**Ishay Rosen-Zvi**

Ishay Rosen Zvi’s Illuminating paper takes the idea central to our book - that exposure to the critical scrutiny of people committed differently can facilitate normative self-reflection in ways impossible to achieve by talking to ourselves or to likeminded colleagues - as a lens by which to take initial stock of the rabbinic literature’s dialogism. It is a highly suggestive move that invites response on various levels. Indeed, unlike most other contributions to this volume, Rosen-Zvi’s paper presents less of a critical engagement with our work, than an outline of a wide-ranging research project inspired by it.

He chooses to focus on “literary representations of dialogues *outside the house of study*” (italics added), of which, as he rightly notes, the rabbinic literature of late antiquity is “famously replete”. The rich anecdotes he briefly analyzes – several of which merit separate papers[[1]](#footnote-1) – are designed to address larger questions. First, given the “literary qualities” and the “collective and anonymous character” of the rabbinic literature, as he puts it, to what extent can they be at all accredited a knowing self-critical and reflective role; to what extent can they be said to premise a notion of self at all? If they can, and he believes they do, then a third intriguingly self-reflective option, he argues, opens up between the two main ways such dialogues are read by scholars: either as reflecting the historical reality of such encounters, or as mere literary devices.

We have almost no quarrel[[2]](#footnote-2) with the questions Rosen Zvi raises, and none at all with the answer he finds to it in the texts he examines. However, we believe a stronger case can be made by focusing in the first instance less exclusively on anecdotal rabbinic dialogues with their most significant others, and taking a wider view of Talmudic dialogism.

Our comments in what follows should be taken as continuing the conversation that he briefly alludes to at the very end of his paper

The defining feature of the entire rabbinic corpus is the radical diversity of opinion it registers with respect to almost every biblical phrase it interprets, and every halakhic issue with which it contends. Exegetical disagreement is meticulously recorded, but as a rule never decided. In the two Tannaitic halakhic compilations, the Mishnah and Tosefta, all halakhic disagreements, by contrast, are firmly adjudicated by majority vote, but the dissenting minority opinions are left on record.[[3]](#footnote-3) However, none of these texts is dialogical. As Rosen-Zvi notes, they contain anecdotes of the type of dialogical encounter he analyzes, but the countless rabbinic disagreements, with which they are shot through and through, though carefully chronicled, are very seldom presented in the form of dialogical exchange. The disputing exegetical and halakhic opinions are clearly stated, and occasionally explained, but are hardly ever described as conversing with each other.

Not so the two *talmudim*, which, unlike any other rabbinic text, are framed not as mere registers of diverse Amoraic understandings of Tannaitic halakha, but as an endless series of keenly reasoned exchanges between the disputing Amoraic parties, in the course of which their initial positions are greatly deepened and transformed. We shall focus on the Babylonian Talmud, by far the more developed of the two in this regard, and on all counts the crowning achievement of the Talmudic era.

The Bavli is also the largest and most carefully edited composition of the rabbinic corpus. Its countless dialogues are narrated by a vigorous anonymous narrator, and by means of extraordinarily uniform discursive vocabulary and literary style. More importantly, the dialogues it narrates are knowingly *fabricated*. Seven generations of Amoraic sages who functioned in a broad array of Palestinian and Babylonian centers of learning, are flattened synchronically and geographically by the Bavli’s framers, and “made” to address and keenly argue with each other devoid of diachronic ranking, as if occupying a single vast timeless study hall. Nonetheless, the diversity of opinion displayed in these imagined dialogues is radical, and bespeaks profound normative divides.

The Mishna, to which the Bavli is framed as a running commentary, is not dialogical, but, like the Bavli, is also flattened synchronically, registering the rulings and dissenting views of five generations of Tannaitic sages, again, wholly devoid of diachronic seniority. The only real generational divide the corpus recognizes is that between *Tannaim* and *Amoraim*, between those involved in framing the Mishnaic body of halakhic rulings, and those involved in its intense and detailed discussion.

The sheer effort invested in concocting the Bavli’s fierce and detailed critical exchanges demands explanation. It had to be composed for a reason very different from the two mentioned above. Talmudic dialogue does not even pretend to reflect historical fact, and it is clearly not a mere literary device as in the Platonic dialogues. Talmudic dialogue is not cirkus-meistered by a Socratic figure to produce inevitable conclusions. On the contrary. The Bavli leaves its relentless halakhic dialogical engagements with the Mishna, *wholly undecided* − adjudicated only in the rare cases in which consensus happens to be reached! It thus stands to Tannaitic halakha as the midrashic literature stands to scripture, displaying the very same unadjudicated diversity of halakhic opinion and system, but in rich detailed dialogical form.

But to what end? The Bavli clearly reads the Mishna as conveying to its readers how each generation of halakhists should pass its rulings on to next. And by the same token, it seems clearly to view itself as conveying to *its* readers how each generation of halakhists should *receive* the Torah of its forebears – not as a dictate, but as subject to fierce and ruthless debate. But why the insistent imagined horizontal dialogical form? A well narrated account of how each Amoraic sage understood each Mishnaic ruling would have sufficed to paint a vivid picture of diverse Amoraic halakhic understanding, much in line with the exegetical diversity displayed in the midrashic literature. Why was it so important for the Bavli framers to imagine the disputing partners arguing with each other in such rigorous detail? What is the dialogical dimension of the reception process meant to add? It is with respect to the Bavli’s wholly unique and all-pervading halakhic dialogism that we believe that the questions pointedly raised by Rosen-Zvi should be first considered, before addressing them to rabbinic dialogues with non-rabbinic interlocutors.

The Bavli has little to say about why it does what it does, but in one of its best known, if less appreciated moments it offers an insightful glimpse of what moved its framers. The much-cited legend related in Bavli, *Eruvin* 13b contrasts three incompatible meta-halakhic positions, firmly ruling in favor of one of them. The great Tannaitic sage, R. Meir is described as deliberating halakhic issues *disputatio* style, in an attempt to represent both sides of the debate. His approach is firmly rejected in favor of doing so by means of real, rather than imagined dispute. None can defend a position better than those truly committed to it, just as no one can criticize it more keenly than those who truly oppose it. One doesn’t get very far by talking to oneself, the *sugya* implies.

The deeply divided Houses of Hillel and Shammai are then introduced as the paradigm of real, flesh and blood halakhic and especially meta-halakhic dispute: each demanding that the law be decided according to their method, until a heavenly voice issued forth ruling enigmatically that while both are to be equally considered “the words of the living God”, halakhic decision-making is to “follow the House of Hillel”.

The first part of the ruling is understandable. If halakha is best developed in conditions of real disagreement, a plurality of diverse opinions must be both valued and ensured. But in that case, why is the Hillelite approach preferred? The *sugya*’s answer implies the following: for halakha to *benefit* from debate, energetic disagreement is not enough, at least one of the parties must be willing to change its mind in the face of counter-argument. This, it explains, is why the Hillelite approach was endorsed - because, unlike the Shammaites, they were both נוחין, flexible, and עלובין, willing to be insulted; not only willing in principle to rethink their position, as was R. Meir, but open to be proven wrong by others. The Hillelites, the Talmud continues, would not only hear their rivals’ arguments but took them more seriously than their own − to which The Palestinian Talmud perceptively adds: “And they would [often] see the Shammaites’ point, and *retract their own position*.”[[4]](#footnote-4) To side with the Hillelites is to realize the severe limitations of *self*-criticism, and to recognize the need for the kind of potentially transformative challenge only a real and equally dedicated bitter opponent can provide, *and to actively seek such engagement*.

If there is any truth to our reading of it, then this potent passage offers an intriguing explanation of the Bavli’s dialogism, as well as an equally intriguing answer to Rosen-Zvi’s main question, prior to looking at the type of dialogical engagement his paper examines. There is not enough to it to determine the extent, if at all, of the rabbis’ notion(s) of selfhood at play. But it does bear clear evidence to the indispensable role attributed by the Hillelites to external critique in self-reflection.[[5]](#footnote-5) More importantly, it lends depth and meaning to the Bavli’s very undertaking as an inherently Hillelite enterprise. If and when halakha is to be decided, locally or less locally, hands will be raised, as in the Mishna. But in the endless process of *deliberating* halakha in the face of differing premises and aims, emerging understandings and circumstance, both before and after provisional decisions are made, intense critical engagement with others provides the very reflective lifeline for developing each approach.

Against this backdrop, there might be more to say about how the rabbis conceived of the merits of normative critique issuing from beyond the confines of their imaginary pluralist study-hall. On this we can only touch briefly.[[6]](#footnote-6)

In a word, the idea of taking the normative critique of civilized others most seriously comes to fore in connection with the grave offence of *hillul ha-shem*, desecrating The Name.[[7]](#footnote-7) As Rosen Zvi rightly notes regarding the story of Roman *strateiotai*, exposure of our deep-set normative commitments to the normative critique of others (especially to those against whom they discriminate), is liable to give rise to one of two responses. It may either prompt us to hunker down defensively in self-congratulatory defense of what we take God’s will to be, as in the Midrash Tannaim version. But it might also serve to set in motion a self-critical process of normative rethinking and halakhic reform, as in the *Yerushalmi*’s use of the very same imagined anecdote, in order to avoid *hillul ha-shem*.

And just as the content of Jewish law, however well-justified, is liable to be deemed a profanation of the Name, so is personal conduct, even when well-intended. The key passage in this regard is found in Bavli, *Yoma* 86a, a tractate devoted to the Day of Atonement. The discussion sets forth from a Tannaitic text that vividly describes four levels of sinfulness and the means available at each for personal, deontic self-cleansing.

It is a scale of transgressions that culminates in the very gravest of religious offences, *hillul ha-shem*, the profanation or desecration of God’s name, which is set up *sui generis* as a category of misconduct to itself, positioned high above all other capital offences, murder, adultery, and idolatry included! “But what is meant by *hillul ha-shem*, in what does it consist?” the Bavli asks. Abaye’s answer is the most significant.

Abaye explained: As it was taught: “And thou shalt love the Lord thy God” (Deuteronomy 6:5), namely, that you should cause the Name of Heaven be loved.[[8]](#footnote-8) If someone who studies …Torah and attends on the disciples of the wise, is honest in business and speaks pleasantly to persons, what do people then say of him? ”Happy is the father who taught him Torah, happy is the teacher who taught him Torah… look how fine his ways are, how righteous his deeds!” Of him Scripture says: “And He said unto me: Thou art My servant, Israel, in, whom I will be glorified” (Isaiah 49:3). But if someone studies … Torah, attends on the disciples of the wise but is dishonest in business and discourteous in his relations with people, what do people say about him? “Woe unto him who studied the Torah, woe unto his father who taught him Torah… Look, how corrupt are his deeds, how ugly his ways”; of him Scripture says: “In that men said of them: These are the people of the Lord, and are gone forth out of His land” (Ezekiel 36:20).

The “people” to whom Abaye refers throughout the passage, as the two cited verses clearly indicate, are not fellow Jews but gentiles observing one’s conduct from outside. According to Abaye, the difference between sanctifying and desecrating God’s name is not about how learned one is in Torah or how close one adheres to its teaching, but with how one’s conduct resonates within the wider gentile society. Because he is known as “someone who studies …Torah, and attends on the disciples of the wise,” then if *they* deem his ways to be fine and his deeds righteous, they will come to deeply appreciate the Torah, He who gave it, and those who study it. But if they deem his ways to be ugly and his deeds to be corrupt, they will come, for the same reason, to despise Torah, the God who gave it, and those who study it.

What renders this text so centrally relevant to the questions raised by Rosen Zvi is that the evaluative vocabulary of the thin normative terms “fine,” “righteous,” “corrupt,” and “ugly,” to which Abaye refers is that of the gentile! One commits the gravest transgression a Jew can commit, according to Abaye, if one’s conduct is judged negatively by non-Jews. And again, it is impossible to infer much from such passages regarding the rabbis’ notion of self, but it is amply clear that the idea central to our book, that exposure to the critical scrutiny of people committed differently, can facilitate normative self-reflection in ways impossible to achieve by talking to ourselves or to likeminded colleagues, is central to their thinking.

1. On the story of the two Roman *strateiotai* and its genealogy with the rabbinic corpus, see Menachem Fisch, “Gulliver and the Rabbis: Counterfactual Truth in Science and the Talmud” , *Religions*, 2019, 10(3), 228; <https://doi.org/10.3390/rel10030228>, especially §6. [↑](#footnote-ref-1)
2. We do dispute, however, his characterization of Talmudic dialogue as “Socratic”, which it is not. For our disagreement with Boyarin on this point see Menachem Fisch, "Deciding by Argument *versus* Proving by Miracle: The Myth-History of Talmudic Judaism’s Coming of Age", *Toronto Journal of Theology*, 33(1), 2017, 103-127, n.6. [↑](#footnote-ref-2)
3. A practice debated, decided, and explained by both in the opening paragraphs of their versions of tractate *Eduyot*. However, by opting for radically different explanations – the Mishnah ruling that rejected minority opinion are preserved as resources for future halakhic reform, the Tosefta, that we do so to keep clear record of their rejection - the two compilations register a profound and wholly undecided meta-halakhic dispute. On this see Moshe Halbertal, *People of the Book: Canon, Meaning, and Authority*, Cambridge MA: Harvard University Press, 1997, pp. 50-54, Menachem Fisch, *Rational Rabbis: Science and Talmudic Culture*, Bloomington IN: Indiana University Press, 1997, pp. 71-78, and idem *Covenant of Confrontation: A Study of Non-Submissive Religiosity in Rabbinic Literature* (Hebrew), Ramat Gan: Bar Ilan University Press, 2019, pp. 142-149. [↑](#footnote-ref-3)
4. The *Yerushalmy*’s observation rests on an interesting statistic: of the thirty-four or so disputative dialogues between the two Houses recorded in the Talmudic literature (as opposed to the three-hundred or so laconic disagreements on record between them) in eighteen of them the Hillelites are said to have had the last word in the exchange, and in fifteen of them, the Shammaites. (The attribution of the last move in one of the disputes is undecidable). However, while in seven of the latter cases the Hillelites are said to have responded by forsaking their initial position in favor of that of the Shammaites, in none of the former are the Shammaites ever described as changing their minds in the face of Hillelite challenge! See Haim Shapira and Menachem Fisch, “The Debates Between the Houses of Shammai and Hillel: The Meta-Halakhic Issue” (Hebrew), *Tel Aviv University Law Review*, 22 (1999), pp. 461-497, as well as Fisch’s *Rational Rabbis*, pp. 210-211, n.17. [↑](#footnote-ref-4)
5. As Fisch has shown elsewhere, when the “famous ”Oven of Akhnai” legend is read in conjunction with and as consciously responding to the passage we have looked at, the Hillelites emerge as choosing the challenge of Shammaite critique over the central halakhic authority granted them here by the heavens. C.f. Menachem Fisch, "Deciding by Argument *versus* Proving by Miracle: The Myth-History of Talmudic Judaism’s Coming of Age", *Toronto Journal of Theology*, 33(1), 2017, 103-127. [↑](#footnote-ref-5)
6. For a more detailed account of these texts, see Menachem Fisch, “The Value of Idolatry”, forthcoming in in A. Goshen-Gottstein (ed.), *Idolatry: A Contemporary Conversation*, Cambridge MA: Academic Studies Press, 2021. [↑](#footnote-ref-6)
7. ## On the rabbis’ conception of sanctification and profanation of the Name see most recently, Adiel Schremer, “ ‘We Will Sanctify Your Name in the World’: The Concept of Qiddush ha-Shem from Biblical to Rabbinic Literature”, *Reshit* 3, 2019, pp. 1-21

   [↑](#footnote-ref-7)
8. He achieves this by subtly reading the word *ve-ahavta* (and thou shalt love [God]) as *ve-ihavta* (and thou shalt render [Him] beloved). [↑](#footnote-ref-8)