

Bava Metzia 59b

Rabbi Eliezer then said to them:

If the Halakhah is in accordance with me – they will prove it from the Heavens!

A Heavenly Voice emerged and said:

What have you compared with Rabbi Eliezer, whom the Halakhah is in accordance with in every place!

Rabbi Yehoshua stood on his feet and said:

"[Torah] is not in Heaven!"

What is the meaning of "[Torah] is not in Heaven!"

Said Rabbi Yirmiyah:

Because the Torah was already given from Mount Sinai.

We do not pay attention (*ein mashgichin*) to a Heavenly Voice, as You have already written in the Torah on Mount Sinai "after the more numerous one must incline".

Rabbi Natan found Eliyahu and said to him:

"What was the Holy One Who is Blessed doing at that time?"

He said to him:

He was chuckling (*chayikh*; *ms. var. gachikh or gachin*) and saying: My children have defeated Me, My children have defeated Me.

בבא מציעא דף נט:

חזר ואמר להם:

אם הלכה כמותי - מן השמים יוכיחו.

יצאתה בת קול ואמרה:

מה לכם אצל רבי אליעזר, שהלכה כמותו בכל מקום?!

עמד רבי יהושע על רגליו ואמר:

לא בשמים היא.

מאי (דברים ל') "לא בשמים היא"?

אמר רבי ירמיה:

שכבר נתנה תורה מהר סיני.

אין אנו משגיחין בבת קול, שכבר כתבת בהר סיני בתורה (שמות כ"ג)

"אחרי רבים להטת".

אשכחיה רבי נתן לאליהו. אמר ליה:

מאי עביד קודשא בריך הוא בההיא שעתא?

אמר ליה:

קא חייך ואמר: "נצחוני בני, נצחוני בני."

Eiruvין 41a

And we learned in a beraita;

After the death of Rabban Gamliel, Rabbi Yehoshua entered to overrule his words.

Rabban Yochanan ben Nuri stood on his feet and said:

I see that the body follows the head: all the days of Rabban Gamliel we established the Halakhah in accordance with him – now you wish to nullify his words?! Yehoshua, we will not listen (*ein shom'in*) to you, because the Halakhah has already been established in accordance with Rabban Gamliel.

There was no person who challenged the matter at all.

עירובין מא.

ותניא:

לאחר פטירתו של [ר' גמליאל] נכנס רבי יהושע להפר את דבריו.

עמד רבי יוחנן בן נורי על רגליו ואמר:

חזי אנא דבתר רישא גופא אזיל: כל ימיו של רבן גמליאל קבענו הלכה כמותו - עכשיו אתה מבקש לבטל דבריו?! יהושע, אין שומעין לך, שכבר נקבעה הלכה כרבן גמליאל. ולא היה אדם שערער בדבר כלום.

This week's happily prompt installment focuses on the phrase “lo bashomayim hi”, famously translated as “The Torah is not in Heaven”, although I prefer to treat shomayim as plural. Our focus is not on the meaning of the phrase either in Devarim or in Bava Metzia, although I note en passant that it should be clear that in the latter it serves not to legitimate individual autonomy but rather to ensure the authority of the majority, and not to celebrate conscious rabbinic creativity but rather to prevent claims of authority that cannot be directly defended textually/intellectually (in contemporary terms, e.g. the claim of “daas Torah” in its more extreme forms).

We will focus instead on the issue of literary allusions in the Talmud and their impact on how we choose among *girsasot*.

In Bava Metzia, in a climactic element of the famous Oven of Akhnai story, Rabbi Yehoshua responds to the Heavenly Voice apparently supporting Rabbi Eliezer by saying “It is not in Heaven”. This could be read as a very straightforward rejection of Heavenly Voices per se, at least with regard to the content of Torah, but Rabbi Yirmiyah is not content to leave it at that.

Said Rabbi Yirmiyah:

Because the Torah was already given from Mount Sinai.

We do not pay attention (*ein mashgichin*) to a Heavenly Voice, as You have already written in the Torah on Mount Sinai “after the more numerous one must incline”.

Rabbi Yirmiyah leaves room, where Rabbi Yehoshua seemed not to, for accepting Heavenly Voices when they do not contradict a majority, or perhaps on matters other than halakhah.

It should be readily apparent that this *girsa* of Rabbi Yirmiyah's statement is redundant, or consists of one broad statement “Because the Torah was already given from Mount Sinai”, followed by a more detailed explanation “You have already written in the Torah on Mount Sinai ‘after the more numerous one must incline’.” Thus the intervening line “We do not pay attention to a Heavenly Voice” might be either Rabbi Yirmiyah (if he made the amplified statement) or the anonymous Talmud (if Rabbi Yirmiyah made only the broad statement).

As it happens, all four Talmudic Ms. on the Lieberman Institute database leave off the opening broad statement, and three of them maintain the “ein mashgichin” phrase. So I feel comfortable attributing that phrase to Rabbi Yirmiyah.

However, the anonymous Talmud on Berakhot 52, Pesachim 114, Yebamot 14, and Chullin 44 (and with only slight variation Eiruvin 6) identifies Rabbi Yehoshua as the holder of the position “ein mashgichin b'bat kol”. In other words, Rabbi Yirmiyah's explanation becomes so accepted as the intent of Rabbi Yehoshua that his words are used as if they were Rabbi Yehoshua's.

Why does it matter who said those words specifically, if we accept their content as true? Because on Eiruvin 41 the Talmud, in the standard Vilna *girsa*, records a fascinating counterpoint to the Oven of Akhnai episode. In this episode, we discover that the apparent truce reached between Rabbi Yehoshua and Rabban Gamliel on Berakhot 28 did not extend beyond the latter's death; rather, Rabbi Yehoshua immediately sought to

undo Rabban Gamliel's authority posthumously. To this, Rabbi Yochanan ben Nuri objected – his reasoning is opaque, but the conclusion is clear.

What matters to us is that in the Vilna girsas Rabbi Yochanan ben Nuri tells Rabbi Yehoshua “*ein shom'in lekha*”, “we must not heed you”, but in the three available MS. he tells him “*ein mashgichin*”. If this latter *girsas* is adopted, we then may give greater significance to another way in which R. Yochanan ben Nuri is parallel to Rabbi Yehoshua in the Oven of Akhnai story – when authority is challenged, he “stands on his feet” and preserves it. It seems likely then that this text is intended to show us poetic justice being meted out to Rabbi Yehoshua, in that his conception of objective Halakhic truth is being overridden by a formal systemic criterion, just as he overrode Rabbi Eliezer's. This should force us to reevaluate his performance during the Akhnai crisis – if he is unequivocally the hero, why is he being punished middah k'negged middah? Here it may pay to note the variant verbs describing Hashem's response to Rabbi Yehoshua's statement.

But perhaps this is all wrong. We have already demonstrated that the Talmud itself never claims that R. Yehoshua himself **said the words** “*ein mashgichin*”, so the poetic justice, if it exists, would be in response to someone else's formulation of his behavior – the literary parallelism falters. Furthermore, the Talmud is in origin an oral/memorized text, and one feature of oral texts is the desire to use standard phrasings even if that requires those phrases to assume multiple meanings. Thus even if we adopt the *girsas* “*ein mashgichin*” in Eiruvin, it may simply reflect a desire for “conservation of phrases” rather than establish a substantive literary allusion. Furthermore, this conservation happens naturally in the minds of scribes, so perhaps the Vilna edition should stand as is.

But this approach, of course, wreaks havoc with almost any attempt to use words as such, rather than substantive content, to establish intertextuality in the Talmud. I would much prefer not to do that, but I think the question needs raising.

Shabbat Shalom

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