a personality may feel torn by conflicts and buffeted by bouts of self-doubt amidst general resoluteness and self-confidence, so can the Talmud be an integral whole made up of a range of various, sometimes conflicted—even conflicting— aspects. Aside from the fact that *sugyot* themselves sometimes include quite accomplished aggadic sections,[11] a fact acknowledged by Boyarin in the case of the subgroup of aggadic narrative types that he examined,[12] the bifurcation of authorship is akin to denying "Areopagitica" to the author of *Paradise Lost* on account of their divergent genres and styles.[13] The stylistic and conceptual analysis below provides a perspective from which to view the apparent dichotomy between halakhic *sugya* and

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agree with Wimpfheimer's thesis, it is not clear that he demonstrates it in the remainder of the chapter, however, for he seems to treat the text under discussion as a "lengthy [aggadic] narrative," rather than a "conversational [dialogical, halakhic]" *sugyiah*" (idem., 159).

10   Moulie Vidas, *Tradition and the Formation of the Talmud* (PhD: Princetion University, 2009), "The Introduction of the division between the *stam* and the *memrot*"(pp. 59–90), floats a notion of the voice of the narrator similar to Boyarin's stamma of the Talmud who puts all of his sources together. Vidas is more extreme, however, for where Boyarin suggests an author as a function that combines various sources (but who could be identical historically to the author[s] of those sources), Vidas suggests the possibility that the author of the *sugya* is also the author of the building blocks, i.e. tannatic *baraitot* and amoraic *memrot*, cited in the sources of his text, one who merely pretends to be citing them as actual discrete building blocks as part of his authorial strategy.

11   Explicated thouroughly in Wimpfeimer (2011).

12   Noted by Boyarin (2009), 195 and cf., e.g., 141, 166 and 173.

13   Cf. Boyarin, ibid.

aggadic narrative as a type of thinking and composing using two modes of expression by the same authorship.[14]

Shamma Friedman would also bifurcate the authorial attribution pattern. He feels that the nature of imagination and creativity demanded of a *baʿal aggada* is so different in kind from that shown in *sugya* creation, that it requires a different type of author. While he has shown that distinctive forms of aggadic creativity may already be found in tannaitic narratives, Friedman nonetheless considers highly styled Babylonian aggadic compositions, as exemplified in elaborate narratives, distinguished by their reuse of motifs, expressions and episodes, even in modified and adapted forms, to be late.[15] On this analysis, although the attributional pattern is bifurcated, Stammaim on the one hand and *baʿale aggada* on the other, we are dealing with two sets of demonstrably late anonymous authorial types, who may well be members of the same academy.

Jeffrey Rubenstein does collapse the two and considers post-amoraic Stammaim to be the authors of both *sugyot* and aggadic narratives. Building upon his well-received analyses of lengthy aggadic narratives, Rubenstein has published an important introduction to *The Culture of the*

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14 I use "authorship" because we do not know how many hands have contributed to any of our *sugya* and aggada texts. While, we may see the final product in stages that coalesced in documents created in *Eretz Israel* and predating the Bavli, only in rare instances can we recover or view early or alternate Babylonian iterations. Cf. the case of bBer 11a, as reconstructed in Moshe Benovitz, מאימתי קורין את שמע: ברכות פרק ראשון מן התלמוד הבבלי (ירושלים: האיגוד לפרשנות התלמוד, 2006), 504– 499, and Uziel Fuchs מתלמוד התנאים לתלמוד הגאונים: עיון בסוגיית ברכות יא ע"א וגלגוליה", אחרית דבר וראשיתו: ענייני התהוות ומשמעות בסוגיה ,סידרא כא (2006) 86– 69. See Rovner, בבבלי ברכות יא ע"א *Sidra* [In Press] for an alternative reconstruction; cf. also ibid. 1997, which shows how an early text-form was transformed by means of strategic insertions and additions into a different text that explored new issues and reached conclusions that in part contradicted the original version without omitting a word of that earlier iteration.

15 Cf. his introduction to 2004, 1–8. Friedman has also posited that a long version of an aggadic narrative can evolve into a short one, סיפור רב כהנא ור' יוחנן (ב"ק קיז ע"א-ע"ב) וענף נוסח גניזה-המבורג. *Bar Ilan* 30/31(2006): 409–490.

Babylonian Talmud,[16] combining insights from both modes of expression to describe a stammaitic Talmudic culture that is post-amoraic. These late stories portray in narratives the ethos and culture acted out in the dialectical modes dramatized and modeled in the stylized discussions and debates of *sugyot*. Rubenstein, then, would go further than Friedman by moving outside the arena of language and style to limn a Talmudic culture manifest in the subject matter and emotional energy of the linguistic record.

In an effort to further bridge the gap between the two forms of late composition, Rubenstein compiled "Criteria of Stammaitic Intervention in Aggadah." This forms a complement to Friedman's now-classic summary of stammaitic practices in *sugyot*.[17] Unfortunately for Rubenstein's argument, however, Friedman's catalogue contains much that even David Halivni—who coined the term Stammaim for the authors of the anonymous material in the Bavli[18]— recognizes as both "stammaitic" and, at the same time, early. Thus, Halivni acknowledges that much anonymous, hence stammaitic, editorial intervention and manipulation could have been—and indeed was—executed during the Amoraic period. The chronological determination must be decided on a case-by-case basis since, while much of this textual work may not itself constitute stammaitic argumentation, i.e., the argumentative building blocks of *sugyot* that Halivni assuredly does regard as post-amoraic, it certainly may well be a product of *sugya* creation.

Several considerations problematic to Rubensein's argument converge here. One is that not all types of composition identified as stammaitic are necessarily post-amoraic. The mere assertion that this material is stammaitic, when one intends "post-amoraic," does not

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16   Baltimore: The Johns Hopkins University Press, 2005.

17   על דרך חקר הסוגיה, *Texts and Studies: Analecta Judaica* 1 (1977): 283–321.

18   See, nn. 26 and 28 below and the text there. The term "Stammaim," along with their post-amoraic provenance, is summarized in Halivni's introduction to *Sources and Traditions: a Source Critical Commentary on the Talmud, Bava Bathra* (Jerusalem: Magnes Press, 2007) 5–9. However, early (amoraic-period) stammaitic ehditing and intervention into the transmission of tannaitic and amoraic material is described there as well, 37–45.

constitute proof of the claim. Finally, the emphasis on identifying stammaitic innovation through looking backward to its editorial manipulation of pre-existing material, obscures a simple fact of literary creation, whether in an oral or a chirographic context, viz., each new iteration, whether oral formulation or written inscription (as opposed to a recitation, or inscription, of a text once it has become "fixed"[19]) combines traditions with innovations in an amalgam that is a new creation.[20] (The flexibility of medieval copyists, resulting in the relative fluidity of expression in talmudic *sugyot* in the manuscript culture of the Middle Ages, is to be distinguished from the recombination of sources and new formulations that produce new creations.)

That final consideration may complicate matters, for an early source may be quoted without modification, thus incorporating it into the late cultural mix. However, the sophisticated borrowing with extensive modifications and stylistic innovations are the reason I feel that Rubenstein is correct in assigning the lengthy aggadic masterpieces he analyzes to post-amoraic redactor-authors—creative craftsmen, in whose hands so many talmudic compositions received their final form. To be sure, one may even discern signs of their handiwork writ small in many minor works as well.[21] The problem is how to demonstrate this. Rubenstein has further made the case for a nexus of narrative and culture in a second collection examining *Stories of the Babylonian Talmud*.[22] He

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19 This is not necessarily verbatim rendition when speaking of the transmission of texts of "Oral Torah," and it is typical of textual transmission in manuscripts.

20 Many at least are not merely logical manipulations, but rather constitute summational essays, intended to constitute the final word on a certain issue or topic.

21 In an unpublished examination of ענף-נוסח חדש במסכת שבת בתלמוד הבבלי: שלושה חכמים ומעשיהם: עיון במלאכת היצירה ומסורות הנוסח, S. Friedman studies three short aggadic narratives. He calls attention to two aspects of borrowing and thematics in one, finding that it thematizes a late cultural concern for the suffering of shame, and exertions to avoid causing shame, identified by Rubenstein as characteristic of "the late Talmudic period" (p. 23, by n. 73). It must be noted that the question, whether the aforementioned theme is a uniquely stammaitic concern, or was it also an issue in Babylonian Amoraic culture, bears on the criteria one would rely on for dating this tale.

22 Baltimore: The Johns Hopkins University Press, 2010.

shows clearly the culture of a "stammaitic" academic society that glorifies dialectical debate, where status is attained through competition and jealously guarded, while shame is feared and deplored. Such findings do raise the question, what is new in this stammaitic culture, what did they inherit and what did they adapt. Like Friedman - Rubenstein calls attention to some stylistic usages that distinguish the authors of the narratives he examines as demonstrably late. Among them, borrowing and reuse of texts and motifs, including ones found in other anonymous aggadic compositions.

The question of authorship is further complicated when one considers that a vast work such as the Babylonian Talmud must be made up of discrete sugyot and narratives composed by countless individuals, each with a unique range of skills and aptitudes. (Centuries of revision and transmission have regularized this material, bestowing upon it its charaterisitc uniformity of style.) Surely, some were competent in both modes of composition–halakhic as well as aggadic–while others may have had an interest in, or an aptitude for, only one of the two. That being said, the more important question is, whether both forms of (oral) literary pedagogy may be dated to the same period. To be sure, texts from all periods have been borrowed, adapted and incorporated into the extended narratives studied by Rubenstein and utilized in his cultural analysis. However, it is probative that pre-existing stammaitic narratives are among the sources. This helps date the narratives late in the stammaitic period. Moreover, I would suggest that the fact that earlier sources exclusively may appear in a narrative, can now be discounted as an indication that earlier stammaim may have composed that story, because the approach to composition and style marks such narratives as having been crafted by the same late stammaim. That authorial strategy is late; it is unique to a school and a time period. This point has not been made by Rubenstein, who has not introduced chronological distinctions within 150–200 years of stammaitic-period composition, but if it is correct, it could open a path to a more nuanced understanding of the stammaitic program, as I will suggest in the conclusion below.

Other problems now arise, e.g. assuming that we have satisfactorily demonstrated the relative lateness of the advanced narratives, what is the

chronological extent of the culture portrayed therein? Furthermore, what are the textual sources of the motifs, episodes and linguistic formulations and echos which have been borrowed? Although they could have been composed prior to those late aggadic stories, it is possible, in many situations where two or more texts use the same motifs or phrases, that some or all could be contemporaneous with one the other.

By way of contributing to the periodization from another point of view, as well as providing a perspective from which to achieve a more nuanced appreciation of stammaitic enterprise, I offer the following comparative analysis. It is reasonable to begin by working with the most certainly late types of texts, in the hope of progressing in subsequent efforts to the identification of signs of late composition in less obvious exemplars. My basic argument is syllogistic in nature. The stammaitic *sugya* in bKid 34–35 is demonstrably late because it incorporates earlier stammaitic *sugya* material. It also seems to be unique in that it possesses an impressively complex literary structure and pursues meta-systemic questions. The Aḥer narrative in bHag 15 also possesses an impressively complex literary structure; it has incorporated demonstrably earlier texts and it explores meta-systemic issues. Therefore, unless those unique qualities can be predicated of earlier types of compositions as well, bHag 15 is also a late stammaitic, and therefore certainly post-amoraic, production.

One can see from *sugyot* such as bKid 34–35 discussed below, that the treatment of halakhah engages a degree of ambiguity unlike that noted in the case of aggadah. The *sugya* presents and defends four distinctive positions without attempting to decide which is correct. (Ahistorically oriented critics, who insist on viewing the Talmud from the perspective of the Geonim, fault the Talmud for not supplying the halakhic bottom line, when in reality its purposes are the collection, collation and demonstration/creation of systemic coherence. [23]) In

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23   The notion widespread among contemporary scholars, that the Talmud, at least
      seen in light of its *sugyot*, is primarily a halakhic work, is that its failure to
      determine the halakhic bottom line is a problem. My claim, as will be enunciated
      in the following section, is that the Talmud is a scholastic work, whose aim is to

addition, the different modes of analysis require opposing approaches to the use of sources. The *sugya*'s exhaustive collection and application of sources on the feminine exemption from positive time-bound precepts contrasts with the selectivity shown in the aggadic composition. The latter distinguishes itself from the Yerushalmi in its selective use of source material. While TY presents a number of possible reasons for the fall of Elisha, TB presents only one. Even if TB was unaware of the TY narrative in some form, which is unlikely given the extent of shared material and numerous similarities in structure, TB itself furnishes several of the aforementioned traditions elsewhere.[24] Each mode, therefore, has its own esthetic and generic requirements: To build a summational *sugya* one must collate and integrate all relevant traditions available; to present a gripping aggadic narrative, one must be judicious and selective in the use of sources.[25] Either way, the thoroughness of

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establish the coherence of its traditions. This idea is further exemplified and developed in Rovner, אחרית דבר וראשיתו (see n. 13 above). In the following section, I will also take issue with contemporary and traditional scholarship that characterizes the *sugya* as a point-by-point series of resolutions of challenges and contradictions, proposing, instead, that the argument is designed to reveal or discover the function or meaning of each discrete teaching in relation to the others incorporated into the dialectical design.

24   Other TB passages on Elisha may be found in bHag 15b and bKid 39b.

25   A generalization may be relative, a contrast context-bound. Wimpfheimer 2011, 159, contrasts differently another lengthy narrative (bKid 70) to halakhic argumentation: "The *stam* in conversational sugyot functions in a monological mode animated by a dynamic energy to unify received precedents as much as possible… In lengthy narrative mode, by contrast, the centripetal energy is absent, replaced by centrifugal (tending away from unity) energy that is willing to follow the contours of life to more dialogical places." Wimpfheimer's observation regarding *sugyot* would on the face of it apply only to a discussion that, like a syllogism, reaches a "unified" conclusion. Could his "monological" be stretched to include the multifaceted unity of an integrated, purposefully inconclusive, complex such as bKid 34–35? On the other hand, the narrative he is examining is a thematically linked collection of anecdotes that have not been rhetorically integrated and unified like the Aher narrative in bHag 15. The term "dialogical" would apply, however, to both aggadic texts, each in its own way.

treatment, analysis and style, as well as the meticulous attention to detail common to both modes, points to the same type of authorship. The example of Milton aside, if one may allow for different authors to specialize in different modes, one may also allow for one author to specialize in liturgical and ritual matters, while another creates the *sugyot* involving torts and contracts. A multiplicity of distinctions does not necessarily imply a multiplicity of persons. And then there is the pesky habit of the authors of *sugyot* to include aggadic and other narrative material in the crafting of their compositions.

Introduction, Part 2: Issues in assessing the nature of Babylonian Talmudic **sugyot** *and the need for including literary elements in* **sugya** *analysis*

The addition of another factor to the reconsideration and comparison of *sugya* and aggadic compostion can further the unified vision of those two modes of expression. This element brings them closer together from the opposite direction, applying some aspects of literary analysis usually reserved for aggadic material to halakhic texts as well. Scholars have noted literary aspects of *sugya* compositional stylistics, such as numbered sequences and rhetorical balance, as well as the structuring of argumentation for dramatic effect.[26] I want to reconsider the function and effect of rhetorical balance with an eye to clarifying the purpose of *sugya* composition, something that has not been adequately appreciated in recent treatments.

Without challenging the Babylonian Talmud's exalted status as the canonical text of rabbinic Judaism, some of its academic admirers and exponents have been critical of many talmudic compositions. Carrying

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Wimpfheimer is cleverly (apparently counter-intuitively) contrasting halakhah and aggadah as "monological" versus "dialogical," perhaps with a nod to Boyarin (2009) (cf. n. 36 below).

26   Cf. n. 40 below.

forward problems identified by medieval commentators and codifiers,[27] they have noted that forced explanations are encountered on every page, or that there is a tendency to engage in fanciful rhetorical exercises. Those problems tend to be located in the anonymous material that expands upon the teachings of amoraic or tannaitic sources, embedding them within its typical argumentational, dialogical, expositions, i.e., *sugyot.* Why compose such fanciful *sugyot*; what is their nature and purpose? My answer will be formulated with reference to two aforementioned compositions, exemplary in several respects, viz., the classic *sugya* on the feminine exemption from positive time-bound observances in bKid 34–35, and the aggadic narrative of the repudiation and restoration of Elisha ben Avuya (Aḥer) in bHag 15.[28] I will first summarize some modern approaches to the nature and purpose of the Babylonian Talmudic *sugya,* noting where my contribution fits in. Then, I will examine by way of a solution what I designate the "metasystemic" concerns of the two compositions under discussion, describing as well aspects of their literary-formal character that relate to the creation of meaning in those texts.

Motivated by a desire to account for the Talmud's many forced and artificial, anonymous answers, David Halivni has posited that the anonymous argumentation took form in the post-amoraic period.[29] He

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27 Wimpfheimer 51, remarks that "to traditional students of the Babylonian Talmud, the Bavli's anonymous voice is nearly invisible…The anonymous voice of the Bavli is only (and rarely) attributed agency within traditional Talmudic commentaries if such agency resolves a difficult exegetical problem. In traditional exegesis, the *stam ha-Talmud* is a poor stepchild—remembered rarely and only for blame."

28 Texts 1 (Table 1) and 2 (Table 3) below each brought at the beginning of its respective examination.

29 His views, summarized in the respective introductions to his *Sources and Traditions: a Source Critical Commentary* (Tel Aviv: Dvir, 1968 and Jerusalem: JTS [later: Magnes Press], 1975–), have evolved. With respect to the dating of stammaitic argumentation, Halivni's has progressively pushed its upper limit into the early gaonic era (mid-sixth century–first half of the eighth century; introduction to his volume on Bava Bathra (Jerusalem [2007] 11). He has presented his approach in English in *Midrash, Mishnah, and Gemara: the Jewish Predilection for Justified Law* (Cambridge, Mass.: Harvard University

identified its redactors as Stammaim, and their purpose as the reconstruction of amoraic argumentation, which up to that point had not been carefully preserved and transmitted.[30] That very chronological distance from the Amoraim explains the forced and inadequate solutions produced by the Stammaim: had they been contemporaries of the Amoraim, the Stammaim could have consulted them on the correct meaning of their traditions. While a late dating has much to recommend it,[31] the retrospective focus ascribed to these redactors misses the point of

Press, 1986) and published a summational collation and integration culled from his various introductions: *Introduction to "Sources and Traditions": Studies in The Formation of the Talmud* (Jerusalem: Magnes, 2012 [in Hebrew]). Other gaonic argumentation is indicated in n. 31 below. At present, one is left to deduce layering or additions by comparing ms. variations and variants: a desideratum, addressed in part herein, is a description of the changes in mentalité and style that would help in the discrimination of layers or shifts in stammaitic compositional techniques when the ms. record is uniform.

30 D. Kraemer, *The Mind of the Talmud: an intellectual history of the Bavli* (New York: Oxford University Press, 1990), suggests that the purpose of the Talmud was to provide argumentation for the purpose of examining the many sides of an issue or a topic. J. N. Lightstone, *The Rhetoric of the Babylonian Talmud, Its Social Meaning and Context* (Waterloo, Ontario: Wilfred Laurier University Press, 1994) characterizes talmudic rhetorical style as open-ended. I do not think that such conclusions take into account the social context, i.e., the nature of the audience for whom *sugyot* were composed and the purpose for which they were designed (cf. n. 42 below).

31 Acknowledgment of the lateness of a textual component does not always imply that its contents are new. Not only tannaitic texts or amoraic statements (although they may have undergone revision after formulation), and setting pseudepigraphic inventions aside for now, but even anonymous material may well have originated in earlier settings. In my remarks below I distinguish between, for example, the earlier stammaitic textualization of *sugyot* incorporated and adapted into the late bKid 34–35 text under discussion. Similarly see Rovner (1997), 11–62, and "Developmental and Programmatic Aspects of bEruv 95b: The Development of a Talmudic Text Through Talmudic Times and Beyond" (in press). In their work, S. Y. Friedman, e.g., "A Critical Study of *Yevamot X* with a Methodological Introduction," *Texts and Studies: Analecta Judaica* 1 (1977); על דרך חקר הסוגיא

the stammaitic enterprise. Rather than seeking to recover lost traditions, Stammaim were engaged in innovatively reconfiguring their sources according to an agenda that they themselves initiated.[32]

(Introduction), 275–321; and *Talmud Arukh, BT Bava Mezia VI: Critical Edition with Comprehensive Commentary* (Jerusalem: Jewish Theological Seminary, 1990-1996); R. L. Kalmin (*The Redaction of the Babylonian Talmud: Amoraic or Saboraic?* (Cincinnati: Hebrew Union College Press, 1989), and "The Formation and Character of the Babylonian Talmud," *The Cambridge History of Judaism 4: the Late Roman-Rabbinic Period*, ed. S. T. Katz (Cambridge; New York: Cambridge University Press, 2006), 840–876, do not consider stammaitic material necessarily post-amoraic, although the former tends to consider the stammaitic component as having come after and manipulating/explicating the amoraic material it glosses and interrogates. Cf. R. Brody's carefully thought-out objections to systematic late-dating, albeit without consideration to the role that style or agenda could play as distinguishing chronological features, סתם התלמוד ודברי האמוראים, Iggud: *Selected Essays in Jewish Studies, vol. 1: The Bible and Its World, Rabbinic Literature and Jewish Law, and Jewish Thought* (Jerusalem: World Union of Jewish Studies, 2008), 213–232. It should be noted that even D. Halivni in places, hesitates to categorically designate all types of stammaitic material as post-amoraic. The upper limits of talmudic creativity are further addressed in the following note. S. Y. Friedman has further studied the relation of the stammaitic contribution to the amoraic component of the Talmud (including the question of pseudepigraphic invention), suggesting that, while most stammaitic matter is post-amoraic, the chronological distinction cannot be hard and fast, notably because there seems to have been a period of transition when both statements attributed to named amoraim, e.g., Ravina and Rav Ashi, and an anonymous matrix, were created in tandem; he also provides a substantial critique of Brody's views in his aforementioned article, ("אל תתמה על הוספה שנזכר בה שם אמורא": שוב למימרות האמוראים וסתם התלמוד בסוגיות הבבלי, *Melekhet Mahshevet: Studies in the Redaction and Development of Talmudic Literature* [Ramat-Gan, 2011] 101–144]).

32   As seen by J. Neusner, for example, *The Bavli's One Voice*: *Types and Forms of Analytical Discourse and Their Fixed Order of Appearance* (Atlanta, Ga.: Scholars Press, 1991). His take on rabbinic textual dynamics is that "in general, in the Rabbinic documents, we deal with a realm in which the past is ever present, the present a recapitulation and reformulation of the past. Specifically in the Talmud, no considerations of temporal priority or posteriority ever intervene in any material way… Memory as the medium of interpretation of the social order

Leib Moscovitz, on the other hand, looks forward rather than backward in tracking the ordevelopment of rabbinic legal reasoning as manifest in tannaitic, amoraic, and anonymous teachings and argumentation. He is helpful in differentiating what and how these various groups think, or in tracing development within those groups. Moscovitz describes an evolution from concrete exposition to abstract conceptualization, locating the most abstract conceptualization in the

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falls away, and historical thinking ceases to serve" (*Where the Talmud Comes From:A Talmudic Phenomenology* [Atlanta, Ga.: Scholars Press, 1995], 14).

Dating this period is also problematic in ways not discussed in the preceding note, because a further period of talmudic composition must be accounted for. The latter contribution is not as imaginative and creative as the work being discussed below, but consists, rather, in the composition of explanatory glosses and the mechanical transfer of discussions from elsewhere in the Talmud, and the expansion of same with some argumentation to adapt them to the new locus. An example of the former is the "*perushe*," i.e., glosses attributed to the Savoraim, such as those collected by B. M. Lewin, some of which are ascribed to early Geonim like Yehudai Gaon (eighth century; see Lewin, B. M., רבנן סבוראי ותלמודם (Jerusalem: Ahiever, 697 [1937]; J. S. Spiegel, הוספות מאוחרות (סבוראיות) בתלמוד הבבלי (PhD: Tel Aviv University, 736 [1975]); idem, לשונות פירוש והוספות מאוחרות בתלמוד הבבלי, *Studies in Talmudic Literature, in Post-Biblical Hebrew, and in Biblical Exegesis* (Tel Aviv: Tel Aviv University, 743 [1983]), 91–112. Halivni now includes the latter in the final part of the stammaitic program (*Introduction to "Sources and Traditions",* Bava Batra, 9–11). In the opinion of the present author, Neusner is too extreme in his doctrinaire refusal to benefit from attributed material for diachronic analysis, and Halivni is too rigid in "slicing and dicing" stammaitic functions correlated with dating. Moreover, the latter's dating of the close of the Talmud to the same period that produced codifications of its contents (eighth century: *Halakhot Pesukot*) does not allow time for it to evolve from its acceptance as a basic work of Judaic (rabbinic) wisdom to its (gaonic) conceptualization as a handbook of Jewish law. (It should be noted that Y. Elman considers the Talmud to have been redacted before the mid-sixth century because it does not mention the Black Plague that broke out then in the Near East with disastrous consequences for the following two centuries: ("The World of the 'Sabboraim'," *Creation and Composition: The Contribution of the Bavli Redactors (Stammaim) to the Aggadah* (ed. Jeffrey L. Rubenstein; Tübingen: Mohr-Siebeck, 2005), 384--416, pp. 383–385.)

anonymous textual material in the Bavli.[33] It is in that material that the forced reasoning and farfetched, imaginative constructs tend to reside. They are carrying forward the Bavli's tendency to search out "grand unified theories" to rationalize and account for all of its collected sources.[34]

While my position is similar, I feel that under such analysis the stammaitic productions come across as under-appreciated and even unappreciated — as somehow compromised or lacking in substance. It is necessary to advance further, modifying one's perspective, in the characterization of the nature of the late anonymous deliberations in the Bavli, in order to realize an appropriately positive evaluation of their accomplishments, or framing of their results. The fact is that the creators of such *sugyot* were attempting something other than mere abstract legal reasoning; rather, they were engaged in exegetically motivated rhetorical and dialogical exercises that did not always lead to conclusions based upon abstract legal conceptualization. They could, however, produce hermeneutical masterpieces demonstrating the systemic coherence of their traditions.[35] To be sure, the delineation of the stammaitic contribution to the development of abstract legal reasoning is a crucially useful project, and the Stammaim were definitely engaged in it, but it is not necessarily coextensive with what they were aiming to accomplish in the creation of their *sugyot*. They utilized abstract reasoning in the

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33   *Talmudic Reasoning* (Tübingen: Mohr Siebeck, 2002); "Designation is Significant: An Analysis of the Conceptual *Sugiyah* in bSan 47b–48b," *AJSReview* 27 (2003): 227–252.

34   Moscovitz sometimes finds the stammaim motivated by the desire to display "intellectual virtuosity for its own sake" (להגדיל תורה ולהאדירה, 2003, 246). Perhaps some *sugyot* were motivated by the desire to help students organize, contemplate, and memorize their traditions, and to sharpen their minds (Cf. S. Y. Friedman 1990, *Perushim,* 83 and 90, on *sugyot arigah*=woven *sugyot*). Cf. the related suggestion in n. 42 below, but further accumulation of evidence, comparison, and analysis remain to be done.

35   This was acknowledged with ambivalence by Moscovitz (2003), who points out that the unity was achieved at the price of less than rigorous legal and conceptual reasoning.

conceptualization, planning, and execution of many complex sugyot, unique not only in their intellectual and imaginative accomplishments, but stunning in their design as well. I feel that, in order to ascertain the nature and goals of a stammaitic creation, it is necessary to evaluate a *sugya* in its entirety, thereby seeing how every facet and segment fits together and works together to produce the whole. That is the approach taken in the following analysis.

Robert Goldenberg[36] has identified as a purpose of the talmudic *sugya* the establishment of coherence amongst its component parts. Barry S. Wimpfheimer has similarly called attention to the search for coherence as the purpose of the *sugya*.[37] This notion is very helpful, for the key to appreciating the stammaitic program is the apprehension that a *sugya*'s meaning is a function of its component traditions—context is everything. Indeed, one could say that the well-known phenomenon of *sugyot muḥlafot* ("contradictory *sugyot*") is a product of diverse contextualizations, i.e., the same teaching put into dialectical relationship with different teachings in different *sugyot* will come, as a result, to be interpreted differently, or lead to different halakhic conclusions.

Whether one characterizes the stammaitic compositions descriptively and motivationally in terms of "grand unified theory" or the establishment of coherence, the underlying techniques, motivating criteria, and ultimate goals and purposes of the Stammaim remain insufficiently articulated. What is required is a structuralistic hermeneutical perspective, i.e., the examination of the interplay of

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36 "The Talmud," in B. Holtz, ed., *Back to the Sources Reading the Classic Jewish Texts* (New York: Summit Books, 1984), 129–175.

37 *Narrating the Law: a Poetics of Talmudic Legal Stories* (Philadelphia: Penn Press, 2011), 10–11. The Bavli is a scholastic work; it is simply not interested in determining a halakhic bottom-line. Boyarin's observation that "the famous refusal of the Babylonian Talmud to allow any resolution to its dialectic…does not constitute openness or pluralism…the dialectic of the Talmud (the *sugya*) is not dialogical; it is monological. The Talmudic dialectic is no more dialogical than the Platonic and for largely the same reason; in both there is one abstract consciousness…" (2009, 142–143), is well taken.

context and detail that Yonah Fraenkel[38] and Jeffrey Rubenstein[39] have suggested makes up the literary universe of discourse in an aggadic tale.[40] The details take on meaning in relation to one another and to their overall context, and the meaning of the context is a function of the accumulated details. I suggest that their insights can be extended with profit to the analysis of non-aggadic material, that this interlocking system of functions and relationships creates an imaginative "*sugya*–centric" economy, in which each element performs the functions required of its own unique purpose and niche. Fraenkel also brings into play an interest in literary form as a structural type indicative of meaning. Inasmuch as form and the concern for form can be shown to be indicative of the redactor/author's goals and intent in *sugyot* as well, those aspects of our two exemplary texts will be examined.[41]

38   Cf., e.g., the chapters שאלות הרמנויטיות, 24–32; התבניות, 75–80 in *The Aggadic Narrative:Harmony of Form and Content* (Tel Aviv: Hakibbutz Hameuchad, 2001). Mary Douglas has applied techniques of interpretation relevant to Fraenkel's structural approach in *Leviticus as Literature* (Oxford: Oxford University Press, 1999). She summarizes "analogical," "correlative," and "relational" thinking on pp. 15–23.

39   J. Rubenstein (1999), 11–15, and (2003), who has made significant contributions to our understang of the literary style and intellectual background of aggadic materials and the stammaim, rightly emphasizes that the overall context influences the language and meaning of various compositions, an insight developed by O. Meir, for example, see הסיפור תלוי ההקשר בתלמוד, *Bikoret u-farshanut* (*Criticism and Interpretation*) 20 (1984), 103–120; "The Literary Context of the Sages' Aggadic Stories as Analogous to Changing Storytelling Situations–The Story of the Hasid and the Spirits in the Cemetery", *Jerusalem Studies in Hebrew Folklore* 13–14 (1992), 81–98 (Hebrew).

40   Wimpfeimer's comment (2011, 51) that "relatively little has been written about the *stam* from a literary perspective" (modified somewhat by n. 60) can be even more significantly modified, for example, by studies such as those cited in the following note. Perhaps the apparent disparity may be attributed to the fact that such studies were published before terms like "the *stam*" or "Stammaim", designating an authorial group with its own distinctive pupose and style, came into acceptance.

41   An editorial concern for structure in texts produced for oral performance settings suggests that certain mnemonically significant numbers, e.g., three (four) and seven, would be used in constructing them. Indeed, S. Y. Friedman has devoted a

A proper appreciation of the stammaitic agenda and accomplishments lies not merely in the realm of logic, but also in that of rhetoric and style.[42] The Stammaim's dialectical exposition is motivated by a hermeneutical purpose. Primarily exegetes, they aim to provide a systemic accounting for the multitude of teachings and traditions they

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study to such structures, מבנה ספרותי בסוגיות הבבלי, *Proceedings of the Sixth World Congress of Jewish Studies* (Jerusalem, 1977) 3:389–402, and throughout his analyses in Friedman (1977) (and introduction, pp. 317–318) and (1990). L. Jacobs discusses this in"The Numbered Sequence as a Literary Device in the Babylonian Talmud," *Hebrew Annual Review* 7 (1983), 137–149; and S. Valer has found several collections of fourteen items (which is twice seven, as noted by Friedman, *Proceedings,* p. 399) in "The Number Fourteen as a Literary Device in the Babylonian Talmud," *Journal for the Study of Judaism* 26 (1995), 170–184, and in "Women's Talk, Men's Talk," *Revue des Études juives* 162 (2003), 421–445. She shows that the various subdivisions exhibit unique stylistical similarities within their respective sequences. Cf. also Y. Elman, "Orality and the Redaction of the Babylonian Talmud," *Oral Tradition* 14 (1999), 52–99, pp. 84, 86--91. There are various ways to determine the mnemonic structural number, i.e., by numbering sources or statements (as Friedman or Valer do), or dialectical stages in largely stammaitic contexts (also included by Friedman; I count a challenge/question + response/resolution as one unit). In adducing the former, the possibility suggests itself that sources may be added or rejected in order to attain the mnemonic number, while the latter method raises the possibility of weak dialectical steps being added to secure the requisite mnemonic figure. However, one must take into account the vast number of *sugyot* that do not resolve themselves into the desired mnemonic quantities, For example, *sugyot* that report only one or two amoraic teachings, or those containing just one or two stammaitic dialectical units, or the "hundreds of *sugyot* whose form does not lend itself to such analysis and whose structure is much more diffuse" (Elman, op. cit., 92). Taking those factors into consideration, along with the suggestion that many stammaitic *sugyot,* e.g., bKid 34–35 under consideration herein, are constructed around a complete collection of relevant sources, implies that, at least for stammaim, number is not a major structural factor. They rely on literary architecture and dialectical design in crafting their *sugyot* for oral manipulation and performance. Perhaps that would apply to some of those apparently unstructured *sugyot* to which Elman alluded.

42 See D. Kraemer, "Composition and Meaning in the Bavli," *Prooftexts* 8 (1988), 271–291.

have inherited and collected. *Sugyot* were not devised for judges but, rather, as exercises in summarizing the range of current knowledge for students to rehearse, contemplate, and memorize.[43] The Stammaim do not intend in each discrete *sugya* to produce a mere catalog of teachings, but rather a fully integrated collation and examination of their traditions within the frame of reference afforded by that unified composition. They could undoubtedly undertake projects of such comprehensive and exhaustive scope, posing questions of systemic meaning that earlier generations of talmudic sages could not have imagined, because the latter did not have access to compilations of traditions so extensive that they would motivate curiously minded scholastic types to collate them and hypothesize their systemic coherence. This could only have occurred late in the amoraic period or thereafter, when a form of learning limited to the discrete disciple circle began to transition to the more complex setting of the academy.

Possibly, as well, exposure to, and participation in, the complex social and institutional structure of the academy predisposed the Stammaim to ways of expression, conceptualization and organization unimaginable to scholars oriented to the more restricted arena of the master-disciple circle.[44] We will see codified in the products of this

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43   These exercises were probably intended for students rather than judges: the *sugyot* were rhetorically controlled summations of knowledge for purposes of memorization and training (similar to other oral modes that encapsulate reviews of various kinds of cultural knowledge to familiarize or remind the auditor, facilitating learning it). They became sources for judges when the Geonim focused on the Talmud as a source of law. They, as well as subsequent codifiers, knew that to accomplish this, they often had to ignore or circumvent the argumentation.

44   "Historical shifts in the status of a particular feature or set of features may reveal changes in the system that can be profitably correlated with extra-literary changes in the situation of man" (R Scholes*, Structuralism in Literature: an Introduction* [New Haven: Yale, 1974], 141). The shift from discrete disciple circles to long-term academies in the late amoraic or stammaitic periods is reviewed in J. L. Rubenstein, "The Rise of the Babylonian Rabbinic Academy: a Reexamination of the Talmudic Evidence", *JSIJ* 1 (2002), 55–68; D. Goodblatt, "The History of the Babylonian Academies," *The Cambridge history of Judaism 4: the Late Roman-Rabbinic Period*, ed. S. T. Katz (Cambridge; New York: Cambridge University

exegesis, abetted by their broad exposure, the Stammaim's orderly minds imposing complex and exhaustive control over their collected traditions with stunning heuristic results, impressive on both esthetic and didactic grounds.

Metasystemic aspects of the **sugya** *in bKiddushin 34–35*

Table 1: *bKid 34a–35a: Soncino English text (modified) and Vilna text*

Tannaitic source (mKid 1.7)	**AND AFFIRMATIVE PRECEPTS BOUND TO A SPECIFIC TIME, WOMEN ARE EXEMPT**.	ומצות עשה שהזמן גרמא - נשים פטורות.
1–2. Phylacteries a positive time-bound precept		
1.Phylacteries time-bound + Two verses may *not* generalize 1.1.1. Source for feminine exemption based on Shema passages	**1.1.1.** Whence do we know it? — It is learned from phylacteries: just as women are exempt from phylacteries, so are they exempt from all affirmative precepts limited to time. Phylacteries [itself] is derived from the study of the Torah: just as women are exempt from the study of the Torah, so are they exempt from phylacteries.	– מנלן? – גמר מתפילין, מה תפילין - נשים פטורות, אף כל מצות עשה שהזמן גרמא - נשים פטורות; ותפילין גמר לה מתלמוד תורה, מה תלמוד תורה - נשים פטורות, אף תפילין - נשים פטורות.
	1.1.2. But let us [rather] compare phylacteries to mezuzah? — Phylacteries isassimilated to the study of the Torah in both the first section and the second; whereas they are not assimilated to *Mezuzah* in	– ונקיש תפילין למזוזה! – תפילין לתלמוד תורה איתקיש בין בפרשה ראשונה בין בפרשה שניה, תפילין למזוזה - בפרשה שניה לא

	the second section.	איתקיש.
	1.1.3.. Then let *Mezuzah* be assimilated to the study of the Torah? —You cannot think so, because it is written, [And thou shalt write them upon the mezuzah of thine house . . .] That your days may be multiplied: do then men alone need life, and not women?!	– ונקיש מזוזה לתלמוד תורה! – לא סלקא דעתך, דכתיב: (דברים יא) למען ירבו ימיכם, גברי בעי חיי, נשי לא בעי חיי?
1.2. Resolution of contradictions from other positive t.b. precepts	**1.2.1.** But what of *Sukkah*, which is an affirmative precept bound to a specific time, as it is written, ye shall dwell in booths seven days, yet the reason [of woman's exemption] is that Scripture wrote ha-ezrah, to exclude women, but otherwise women would be liable? —Abaye said, It is necessary: I would have thought, since it is written, 'ye shall dwell in booths seven days', 'ye shall dwell' [meaning] even as ye [normally] dwell [in a house]: just as [normal] dwelling [implies] a husband and wife [together], so must the *sukkah* be [inhabited by] husband and wife! — But Rava said, /34b/ It is necessary [for another reason]: I might have thought,let us derive [identity of law from the employment of] 'fifteen' here and in connection with the Feast of Unleavened Bread—just as there, women are liable, so here too. Hence, it is necessary.	– והרי סוכה, דמצות עשה שהזמן גרמא, דכתיב: (ויקרא כג) בסוכות תשבו שבעת ימים, טעמא דכתב רחמנא האזרח - להוציא את הנשים, הא לאו הכי נשים חייבות?! – אמר אביי: איצטריך, סלקא דעתך אמינא הואיל דכתיב: בסוכות תשבו, תשבו - כעין תדורו, מה דירה - איש ואשתו, אף סוכה - איש ואשתו. –ורבא אמר: **/ לד ע"ב /** איצטריך, סד"א נילף חמשה עשר חמשה עשר מחג המצות, מה להלן נשים חייבות, אף כאן נשים חייבות, צריכא.
	1.2.2. But what of Pilgrimage, which is an affirmative command bound to a specific time, yet the reason [for the exemption of women] is that Scripture wrote, [Three times in the year all] thy males [shall appear before the Lord thy God], thus excluding women; but otherwise women would be liable? — It is necessary: I would have thought, let us learn the meaning of 'Appearance from Assembling.	– והרי ראיה, דמצות עשה שהזמן גרמא, וטעמא דכתב רחמנא +שמות כג+ זכורך - להוציא הנשים, הא לאו הכי נשים חייבות?! – איצטריך, סד"א נילף ראיה ראיה מהקהל.

1.3. Attempt to obligate women to posit. t.b. precepts based upon one posit. t.b. precept in which women obligated	**1.3.1**. Now, instead of deriving an exemption from Phylacteries, let us deduce an obligation from [the precept of] Rejoicing? — Abaye said: As for a woman, her husband must cause her to rejoice.	– ואדילפינן מתפילין לפטורא, נילף משמחה לחיובא! – אמר אביי: אשה - בעלה משמחה.
	1.3.2.. Then what can be said of a widow? — It refers to her host.	– אלמנה מאי איכא למימר? – בשרויה אצלו.
	1.3.3. Now, let us learn [liability] from [the precept of] Assembling? — Because unleavened bread and Assembling are two verses [i.e., precepts] with the same purpose, and wherever two verses have the same purpose, they cannot throw light [upon other precepts].	– ונילף מהקהל! – משום דהוה מצה והקהל שני כתובים הבאים כאחד, וכל ב' כתובים הבאין כאחד אין מלמדי'.
1.4. Completion of inquiry into women and posit. t.b. precepts	**1.4.1**. If so, Phylacteries and Pilgrimage are also two verses with one purpose, and cannot illumine [other precepts]? — They are both necessary: For had the Divine Law stated phylacteries but not pilgrimage, I would have thought, let us deduce the meaning of Appearance from Assembling. Whereas had the Divine Law written Pilgrimage but not Phylacteries, I would have reasoned, let Phylacteries be assimilated to *Mezuzah*. Thus, both are necessary.	– אי הכי, תפילין וראיה נמי שני כתובים הבאים כאחד, ואין מלמדים! – צריכי, דאי כתב רחמנא תפילין ולא כתב ראיה, הוה אמינא נילף ראיה ראיה מהקהל; ואי כתב רחמנא ראיה ולא כתב תפילין, הוה אמינא אקיש תפילין למזוזה, צריכא
	1.4.2. If so, Unleavened Bread and Assembling are also necessary? — For what are they necessary? It were well had the Divine Law stated Assembling but not Unleavened Bread. For I would argue, let us deduce 'fifteen', 'fifteen', from the Feast of Tabernacles. But let the Divine Law write unleavened bread, and Assembling is unnecessary, for I can reason, if it is incumbent upon children,	– אי הכי, מצה והקהל נמי צריכי! – למאי צריכי? בשלמא אי כתב רחמנא הקהל ולא כתב מצה, ה"א נילף חמשה עשר חמשה עשר מחג הסוכות, אלא ניכתוב רחמנא מצה ולא בעי הקהל, ואנא אמינא: טפלים חייבים, נשים לא כל

	how much more so upon women! Hence, it is a case of two verses with the same purpose, and they cannot throw light [upon other precepts]	שכן, הילכך הוה להו ב' כתובים הבאים כאחד, ואין מלמדים.
1.5. Women obligated to posit. *non*-t.b. precepts based on *kibbud av va-em*	**1.5.1**. Now, that is well on the view that they do not illumine [other cases]. But on the view that they do, what may be said? Furthermore, [that] affirmative precepts not bound to a time are incumbent upon women; how do we know it? — Because we learn from Fear [Reverence]: just as Fear is incumbent upon women, so are all affirmative precepts not bound to a time incumbent upon women.	– הניחא למאן דאמר אין מלמדין, אלא למאן דאמר מלמדין מאי איכא למימר? ותו, מצות עשה שלא הזמן גרמא נשים חייבות מנלן? – דיליף ממורא, מה מורא - נשים חייבות, אף כל מצות עשה שלא הזמן גרמא - נשים חייבות.
	1.5.2. But let us [rather] learn from the study of the Torah? —Because the Study of Torah and Procreation are two verses which teach the same thing, and wherever two verses teach the same thing, they do not illumine [others].	– ונילף מתלמוד תורה?! – משום דהוה ליה תלמוד תורה ופריה ורביה שני כתובים הבאים כאחד, וכל שני כתובים הבאים כאחד - אין מלמדים. / **לה ע"א** /
1.6. Continuation of 1.5. (special problems)	**1.6.1**. But according to R. Johanan b. Beroka, who maintained, that concerning both [Adam and Eve] it is said: And God blessed them, and God said unto them, be fruitful and multiply, what can be said? — Because the Study of Torah and Redemption of the Firstborn are two verses with one purpose, and such do not illumine [others].	– ולרבי יוחנן בן ברוקא, דאמר: על שניהם הוא אומר (בראשית א) ויברך אותם אלהים פרו ורבו, מאי איכא למימר? – משום דהוה ת"ת ופדיון הבן שני כתובים הבאים כאחד, וכל שני כתובים הבאים כאחד אין מלמדין.
	1.6.2. But according to R. Johanan b. Beroka too, let Procreation and Fear be regarded as two verses with one purpose, which do not illumine [other cases]? — Both are necessary. For had the Divine Law written Fear and not Procreation, I would argue, the Divine Law stated, [Be fruitful, and multiply, and replenish the earth,] and conquer it: only a man, whose nature It is to conquer, but	– ולרבי יוחנן בן ברוקא נמי, ניהוו פריה ורביה ומורא שני כתובים הבאים כאחד, ואין מלמדין?! – צריכי, דאי כתב רחמנא מורא ולא כתב פריה ורביה, הוה אמינא וכבשוה אמר רחמנא, איש דדרכו לכבש - אין, אשה דאין דרכה לכבש

	not a woman, as it is not her nature to conquer. And had Scripture written Procreation and not Fear, I would reason: A man, who has the means to do this [sc. to show fear to his parents] is referred to, but not a woman, as she lacks the means to fulfil this; and that being so, she has no obligation at all. Thus, both are necessary.	- לא; ואי כתב פריה ורביה ולא כתב מורא, ה״א איש דסיפק בידו לעשות - אין, אשה דאין סיפק בידה לעשות - לא, וכיון דאין סיפק בידה לעשות לא תתחייב כלל, צריכא.
2. Phylacteries a positive t.b. precept + Two verses may generalize	**2.** Now, that is well on the view that two verses with the same teaching do not illumine [others]: but on the view that they do, what can be said? —Rava said, The Papunians know the reason of this thing, and who is it? R. Aha b. Jacob. Scripture saith, And it shall be for a sign unto thee upon thine hand, and for a memorial between thine eyes, that the Torah of the Lord may be in thy mouth. Hence, the whole Torah is compared to Phylacteries: Just as Phylacteries is an affirmative command bound to a time, and women are exempt, so are they exempt from all positive commands bound to a time. And since women are exempt from affirmative precepts bound to a time, it follows that they are subject to those not bound to a time.	– הניחא למ״ד שני כתובים הבאים כאחד אין מלמדין, אלא למ״ד מלמדין מאי איכא למימר? – אמר רבא: פפונאי ידעי לה לטעמא דהא מילתא, ומנו? רב אחא בר יעקב, אמר קרא. (שמות יג) והיה לך לאות על ידך ולזכרון בין עיניך למען תהיה תורת ה' בפיך, הוקשה כל התורה כולה לתפילין, מה תפילין - מ״ע שהזמן גרמא ונשים פטורות, אף כל מ״ע שהזמן גרמא - נשים פטורות. ומדמצות עשה שהזמן גרמא נשים פטורות, מכלל דמ״ע שלא הזמן גרמא נשים חייבות.
3–4. Phylacteries a positive *non*-time-bound precept		
3. Phylacteries *non*-t.b. + Two verses may *not* generalize	**3.** Now, that is well on the view that Phylacteries is a positive command bound to a time; but what can be said on the view that it is not? — Whom do you know to maintain that Phylacteries is an affirmative precept not bound to a time? R. Meir. But he holds that there are two verses with the same teaching, and such do not illumine [others]	– הניחא למ״ד תפילין מ״ע שהזמן גרמא, אלא למ״ד תפילין מ״ע שלא הזמן גרמא, מאי איכא למימר? – מאן שמעת ליה דאמר תפילין מ״ע שלא הזמן גרמא? ר' מאיר, וסבר לה שני כתובים הבאים כאחד, וכל שני כתובים הבאים כאחד אין מלמדין.

| **4. Phylacteries *non*-t.b. + Two verses may generalize** | **4.** But according to R. Judah, who maintains that two verses with the same teaching illumine [others], and [also] that Phylacteries is a positive command bound to a time, what can be said?
— Because Uunleavened Bread, Rejoicing [on Festivals], and Assembling are three verses with the same teaching, and such do not illumine [others]. | – ולר' יהודה, דאמר: *שני* כתובים הבאים כאחד מלמדין, ותפילין מ"ע שלא הזמ"ג, מא"ל?
– משום דהואי מצה שמחה והקהל שלשה כתובים הבאים כאחד, וג' כת' הב' כא' אין מלמדין. |

Metasystemic aspects of the sugya *in Kiddushin 34–35*

The masterful systematic interrogation of the sources for the feminine exemption from positive time-bound precepts in bKid 34–35 adduces four different traditions regarding women's obligation/exemption to/from the precept of phylacteries, and demonstrates the systemic need for each one. They are represented in the outline as positions 1 and 2, which hold that women are exempt from donning phylacteries, and 3 and 4, which hold that women are obligated to do so. Stammaitic position 1 seems to reflect a discussion of Exodus 13:9 similar to that in the *Mekhilta de-R. Yishmael* (*Pisha*, 17, ed. Horovits 67–78), which brings the *Shemaʿ* verses that mention the triplet *Talmud Torah*, Phylacteries and *Mezuzah* into the discussion, while 2, which is attributed to the third generation Babylonian Amora Rav Aha bar Yaakov, rehearses, and carries further, material similar to that found in the anonymous layer of the *Mekhilta de-R. Shimon bar Yohai*.[45] Opinions 3 and 4 derive from a Babylonian

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45 *Mekhilta de-R. Shimon bar Yohai* (ed. Epstein-Melammed, 41) has been augmented in the Bavli to account for positive *non*-time-bound commands. Whereas the Bavli version bases its extension of the feminine exemption on a *hekesh*, M.Benovitz, "Time-Triggered Positive commandments as Conversation Pieces," *HUCA* 78 (2007): 45–90, p. 70 (cf. his comparative analysis of the Babylonian and Mekhilta exegeses there, 67–74; Rovner (1994), 201–202, 204–206, 212, which should be revised to reflect Benovitz' explanation of the *Mekhilta de-R. Shimon bar Yohai* passage and the signification of *taʿama*, on which see also Benovitz (2006), 501 and n, 1), observes that the *Mekhilta de-R. Shimon bar Yohai* version uses *binyan av*. Although Benovitz regards it as "second rate" with respect

stammaitic analysis of a *baraita* featuring the views of R. Yehudah and R. Meir otherwise found in bEruv 96b.

This evidently exhaustive list of positions on women's exemption from, or obligation to, Phylacteries is interrogated in order to establish why four opinions have been transmitted when in reality there seem to be only two substantial views, viz., either Phylacteries is time-bound and women are exempt, or it is *non*-time-bound and women are obligated. The Stammaim demonstrate the distinctive uniqueness of each of the four positions is by assigning to each one an opinion with respect to the hermeneutical rule, *shene ketuvim ha-ba'im ke-eḥad en melammedim* (two scriptural passages that teach the same rule are exclusive, and the rule may not be generalized to construct a category—a *binyan av*—that includes other items under the same rule). Of those who hold that phylacteries are time-bound, the first opinion holds that two scriptural passages that teach the same rule are exclusive, while Rav Aha bar Yaakov thinks that they may generalize to include other items. Whereas both R. Yehudah and R. Meir, on the other hand, maintain that women are included in the practice of phylacteries, the latter holds that one may

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to the *Mekhilta de-R. Shimon bar Yohai binyan av*, Rav Aha's *hekesh*, as employed in the Bavli *sugya*, has a certain conceptual advantage over *binyan av* as developed there, in that the former is exclusive, whereas the latter can have several candidates competing for *av* status, some of whom are viable (positions 3 and 4, for instance, must rely on either *Sukkah* or *Re'iyah*). Neither of those observances, however, have the conceptual linkage through contiguity with 'Torah' to all *mitzvot*, but this *sugya* uses them with equanimity when it has to. This conceptual disparity makes one wonder whether the original *binyan av* from Torah (1.1.1, and its interrogation in 1.1.2 & 3) represents a prior redactional stage, an early stammaitic one if you will, and the ensuing *sugya* a new iteration that eliminates the added associations of Phylacteries with Torah (see also n. 52 below). The Bavli's later stammaitic editors' innovated engagement with *biynan av* (in conjunction with *shene ketuvim ha-ba'im ke-ehad melammedin*) may be attributed in part to their project of rationalizing the double sourcing of discrete *mitzvot*. The problem they are addressing in 1.2 is: Why did the Torah exempt women from *Sukkah* or *Rei'yah* when the overall exemption from *biynan av* already exempts them?

not generalize from two passages that teach the same rule, while R. Yehudah arugues that one may do so.

The stammaitic view, the fourfold determination described in the preceding paragraph, is metasystemic[46] in that it goes beyond and beneath the information required to answer a typically simple systemic talmudic question, e.g., that posed by the Gemara here, *minalan* (where does the Torah as midrashically understood provide the source exempting women from positive time-bound precepts)? It is important to note that the opinions on *shene ketuvim ha-ba'im ke-eḥad* are not so much demonstrated, as asserted; not deduced logically, but rather heuristically disclosed. Those heuristic determinations, however, serve to create a new structure, i.e., a self-contained universe of opinions regarding women and phylacteries, one that is possessed of intellectual coherence and hermeneutical symmetry. As a result, the four viewpoints are united in a comprehensive network of contrasting relationships bound to each other by the dialectical logic of rhetorical necessity.

It should be stipulated that rhetorical necessity is not necessarily logical inevitability. We shall see that, although the dialectical, rhetorical argument is, in a sense, exhaustive, the impetus driving this exercise is more heuristically exegetical than it is rigorously logical. For example, it is not essential to Rav Aha bar Yaakov that *shene ketuvim ha-ba'im ke-eḥad melammedin*, but the first opinion could not be sustained on the basis of that position. For that reason, therefore, it is perforce assigned to

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46   The term "metasystemic" is imprecise in that it can lead to a situation of progressive regress. For instance, the adduction of *binyan av* provides a metasystem for the group of discrete items it controls; or the point that a certain opinion accepts the proposition that *shene ketuvim ... en melammedin* controls a number of related items (time-bound positive precepts). "Metasystem" is being used herein to apply to a complex abstract universe involving several considerations in order to relate and control several situations. This universe is determined at an extreme level of abstraction, one that could only be attained as a function of the effort to control a wide, often exhaustively comprehensive, range of sources and traditions—including whole *sugyot*—by synthesizing them under an all-encompassing structure or rubric.

Rav Aha.[47] Similarly in the case of the opinions of R. Meir and R. Yehudah, the latter's position being known, as we shall see, the fact that a second opinion is found requires that it be assigned the opposite position regarding that hermeneutic rule.

Each position is constructed of a unique combination of properties forming a set of facets locked into a logical design. The symmetrical unity of this construct may be described rhetorically as a *tetralemma*. A *tetralemma* is a construct in which four items are shown to be like and unlike one another based upon two intersecting characteristics or considerations, two sets of variables.[48] In our case, those two variables are: 1) time-bound versus *non-* time-bound, and 2) *shene ketuvim ha-ba'im ke-eḥad (en) melammedim* ("two passages may produce a general rule versus they may not generalize"). The *tetralemma* would have the form represented in the following table, with the first pair of opinions (anonymous and Rav Aha) in the left column and final pair (R. Meir and R. Yehudah) in the right column.

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47 The dialectical determination is synthetically imaginative and systemically powerful. Since Rav Aha's derivation asserts a *hekesh* (comparison of similar precepts) rather than a *binyan av* (establishment of a category or class), it provides no indication of that Amora's opinion vis-à-vis *shene ketuvim ha-ba'im ke-ehad*. Given the other three positions in this *sugya*, his availability proved indispensable in the synthesis of the opinion in section 2.

48 While this structure has been identified in scattered rabbinic texts, Meirav (Tubul) Kahana is publishing the results of her systematic examination of the *tetralemma* in the Mishnah and the Tosefta asהאטטרלמה והטרילמה במשנה ובתוספתא, *Leshonenu* 71 (2009): 287–308 and , 72 (2010): 37-51 (prior studies are cited in 2009, nn. 1–9), and יחסי משנה-תוספתא לאור מקבילות טטרלמה וטרילמה, *Sidra* (forthcoming). I thank her for sharing her research with me in advance of its publication.

Table 2: *Tetralemma*

	תפילין מצוות עשה שהזמן גרמה **Phylacteries are a time-bound positive precept**	תפילין לאו מצוות עשה שהזמן גרמה **Phylacteries are not a time-bound positive precept**
שני כתובים הבאים כאחד אין מלמדין **Two passages may not generate a categorical rule**	Anonymous first opinion	R. Meir
שני כתובים הבאים כאחד מלמדין **Two passages may generate a categorical rule**	Rav Aha b. Yaakov	R. Yehudah

The first opinion holds that Phylacteries is time-bound, and that two passages may not generalize; whereas Rav Aha bar Yaakov, who agrees that it is time-bound, holds that two passages may generalize. R. Meir holds that Phylacteries is *non*-time-bound, and that two passages may not generalize, whereas R. Yehudah agrees with R. Meir that it is *non*-time-bound, but holds like Rav Aha that two passages may generalize. Where **a**=Phylacteries is timebound, and **b**=*shene ketuvim ha-ba'im ke-eḥad melammedin*, the *tetralemma* could be represented as (**a, -b**), (**a, b**), (**-a, -b**), (**-a, b**).[49]

49   This pattern does not match any of the predominant patterns adduced by Kahana (2009) to illustrate the tetralemma or trilemma in tannaitic compositions. As she explains, less common patterns could be adopted for reasons of surrounding literary context, subject matter, or style. In the present case, subject matter or logic seems determinative. For instance, the authors chose to lead with the predominant position (time-bound + *en melammedin*), whether for its own sake or simply

The creation of such a system, or universe, is a metasystemic action in that it goes beyond the four positions to demonstrate that each is unique and, therefore, contributes to the formation of an integrated, overall system, viz., the universe of opinions on whether women are obligated to phylacteries or exempted therefrom, with its consequences for determining that a scriptural source underwrites the general principle of a feminine exemption from positive time-bound precepts.[50] It is interesting that this imaginative rhetorical exercise gives equal weight to the minority opinions of R. Meir and R. Yehudah. One might otherwise think that they were merely tacked on to a *sugya* that is much more substantial in other areas (*sugya* outline, item 1). This is not the case, however. They were considered in the design right from the start. Indeed, *sof ma`aseh be-mahashavah tehillah* (the final stage creation was the first item considered). The idea of using *shene ketuvim ha-ba'im ke-eḥad* to form a *binyan av* is first identified by the Bavli as R. Yehudah's opinion,

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because they could then apply *melammedin* to the second position (only the first pair required **–b**; the second could go either way, as explained in n. 46 above).

50   That rule, mentioned by R. Shimon bar Yohai in *Sifre* Numbers 115 (ed. Horovitz 124), was accepted into mKid 1.7. It may well be that this is nothing more than a descriptive generalization of social praxis, i.e., initially descriptive with its implications, secondarily, becoming prescriptive. It is only reconceived as a rule requiring grounding in exegesis of Scripture in an anonymous comment in the *Mekhilta de-R. Shimon bar Yohai* (see n. 44 above) and our Bavli *sugya* (see n. 53 below). E. Shanks Alexander, on the other hand, understands this rule as originating in "a summary of exegetical exercises on the '*tefillin*'… verses in Exodus 13:9–10" that later "came to be associated with the cultural product of distinguishing women from men" ("How *Tefillin* Became a *Non*-Timebound Positive Commandment: The *Yerushalmi* and *Bavli* on mEruvin 10.1," *A Feminist Commentary on the Babylonian Talmud: Introduction and Studies*, ed. T. Ilan et al. [Tübingen: Mohr Siebeck, 2007], 61–89 [text quoted from p. 62; see also idem., "From Whence the Phrase 'Timebound, Positive Commandments'?," *Jewish Quarterly Review* 97 [2007]: 317–346). Benovitz (2007) suggests that those positive time-bound commandments included under that rubric, and their exemption, are distinguished as practices that "trigger," i.e., give rise to discussion of Torah. See Rovner (1994, n. 48, pp. 200–201), for another understanding of the phrase *zeman geramah*.

which cites an Amora to the effect that he holds the anomalous position that one may generalize from such phenomena.[51] He alone attracted an apparently pre-stammaitic link to the hermeneutical issue.

The voluminous *sugya* unit 1 contains other stammaitic, metasystemic deliberations. One is the determination why the midrashic universe populated by time-bound positive commands requires a two-tiered system: one tier of discrete, individual feminine exemptions, viz., the exegeses underwriting the exemption from *Sukkah* (outline subsection 1.2.1) and from *Re'iyah* (1.2.3), and another that provides the generalized exemption from all such precepts based upon Phylacteries.[52]

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51 R. Zekharyah (EI 4) in bSan 67b, but see Albeck, *Mavo*, 323 and 322, n. 289 on problems with attributions to Zekharyah and others with similar names. *Rashi* ad loc. s.v., *kasavar R. Yehudah*, notes that all references elsewhere to "the one holds [this opinion]" intend R. Yehudah. This would cause an apparent contradiction in our *sugya*, for item **2** contends that a midrash to the effect that Phylacteries is time-bound accords with the position attributed to R. Yehudah, who is found further on to hold that it is *non*-timebound (item **4**). However, the stammaitic authors of this *sugya* must be permitted their theoretical, hermeneutically driven, extrapolation vis à vis Rav Aha b. Yaakov (cf. n. 46 above), for R. Yehudah's opinion regarding the *non*-time-boundness of Phylacteries is an independent consideration.

52 The following facts are recorded in tKid 1.10: positive time-bound commands are, e.g. (*ke-gon*), *Sukkah, Lulav* and *Tefillin*; and R. Shimon bar Yohai exempts women from *Tzitzit* because it also is time-bound. Each is unique from the perspective of sourcing. Tannaim exempt women from *Sukkah* directly from a scriptural phrase (Sifra, Emor 17.10, ed. Weiss, p. 103a); tannaitic sources preserve no exegetical determination of the exemption from *Lulav*; and women are exempted indirectly from Phylacteries by comparison and contiguity with *Talmud Torah* in both *Mekhiltot* (*de-R. Yishmael*, *Bo*, *Pisha* 17, p. 68 and *de-R. Shimon bar Yohai*, p. 41). Thus, the category is a synthetic rule covering actual practice, some elements of which have been anchored in Scripture, and some have not. (Benovitz [2007, 32–33] and n. 78 argues that *Lulav* is subsumed under *Sukkah* because the four species have been understood to be used in the construction of the *sukkah*, but that is either an anachronism based upon Neh. 8:15, or a substitution of a secondary tannaitic usage when the primary tannaitic signification, and the reason that *Lulav* appears in the list under discussion, is the waving of the four species.)

This is metasystemic in that it goes beyond asking information about a particular item to inquire after the nature of the system, and why it must be structured in this two-tiered hierarchy (unit 1.2–4).

A parallel inquiry into the underpinnings of women's obligation to perform positive *non*-time-bound commands in *sugya* unit 1.5–6 results

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Tzitzit is an interesting case, for *Sifre* Numbers, which knows that it is time-bound (115, p. 125) but, evidently not recognizing the norm of general exemption, obligates women to *Tzitzit* (ibid., p. 124). It reports, however, that R. Yehudah ben Beterah, without providing Scriptural warrant, exempts articles of feminine attire (unless a man is likely to wear them as well, ibid.). The latter's student, R. Shimon bar Yohai, on the other hand, subsumes *Tziztzit* under the general rubric of positive time-bound commands to exempt women. Were it not for the case of *Lulav*, one might think that R. Shimon holds that the general exemption is exegetically derived. However, *Lulav* leads one to think that tannaim were not necessarily consistent in ways that we would expect of them. It looks rather like R. Shimon's rule includes both exemptions sourced in Scripture, and those not, i.e., even if the term *mitzvah* is an indicator of the Scriptural origin of the observance, the development and application of the feminine exemption may not be. Similarly, and in a more far-reaching manner, the glossator to *Mekhilta de-R. Yishmael* includes non-Scriptural, rabbinic rules under another general category of commands explicitly designated "*min ha-Torah*," viz., those "of the father on the son" (*Bo*, 18, p. 73; two of five rules listed there, viz., teaching the son a trade and providing him a wife, remain unsourced in the *Mekhilta*, and are provided with but flimsy prooftexts in both Talmuds in their respective discussions of the relevant passage in mKid 1.7).

Interestingly, an anonymous redactional layer of the *Mekhilta de R. Shimon bar Yohai*, ibid., anchors that tanna's feminine exemption rule (cf. the aforementioned *Sifre* Numbers passage) in reasoning based upon the related scriptural exemption of women from *Talmud Torah*. The anonymous scriptural sourcing is possibly a post-mishnaic solidifying of the general rule (the Mishnah accepts R. Shimon's norm anonymously along with the "commands of the father on the son," another synthetic category), a product of this work's amoraic-period redactors, perhaps an even later insertion (cf. the following note). (Shanks Alexander, in studies cited n. 49 above, has a different take on this material.)

in a corresponding set of dialectical demonstrations.[53] This is an exhaustively comprehensive metasystemic inquiry. Other texts have addressed the question of whether, or how, women are included in certain discrete elements of ritual or civil and criminal legislation, but there is no parallel to a blanket inclusion of women in all positive *non*-time-bound commands. The need felt for such proof in this *sugya* is motivated by the overarching, metasystemic perspective: if women's exemption from one set of positive commands requires overall proof, so must their inclusion in a contrary one.[54]

53   Note also the stammaitic addition to Rav Aha's midrash at the end of item 2. The assumption that women must have an overall Torah obligation to observe/not observe positive commands is a late assumption, first seen in part only in the anonymous, redactional, strata of *Mekhilta de-R. Shimon bar Yohai*. S. Yalon, suggests that the *Mekhilta de-R. Shimon bar Yohai* adapted it from amoraic exegetical reasoning found in the Bavli (*"Women are Exempted from all Positive Ordinance[s] that are Bound up with a Stated Time:" A Study in Tanaic and Amoraic Sources* [MA: Bar Ilan Univeristy, 1989] 35 and cf. 138). It is not clear that such a direction of influence is possible, but it cannot be categorically ruled out. While it is true that both *Mekhiltot* are "tannaitic *midrashim*," it is not entirely clear that Rav Aha's "exegesis is clearly secondary to the one in the *Mekhiltot*" (Benovitz 2007, 72), inasmuch as they were not edited/redacted until some, as yet undetermined, time during the amoraic period. The *Mekhilta de-R. Shimon bar Yohai* is, furthermore, certainly the later of the two, since it reworks material from the *Mekhilta de-R. Yishmael*. However, since the *Mekhilta de-R. Shimon bat Yohai* uses *binyan av* where Rav Aha employs *hekesh*, they may each represent independent amoraic-period (post-tannaitic) realizations of a perceived need to anchor the overall feminine exemption in Scripture (and Rav Aha's choice carries a certain advantage: cf. n. 44 above).

54   A project of this nature is idiosyncratically Babylonian. mKid 1.7 lists several rules comparing women's and men's obligation to, or exemption from, different classes of precepts. The demonstration of the source in Scripture for the general rulewas undertaken only in this one case (with a precursor in the most heavily reworked *Mekhilta*, the one attributed to R. Shimon bar Yohai; cf. the preceding note). The need for this is a stammaitic dialectical insight, evidencing their accomplished, exhaustive reasoning and style, but it is counterintuitive and illogical: the existence of a feminine exemption from positive time-bound commands is an exception to the general rule: it presupposes a norm of feminine

Unit 1, where most of the metasystemic background is worked out, expresses the achievement of an integrated and comprehensive systemic unity in its structure. It is divided into three sections, each of which subdivides into two parts (the demonstration of a basic proposition followed by potential problems). The first section, proposing the feminine exemption from positive time-bound precepts, demonstrates its proposition in subsection 1.1 and disposes of problems in subsection 1.2. The second one, which considers the opposite proposition, viz., that women are obligated to positive timebound precepts, disposes of such attempts in subsection 1.3 (where the notion of *shene ketuvim ha-ba'im ke-eḥad en melammedin* is introduced), and in subsection 1.4 it contrasts the proof of the first and second propositions in light of *shene ketuvim* to show why a positive conclusion is justified in the case for exemption, and a negative conclusion is justified in the case for inclusion. Finally, subsection 1.5 introduces the obligation of women to positive *non*-time-bound commands, and an alternative aspect of that matter is considered in subsection 1.6.

Further symmetry is achieved across the subsections: The final ones, viz., subsections 1.2, 1.4, and 1.6 are each composed of two argumentational segments. The initial subsections 1.1 and 1.3 are each composed of three argumentational segments (the last initial subsection 1.5 has only two). And the bifurcated three-section strategy is adumbrated in the beginning segments: subsection 1.1.1 identifies Phylacteries as the source of the feminine exemption, while subsections 1.1.2 and 1.1.3, fend off alternative, and problematic, possibilities, as traced in the following table.

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obligation. Such a norm certainly exists for men, and no need is felt to demonstrate men's obligation to *mitzvot*.

One must note, however, that the stammaim's exhaustive and comprehensive powers have situational limits. While they demonstrate in units **3** and **4** why R. Meir and R. Judah obligate women to positive time-bound commands, they do not explore their obligation to positive *non*-time-bound ones.

Contrast within treatment of the feminine exemption

Main rule	Exemption derived from Phylacteries (Phylacteries exemption from *Talmud Torah*; 1.1.1)	Cannot derive exemption from *Sukkah* (1.2.1)
		Cannot derive exemption from Pilgrimage (1.2.2)
Opposite will not work	Cannot compare Phylacteries w. *Mezuzah* to obligate (1.1.2)	Cannot derive opposite rule (obligation) from Rejoicing of Wife (1.3.1)
		Cannot derive opposite rule (obligation) from Rejoicing of Widow (1.3.2)
Other considerations and complications	Cannot compare *Mezuzah* with *Talmud Torah* to exempt women from *Mezuzah* because women require its protection (1.1.3)	Reject suggestion that two precepts may not generalize to *exempt* because each is necessary (*tserikha* ;1.4.1)
		Reject suggestion that two precepts may not generalize to *obligate* because each is necessary (*tserikha*; 1.4.2)

The intricate symmetry of design reveals on the level of the *sugya*'s rhetorical architecture its creators' deep understanding of their material and their masterful control over its issues as they conceived them. While it may not be a settled matter, that such compositions were created orally,[55] the fact that such a design can be grasped intuitively is certainly

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55   It is not clear that stammaim assumed the texts that they themselves created to be "Oral Torah" to the same extent that they so considered teachings of their tannaitic (and amoraic?) predecessors. Elman 1999 suggests that TB amoraim were stricter than TY ones about not writing down their traditions. While he acknowledges that

a boon to students who will be expected to reproduce and discuss the material in oral settings. Beyond that, however, this imaginative invention both forms and expresses the meaning, the thinking that went into, and underlies its creation. Form and meaning are conjoined in a brilliant unity of esthetic beauty and rigorously controlled thought.

Kraemer (1990, 115) may be correct, that *sugyot* were composed in writing and, furthermore, their oral style may be indicative of composition for ease of memorization rather than in itself a sign of oral composition, Elman does not consider it likely (p. 61; Y. Sussman, ‏'תורה שבעל פה' פשוטה כמשמעה: כוחו של קוצו של‎ ‏יו"ד‎, *Mehqerei Talmud* 3 [2005] 1:384–209, strongly affirms the same conclusion after sifting through all the evidence). He does acknowledge, however, that the oral transmission of talmudic texts in the gaonic academies of the eighth–tenth centuries was not necessarily a continuation of the talmudic practice but "a conscious choice" (p. 57). To Kraemer's understanding, this is an ahistorical retrojection onto previous periods of a naïve reading of their sources on the part of the Geonim. (Cf. Rovner, Indications in the Evolution of a Sugya in Berakhot 11a that the Talmud Took Form Cheirographically and the Ban on Writing Oral Torah [in press].) Elman and D. Ephrat discuss the oral nature of discipleship and instruction persisting within a medieval Islamic milieu permeated with written texts, "Orality and the Institutionalization of Tradition: the Growth of the Geonic Yeshiva and the Islamic Madrasa," *Transmitting Jewish Traditions: Orality, Textuality, and Cultural Diffusion*, ed. Y. Elman and I. Gershoni (New Haven: Yale University Press, 2000), 107–137.

Metasystemic aspects of the Aḥer narrative

Table 3: *bHag 15a-b (Soncino (adapted) and ed. Vilna): Parallel and Complementary Structure*

Part 1. Repudiation		Part 2. Restoration	
1 / a. Elisha's fatal ascent experience		**5 / a'. Elisha purged and taken to heaven**	
אחר קיצץ בנטיעות, עליו הכתוב אומר (קהלת ה') אל תתן את פיך לחטיא את בשרך.	*Tannaitic source.* **Aḥer mutilated the shoots. Of him Scripture says: Suffer not thy mouth to bring thy flesh into guilt.**		
מאי היא? חזא מיטטרון דאתיהבא ליה רשותא למיתב למיכתב זכוותא דישראל, אמר: גמירא דלמעלה לא הוי לא ישיבה ולא תחרות ולא עורף ולא עיפוי, שמא חס ושלום שתי רשויות הן.	To what does this refer? He saw that permission was granted to Metatron to sit and write down the merits of Israel. Said he: It is taught as a tradition that on high there is no sitting and no emulation, and no back, and no weariness. Perhaps — God forfend! — there are two divinities!	כי נח נפשיה דאחר אמרי: לא מידן לידייניה, ולא לעלמא דאתי ליתי. לא מידן לידייניה - משום דעסק באורייתא, ולא לעלמא דאתי ליתי - משום דחטא.	When Aḥer died, they said: Let him not be judged, nor let him enter the world to come. Let him not be judged, because he engaged in the study of the Torah; nor let him enter the world to come, because he sinned.
אפקוהו למיטטרון ומחיוהו שיתין פולסי דנורא, אמרו ליה: מאי טעמא כי חזיתיה לא קמת מקמיה.	[Thereupon] they led Metatron forth, and punished him with sixty fiery lashes, saying to him: Why didst thou not rise before him when	אמר ר' מאיר: מוטב דלידייניה וליתי לעלמא דאתי, מתי אמות ואעלה עשן מקברו. כי נח נפשיה דרבי מאיר סליק קוטרא מקבריה דאחר.	R. Meir said: It would be better that he be judged and that he enter the world to come. When I die I shall cause smoke to rise from his grave. When R. Meir died, smoke rose up from Aḥer's grave.
		אמר ר' יוחנן: גבורתא למיקלא רביה? חד	R. Johanan said: [What] a mighty deed to burn his

איתיהיבא ליה רשותא למימחק זכוותא דאחר,	thou didst see him? Permission was [then] given to him to strike out the merits of Aḥer	הוה בינגא ולא מציגן לאצולייה. אי נקטיה ביד - מאן מרמי ליה, מאן? אמר: מתי אמות ואכבה עשן מקברו!	master! There was one amongst us, and we cannot save him; if I were to take him by the hand, who would snatch him from me! [But] said he: When I die, I shall extinguish the smoke from his grave.
יצתה בת קול ואמרה (ירמיהו ג') שובו בנים שובבים - חוץ מאחר.	A Bath Kol went forth and said: Return, ye backsliding children— except Aḥer.	כי נח נפשיה דרבי יוחנן - פסק קוטרא מקבריה דאחר.	When R. Johanan died, the smoke ceased from Aḥer's grave.
		פתח עליה ההוא ספדנא: אפילו שומר הפתח לא עמד לפניך, רבינו.	The public mourner began [his oration] concerning him thus: Even the janitor could not stand before thee, O master!

2 / b. Elisha with the prostitute: apostasy		6 / b'. Elisha's daughter defends him	
אמר: הואיל ואיטריד ההוא גברא מההוא עלמא ליפוק ליתהני בהai עלמא. נפק אחר לתרבות רעה.	[Thereupon] he said: Since I have been driven forth from yonder world, let me go forth and enjoy this world. So Aḥer went forth into evil courses.	בתו של אחר אתיא לקמיה דרבי, אמרה ליה: רבי, פרנסני אמר לה: בת מי את? אמרה לו: בתו של אחר אני א״ל: עדיין יש מזרעו בעולם? והא כתיב	Aḥer's daughter [once] came before Rabbi and said to him: O master, support me! He asked her: Whose daughter art thou? She replied: I am Aḥer's daughter. Said he: Are any of his children left in the world? Behold it is written, "He
נפק אשכח זונה, תבעה. אמרה ליה: ולאו אלישע בן אבויה את? עקר פוגלא ממישרא בשבת ויהב לה. אמרה: אחר הוא	He went forth, found a harlot and propositioned her. She said to him: Art thou not Elisha b. Abuyah? [But] when he tore a	(איוב י״ח) לא נין לו ולא נכד בעמו ואין שריד במגוריו! אמרה לו: זכור לתורתו ואל תזכור מעשיו מיד ירדה אש וסכסכה	shall have neither son nor son's son among his people, nor any remaining in his dwellings."

| | radish out of its bed on the Sabbath and gave it to her, she said: He is Aḥer [another]. | ספסלו של רבי. בכה ואמר רבי: ומה למתגנין בה כך, למשתבחין בה, עאכו"כ | She answered: Remember his Torah and not his deeds. Forthwith, a fire came down and enveloped Rabbi's bench. [Thereupon] Rabbi wept and said: If it be so on account of those who dishonor her, how much more so on account of those who honor her! |

3 / c. Meir continues to learn from Elisha · 7 / c'. How Meir could continue to learn with Elisha

| שאל אחר את רבי מאיר לאחר שיצא לתרבות רעה, אמר ליה: מאי דכתיב (קהלת ז') גם את זה לעמת זה עשה האלהים? אמר לו: כל מה שברא הקדוש ברוך הוא - ברא כנגדו, ברא הרים - ברא גבעות, ברא ימים - ברא נהרות. אמר לו: רבי עקיבא רבך לא אמר כך, אלא: ברא צדיקים - ברא רשעים, ברא גן עדן - ברא גיהנם. כל אחד ואחד יש לו | After his apostasy, Aḥer asked R. Meir [a question], saying to him: What is the meaning of the verse, "God hath made even the one as well as the other?" He replied: It means that for everything that God created, He [also] created its counterpart. He created mountains, and created hills; He created seas, and created rivers. [Aḥer] said to him: R. Akiba, thy master, did not explain it thus, rather [as follows], "He created righteous, and created wicked; He | ורבי מאיר היכי גמר תורה מפומיה דאחר? והאמר רבה בר בר חנה אמר רבי יוחנן: מאי דכתיב (מלאכי ב') כי שפתי כהן ישמרו דעת ותורה יבקשו מפיהו כי מלאך ה' צבאות הוא, אם דומה הרב למלאך ה' צבאות - יבקשו תורה מפיהו. ואם לאו - אל יבקשו תורה מפיהו! אמר ריש לקיש: רבי מאיר קרא אשכח ודרש (משלי כ"ב) הט אזנך ושמע דברי | But how did R. Meir learn Torah at the mouth of Aḥer? Behold Rabbah b. Bar Hana said that R. Johanan said: What is the meaning of the verse, "For the priest's lips should keep knowledge, and they should seek the Law at his mouth; for he is the messenger of the Lord of hosts?" [This means that] if the teacher is like an angel of the Lord of hosts, they should seek the Law at his mouth, but if not, they should not seek the Law at his mouth! Resh Lakish answered: R. Meir found a verse and expounded it [as follows], "Incline thine ear, and hear |

שני חלקים, אחד בגן עדן ואחד בגיהנם, זכה צדיק - נטל חלקו וחלק חברו בגן עדן, נתחייב רשע - נטל חלקו וחלק חברו בגיהנם.

אמר רב משרשיא: מאי קראה? גבי צדיקים כתיב (ישעיהו ס"א) לכן בארצם משנה יירשו. גבי רשעים כתיב (ירמיהו י"ז) ומשנה שברון שברם.

שאל אחר את רבי מאיר לאחר שיצא לתרבות רעה: מאי דכתיב (איוב כ"ח) לא יערכנה זהב וזכוכית ותמורתה כלי פז? אמר לו: אלו דברי תורה, שקשין לקנותן ככלי זהב וכלי פז, ונוחין לאבדן ככלי זכוכית. אמר לו: רבי עקיבא

created the Garden of Eden, and created Gehinnom. Everyone has two portions, one in the Garden of Eden and one in Gehinnom. The righteous man, being meritorious, takes his own portions and his fellow's portion in the Garden of Eden. The wicked man, being guilty, takes his own portion and his fellow's portion in Gehinnom."
R. Mesharsheya said: What is the Biblical proof for this? In the case of the righteous, it is written, "Therefore in their land they shall possess double." In the case of the wicked it is written, "And destroy them with double destruction."

After his apostasy, Aḥer asked R. Meir: What is the meaning of the verse, "Gold and glass cannot equal it; neither shall the exchange thereof be vessels of fine gold?"
He answered: These are the words of the Torah, which are hard to

חכמים ולבך תשית לדעתי. לדעתם לא נאמר, אלא לדעתי.

רב חנינא אמר מהכא: (תה' מ"ה) שמעי בת וראי והטי אזנך ושכחי עמך ובית אביך וגו'. קשו קראי אהדדי! - לא קשיא, הא - בגדול, הא - בקטן.

כי אתא רב דימי אמר, אמרי במערבא: רבי מאיר אכל תחלא ושדא שיחלא לברא.

דרש רבא: מאי דכתיב (שיר השירים ו') אל גנת אגוז ירדתי לראות באבי הנחל וגו' למה נמשלו תלמידי חכמים לאגוז? לומר לך: מה אגוז זה, אף על פי שמלוכלך בטיט ובצואה - אין מה שבתוכו נמאס, אף תלמיד חכם, אף על פי שסרח - אין תורתו

the words of the wise, and apply thy heart unto my knowledge." It does not say, "unto their knowledge," but "unto my knowledge."
R. Hanina said: [he decided it] from here, "Hearken, O daughter, and consider, and incline thine ear; forget also thine own people, and thy father's house etc."
Do the verses contradict one another?
There is no contradiction: in the one case Scripture refers to an adult, in the other to a child.

When R. Dimi came [to Babylon] he said: In the West, they say, "R. Meir ate the date and threw the kernel away."

Raba expounded: What is the meaning of the verse, "I went down to the garden of nuts, to look at the green plants of the valley etc.?" Why are the scholars likened to the nut? To tell you that just as [in the case of] the nut, though it be spoiled with mud and filth, yet are its contents not contemned, so [in the case of] a scholar, although he

רבך לא אמר כך, אלא: מה כלי זהב וכלי זכוכית, אף על פי שנשברו יש להם תקנה - אף תלמיד חכם, אף על פי שסרח יש לו תקנה.	acquire like vessels of fine gold, but are easily destroyed like vessels of glass. Said [Aḥer] to him: R. Akiba thy master [explained thus], ",Just as vessels of gold and vessels of glass, though they be broken, have a remedy, even so a scholar, though he has sinned, has a remedy." [Thereupon, R. Meir]		נמאסת.	may have sinned, yet is his Torah not contemned.
אמר לו: אף אתה חזור בך! אמר לו: כבר שמעתי מאחורי הפרגוד: שובו בנים שובבים - חוץ מאחר.	said to him: Then, thou, too, repent! He replied: I have already heard from behind the Veil: Return ye backsliding children—except Aḥer.			
תנו רבנן: מעשה באחר שהיה רוכב על הסוס בשבת, והיה רבי מאיר מהלך אחריו ללמוד תורה מפיו. **אמר לו: מאיר, חזור לאחריך, שכבר שיערתי בעקבי סוסי עד כאן תחום שבת.** **אמר ליה: אף אתה חזור בך.** **אמר ליה: ולא כבר אמרתי לך: כבר שמעתי מאחורי הפרגוד שובו בנים שובבים - חוץ מאחר.**	**Our Rabbis taught: Once Aḥer was riding on a horse on the Sabbath, and R. Meir was walking behind him to learn Torah at his mouth. [Aḥer] said to him, "Meir, turn back, for I have already measured by the paces of my horse that thus far extends the Sabbath limit." He replied: Thou, too, go back! [Aḥer] answered, "Have I not already told thee**			

	that I have already heard from behind the Veil, 'Return ye backsliding children' — except Aḥer."		
4 / d. Failed bibliomancy: Elisha's repudiation affirmed		**8 / d'. God accepts reasoning: Meir (and Elisha)'s Torah affirmed**	
תקפיה, עייליה לבי מדרשא.

אמר ליה לינוקא: פסוק לי פסוקך!
אמר לו: (יש' מ"ח) אין שלום אמר ה' לרשעים. | [R. Meir] prevailed upon him and took him, to a schoolhouse. [Aḥer] said to a child: Recite for me thy verse! [The child] answered: There is no peace, saith the Lord, unto the wicked. | אשכחיה רבה בר שילא לאליהו, אמר ליה: מאי קא עביד הקדוש ברוך הוא? אמר ליה: קאמר שמעתא מפומייהו דכולהו רבנן, ומפומיה דרבי מאיר לא קאמר. אמר ליה: אמאי? משום דקא גמר שמעתא מפומיה דאחר. | Rabbah b. Shila [once] met Elijah. He said to him: What is the Holy One, blessed be He, doing? He answered: He utters traditions in the name of all the Rabbis, but in the name of R. Meir he does not utter. Rabbah asked him, Why? Because he learnt traditions at the mouth of Aḥer. |
| עייליה לבי כנישתא אחריתי, אמר ליה לינוקא: פסוק לי פסוקך!
אמר לו (ירמיהו ב') כי אם תכבסי בנתר ותרבי לך ברית נכתם עונך לפני. | He then took him to another schoolhouse. [Aḥer] said to a child: Recite for me thy verse! He answered: For though thou wash thee with nitre, and take thee much soap, yet thine iniquity is marked before Me, saith the Lord. | אמר ליה: רבי מאיר רמון מצא, תוכו אכל, קליפתו זרק! | Said [Rabbah] to him: But why? R. Meir found a pomegranate; he ate [the fruit] within it, and the peel he threw away! |
| עייליה לבי כנישתא אחריתי.
אמר ליה / עמ' ב / לינוקא: פסוק לי פסוקך!
אמר ליה (ירמ' ד') ואת שדוד מה תעשי כי | He took him to yet another schoolhouse, and [Aḥer] said to a child: Recite for me thy verse! He answered: And thou, that art spoiled, what | אמר ליה: השתא קאמר: מאיר בני אומר (משנה סנהדרין ו, ה): **בזמן שאדם מצטער שכינה מה לשון אומרת - קלני מראשי, קלני מזרועי. אם כך הקדוש ברוך הוא מצטער על דמן של רשעים - קל וחומר על דמן של צדיקים** | He answered: Now He says, "Meir my son says, **When a man suffers, to what expression does the Shechinah give utterance? 'My head is heavy, my arm is heavy'. If the Holy One, blessed be He, is thus grieved over the blood of the wicked,** |

תלבשי שני כי תעדי עדי זהב כי תקרעי בפוך עיניך לשוא תתיפי וגו'.	doest thou, that thou clothest thyself with scarlet, that thou deckest thee with ornaments of gold, that thou enlargest thine eyes with paint? In vain dost thou make thyself fair etc.	שנשפך	**how much more so over the blood of the righteous that is shed.**
עייליה לבי כנישתא אחריתי, עד דעייליה לתליסר בי כנישתא, כולהו פסקו ליה כי האי גוונא.	He took him to yet another schoolhouse until he took him to thirteen schools: all of them quoted in similar vein.		
לבתרא אמר ליה: פסוק לי פסוקך! אמר ליה: (תה' נ') ולרשע אמר אלהים מה לך לספר חקי וגו'. ההוא ינוקא הוה מגמגם בלישניה, אשתמע כמה דאמר ליה ולאלישע אמר אלהים.	When he said to the last one, Recite for me thy verse, he answered: But unto the wicked God saith: "What hast thou to do to declare My statutes etc. That child was a stutterer, so it sounded as though he had answered, "But to Elisha God saith."		
איכא דאמרי: סכינא הוה בהדיה וקרעיה, ושדריה לתליסר בי כנישתי; ואיכא דאמרי, אמר: אי הואי בידי סכינא - הוה קרענא ליה.	Some say that [Aḥer] had a knife with him, and he cut him up and sent him to the thirteen schools: and some say that he said,: "Had I a knife in my hand I would have cut him up."		

http://www.oqimta.org.il/oqimta/5773/rovner1.pdf

The extended Elisha ben Avuya (Aḥer) narrative in bHag 15 is a magnificent creation. Comparison with other Bavli Aḥer traditions and, even more so, with the parallel extensive treatment given to this material in Yerushalmi Hagigah,[56] helps one appreciate the artistry of this Bavli retelling. The Babylonian *baʿal aggadah* has eliminated some material, elaborated and adapted other traditions, and invented some of his own, producing thereby a powerful, integrated, narrative text.[57] This work has been much studied and my own analysis of its structure and aspects of its meaning has appeared.[58] Here I want to focus on some problematic aspects of the material as a narrative. This will initiate a consideration of what I consider to be metasystemic aspects of the tale of Aḥer.

In the second half of the narrative, the Babylonian storyteller supplements the material held in common with the Talmud Yerushalmi version, viz., Bavli units/scenes **5** and **6**, in a way that would seem to weaken the esthetic unity of the narrative. That is, units **7** and **8** have shifted the focus from Elisha ben Avuya to R. Meir. Unit **7**, moreover, is not even a narrative recounting of an event, but rather a *sugya,* with a contradiction raised and various suggested resolutions.[59]

Those latter units actually follow a dialectical process with roots in unit **6**. There, Elisha's daughter enjoins R. Yehudah ha-Nasi to consider her father's Torah rather than his deeds, and her exhortation receives a fiery divine approbation. The Bavli carries this one step further, asking in unit **7** whether a student is allowed to seek and receive Torah from a sinner such as Elisha. From the opening question in unit **7**, "How could R. Meir learn Torah from Aḥer," the narrator has abandoned his erstwhile subject, Elisha/Aḥer, to concentrate on R. Meir. This interest continues in the final unit **8**, which is concerned with the reception of R. Meir's Torah

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56   yHag 2.1 (67b--c).
57   The systemic structure of the whole complex is indicative of a thorough stammaitic reworking of the sources, similar to *sugyot.* Cf. the analyses of Rubenstein and Beeri.
58   *JSIJ* 2012.
59   Ironically, this is the opposite phenomenon of that examined in Wimpfheimer 2011. He treated (quasi-)aggadic narratives embedded in halakhic texts, whereas this is a (quasi-)halakhic discussion embedded in an aggadic complex.

in heaven. Although the abandonment of the Aḥer narrative in unit **7**—as well as the forsaking of the aggadic narrative mode itself—diminishes the erstwhile narrative literary quality and unity established in units **1–6**,[60] the final two units are dialectically linked with unit **6** as a sort of sequel, where divine recognition of the quality of R. Meir's (and through him, of Elisha's) Torah, is demonstrated.

In that generic incommensurability, one encounters a metasystemic move, a departure from the core narrative to an issue arising from it or, rather, underlying it. A crucial conflict is implied in the material most significant from the rabbinic perspective. Embedded in the seemingly idyllic dramatization of R. Meir's attraction to Elisha's Torah a degree of discomfort drives one to inquire, How can a student have exposed himself in discipleship to a sinner? This is dangerous on both external-social and inner-spiritual counts: in addition to wanting to avoid the appearance of consorting with a sinner, a disciple would not want to risk contamination from his dangerous ideas and lifestyle.

So, the aforementioned divine concession is problematized in unit **7,** which asks whether it is proper policy for a scholar to accept Torah from a repudiated source.[61] The final unit then carries the investigation further by an appeal to the divine perspective—does God consider R. Meir's Torah tainted? This also refers back to unit **6**: will God, who approved of Elisha's Torah there, accept R. Meir's teachings, which include material that he received from Elisha, and whose practice amoraic sages affirmed in unit **7**? In other words, will God ratify the policy advanced by sages in unit **7** by accepting R. Meir's teachings into His own collection of tannaitic teachings?[62]

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60 Scene 6 concludes with R.Yehudah ha-Nasi's weeping acknowledgement of divine approval for Elisha, a fitting cap to this scene, that at the same times looks back on the whole narrative. Several aggadic narratives conclude with *bakhah ve-amar* ("he cried and declared"). R. Eliezer did this in bHag 3b(=mYad 4.3), and *Rabbi* (R. Yehudah ha-Nasi) did so in bAZ 10b, 17a and 18a, and bHul 7b.

61 This revises material cited in the *kushya* here that it addressed at length in bMQ 17a.

62 Similarly in bHor 13b, R. Meir was expelled from the academy on account of bad behavior, involving disrespect for the honor of the established hierarchy and the

To make matters worse, the last scene seems somewhat superfluous—a mere variation on unit **7**, with special effects. However, in a sense, that is the point: This is yet a further metasystemic move. In it, the Stammaim look back on their integrated resolution of an issue addressed in this story complex.[63] Contrary to a more normative teaching that it is wrong to learn from negative role models,[64] an otherworldly, transcendent, perspective shows God siding with R. Meir. In portraying God as accepting Rabbah bar Shila's argument that R. Meir could be trusted to repudiate Elisha's sinful lifestyle, the stammaitic authors of this text look beyond their own system for an endorsement of R. Meir's questionable practice to secure for it divine approbation. In a broader sense, God's acceptance of Rabbah bar Shila's argument as probative for what is to be considered Torah, is of systemic value: rabbis can be trusted in the determination of the contents of the oral Torah, even that consulted by God Himself.

This metasystemic move is only apparently superfluous. Although the problem has already been resolved in the preceding unit **7**, God is here functioning as a role model for human leadership. The problem is not that He will become tainted by intellectual contact with Elisha or R. Meir. It is, rather, whether God must model rejection in order to protect human disciples of the sages. The *baʿal aggada* here expresses systemic anxiety over the psychologico-social aspects of his nuanced policy for rabbinic society by projecting onto God the acceptance of the principle that a mature human being can be trusted to discriminate in circumstances wherein less mature persons would not be allowed to subject themselves to potential endangerment.

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lack of learning of its leaders, but readmitted because his knowledge and dialectical skill were indispensable to the educational process.

63 Note that the TY version already attributes the distinction between deeds and knowledge to Elisha's offspring, and to R. Meir the metaphorical application privileging the internal spiritual attainments over the sinning of the external body (one saves the housing of a scroll or the capsule housing of phylacteries).

64 The bMQ 17a passage referenced above.

The ambivalent developmental pattern described above, with scenes **7** and **8** growing out of scene **6** (which seems more "original" because it closely resembles its TY parallel) to "deform" the apparent narrative unity is certainly dialectically sound: Elisha's Torah itself is acceptable→sage can learn it→God approves of sage learning it. However, that level of analysis obscures the essential unity of this complex manifest on a deeper structural level. From that perspective, it is apparent that the entire composition is an integrated whole, whose structural unity underwrites the systemic cohesiveness and supports the metasystemic message.

This composition consists of two balanced halves, each of which subdivides into two units. Thus, the first half consists of a personal and of a professional consideration, i.e., Aḥer's vision and his consequent fall into sin with a prostitute (scene **1** and **2**) followed by Aḥer's devotion to Torah and the bibliomantic repudiation of his person and his learning (scene **3** and **4**). The second consists of Aḥer's death (with punishment-apotheosis) which beggars his daughter, who insists on the merit of his Torah as justification for support (scene **5** and **6**) followed by the valorization of Aḥer's Torah through an amoraic defense of R. Meir and the communication of a divine approbation (scene **7** and **8**). We can represent the bifurcated structure as (**1**→**2** + **3**→**4**) + (**5**→**6** + **7**→**8**).

Actually, those two halves can be shown to mirror each other—the second half reversing the negative effects of the first. Thus, Elisha, condemned in scene **1,** is redeemed in scene **5**; a female character (the prostitute) overlooks his renown as a scholar, naming his "otherness" (Aḥer) because of his deeds, but a female character (his daughter) garners divine approval that his learning overrides his deeds (scene **2** versus scene **6**); Aḥer teaches R. Meir Torah, meanwhile insisting that God will not allow him to repent (scene **3**), and sages defend R. Meir from an attempt to denounce his learning from the sinner Aḥer (scene **7**); the bibliomantic condemnation of Elisha's person and his Torah is reversed in the acceptance of the *Shekhinah* (scene **4** versus scene **8**). The parallel relationship between the two halves can be illustrated, for example, as (**a**→**b** + **c**→**d**) + (**a'**→**b'** + **c'**→**d'**).

The persona Aḥer embodies two contradictory aspects and plays out their implications. On the one hand, he engaged in forbidden mystical praxis and, as a result of an error, was repudiated by the angels, who were seconded by heavenly decree. On the other hand, he engaged in learning and teaching Torah, thereby accruing merit and attracting an important disciple who incorporated Elisha into the normative curriculum. The Babylonian narrator is not interested in the historical Elisha and his biography. Rather, he has constructed a narrative in which those two aspects, the *hekhalot* and rabbinic worldviews, collide. The repudiating angels are discomfited and brought to a standstill in unit 7, and the fate they decreed for Elisha is there reversed by sages representing the rabbinic worldview, with the advantages afforded by rabbinic culture. According to the angelic worldview, there is no remedy for inadvertent sin, colleagues do not intervene on one another's behalf, and a decree may not be changed; in the rabbinic one, repentance is possible, colleagues do intervene, and a decree may be modified or reversed. In the angelic world, each actor is independent and alone; in the world of Torah, a master teaches disciples and his work in Torah advantages him and his descendants.

The structural integrity of this narrative attests to its compositional unity. Regardless of its partial dependence on early sources, this narrative was formed in a crucible much like the one that produced the exquisitely designed *sugya,* bKid 34–35, with its complex, interlocking structure. The latter is a veritable congeries of sources that have been completely integrated to produce an enitrely new creation. If that *sugya* exhibits a late, stammaitic architecture, composed as it is of many simpler stammaitic *sugyot,*[65] so does the aggadic reformation and transformation of the Elisha material.

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65   Rovner (1994).

Conclusion

The advanced stammaitic rhetorical methodology reviewed above builds upon early reworkings of traditions. The Kiddushin *sugya* itself cites previous arguments, even discrete stammaitic *sugyot,* to recontextualize the material in its metasystemic matrix.[66] While we cannot reconstruct the early Bavli versions of the Elisha ben Avuya narrative, we can see a more primitive version of the material in the parallel Yerushalmi *sugya*.[67] The metasystemic level of inquiry implies a very late and sophisticated manipulation of early material, including earlier stammaitic *sugyot.*

While the presence of the abstract metasystemic concerns discussed above may be a marker of late stammaitic composition, this does not necessarily mean that all late stammaitic *sugyot* are metasystemic in nature. Other distinguishing criteria that aid in distinguishing early stammaitic *sugyot* from late ones will undoubtedly be discerned. Nonetheless, the metasystemic aspects of the late stammaitic dialectical and narrative material are significant indicators of their creative execution in complex compositions of the integrative and comprehensive project they set for themselves and, possibly, a reflection on the conceptual and literary-stylistic levels of the impact of the integration of discrete teachings transmitted in amoraic master-disciple circles into the institutionalized form of the academy. This type of analysis affords us an entry into the mind of the stammaim and the concerns motivating the composition of their *sugyot* and extended narratives.

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66   Rovner (1994, 191–195) explains the nature of the exhaustive list of sources on positive time-bound commands from elsewhere in the Talmud, that were used as the *sugya*'s component texts.

67   The structure of TY is described in Rubenstein (1999, 86–87) and, more fully, in "Elisha ben Abuya: Torah and the Sinful Sage," *Journal of Jewish Thought and Philosophy* 7 (1998): 139–225, pp.148–151; N. Beeri, יצא לתרבות רעה: אלישע בן אבויה – אחר (=*Went Forth Into Evil Courses: Elisha ben Abuya – Aher*, Tel Aviv: Miskal – Yedioth Ahronoth Books and Chemed Books, 2007), 95–99. It should be borne in mind with regard to the Yerushalmi Aher complex, as opposed to the Bavli one, that structural unity does not necessarily form a narrative unity.