

The Amoraic controversy, halakha and authority in Bavli Eruvin 104a

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Dates:

Received: 25 Apr. 2021

Accepted: 17 June 2021

Published: 12 Aug. 2021

How to cite this article:

Zur, U., 2021, 'The Amoraic controversy, halakha and authority in Bavli Eruvin 104a', *HTS Teologiese Studies/ Theological Studies* 77(4), a6777. <https://doi.org/10.4102/hts.v77i4.6777>

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The Talmud Bavli presents in Tractate Eruvin (104a) a controversy between two Amoraim, Ulla and Rabbah. This controversy on the topic of producing a sound on the Sabbath is the context of the present study. According to Ulla, any production of sound on the Sabbath is forbidden, and according to Rabbah, producing a musical sound is prohibited on the Sabbath but producing a sound that is not musical is permitted. The purpose of the study is to present the two approaches to solving the controversy, where the dilemma is which of them should the halakha follow. The setting of the study is a comparative analysis of two different halakhic approaches. Accordingly, this controversy created two different fundamental halakhic approaches that have implications for the authority of the Talmud Bavli compared to the Talmud Yerushalmi, that is, which of these Talmuds has more authority than the other. The research methods of this article portray the various outlooks of the poskim and commentators, from amongst the first representatives to relate to this problem, where the results show that a relative majority of the commentators follow the approach of the Rif. The article's conclusion is that the authority of the Talmud Bavli is greater than that of the Talmud Yerushalmi.

Contribution: The contribution of the article is in showing the fundamental arguments that the poskim and commentators raised to solve this dilemma, which serve as a basic foundation for all the poskim and commentators who followed them and who advocated either the one approach or the other. Furthermore, the article also contributes by providing a source interpretation of the Hebrew and Aramaic text and rabbinic literature, which fits the scope of the journal.

Keywords: Eruvin; Bavli; sugya; Shabbat; Halakha; producing a sound.

Introduction

The controversy between the Amoraim Ulla and Rabbah addresses producing a sound on the Sabbath. In this sugya, a story is presented that describes an Amora named Ulla who happened to visit the home of R. Manasseh, and a man came to the home of R. Manasseh and knocked on the door, producing a sound. Ulla responded by calling out: Who is this person, may his body be desecrated for he desecrates the Sabbath. This response by Ulla was because in his opinion, the sages forbade the production of any sound on the Sabbath, including knocking on the door with one's fist, which is forbidden too. Rabbah, however, contended otherwise and therefore told Ulla that the sages had not forbade the production of any sound on the Sabbath, rather only a musical sound.

The text of the printed version (bEruvin 104a)

Ulla once happened to visit R. Manasseh when a man came and knocked on the door. 'Who', he exclaimed 'is this person? May his body be desecrated, for he desecrates the Sabbath'. 'Only a musical sound', said Rabbah to him, 'has been forbidden'. Abaye pointed out an objection against him: 'Liquids may be drawn by means of a siphon, and water may be allowed to drip from the arak, for a sick person on the Sabbath'. Thus only 'for a sick person' is this allowed, but not for a healthy one. Now, how are we to imagine the circumstances? Would you not agree that this is a case where the sick man was asleep and it was desired that he should wake up? May it not then be inferred that the production of any sound is forbidden? – No; this is a case where he was awake and it is desired that he should fall asleep, so that the sound heard is one like a tingling noise.

He pointed out to him a further objection: If a man guards his fruit against the birds or his gourds against wild beasts he may proceed on the Sabbath in his usual way, provided he does not clap his

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hand, beat his chest or stamp his feet as is usually done on weekdays. Now what could be the reason? Is it not that the man produces sound and that the production of any sound is forbidden? – R. Aha b. Jacob replied: This is a preventive measure against the possibility of his picking up a pebble. What, however, is the reason for the statement which Rab Judah citing Rab made that women who play with nuts commit a transgression? Is it not that this produces sound and that production of any sound is forbidden? – No; the reason is that they might proceed to level the ground. For, were you not to concede this, how would you explain the ruling of Rab Judah that women who play with apples commit a transgression? What sound could be produced there? Consequently, it must be conceded that the reason is that they might proceed to level the ground (Epstein 1935:725–726).

The controversy of Ulla and Rabbah

According to the printed version and the versions of other manuscripts (MS Munich 95, MS Oxford 366) (Rabbinovicz 1960:410 n. 100), including the emendation in a Cairo Genizah fragment (Cambridge UL T-S F2(2) 23. FGP No. C98947), there is a divergence of opinion between Ulla and Rabbah (Hidary 2015:12 n. 60) on the topic of producing a sound on the Sabbath. It appears from the words of Ulla with regard to the person who came to the home of R. Manasseh that it is prohibited to produce any type of sound on the Sabbath because this is a desecration of the Sabbath (because the production of any sound is forbidden¹). From the clarification given by Rabbah to Ulla, however, it appears that the prohibition is not against producing any type of sound on the Sabbath, rather only a musical sound, that is, a sound that is heard 'like a song with a tune and pleasantly',² and one who produces such a sound is not considered a desecrator of the Sabbath, and Rabbah in fact presents a lenient opinion (Hidary 2015:11–16). Furthermore, in the sugya, four objections are posed only with regard to the method of Rabbah and none of them remain unanswered, whilst the sugya contains no objections posed concerning Ulla's method.

The dilemma in the controversy of the Amoraim as to who the halakhic ruling should follow, and the arguments for determining the halakha

The dilemma in the controversy regards the halakhic ruling: should it follow Ulla's method, as no objection was posed regarding his method and hence it seems clear and does not appear to arouse any difficulty, or the method of Rabbah, as the latter was discussed and clarified through various objections posed, where all the objections on his method were answered and therefore the ruling should follow him as his method was elucidated.

1. Rashi, Eruvin 104a, s.v. *deka mahil Shabbat*.

2. Rashi, Eruvin 104a, s.v. *bekol shel shir*.

The halakhic ruling concerning this divergence of opinion is split into two different fundamental halakhic approaches with regard to this dilemma in the halakhic ruling. The first approach is represented by R. Hananel as follows: 'And although Rabbah answered all the objections posed to him, we do not rely on (hard-pressed³) answers and do not reject Ulla's opinion'.⁴

In other words, although Rabbah answered all the objections on his method, these (forced) answers should not be depended on, and Ulla's method should not be rejected by reason of these answers to the method of Rabbah.

According to R. Hananel, it appears that Ulla's method should be relied on and the ruling should follow him, as his method is clear and no objections were posed in the sugya in its context. In contrast, the method of Rabbah should not be relied on and the ruling should not follow him although all the objections on his method were answered (and assumedly the ruling should have followed him), because forced answers to objections on his method should not be relied on (Sirilio 1972:143).

The second approach is represented by the Rif who wrote:

And we saw that a few of our sages agree with Ulla's opinion and rely on the Talmud Yerushalmi, Tractate Yom Tov [5:2, 63a]: 'R. Eleazar said: the production of any sound is forbidden on the Sabbath' ... and we [Rif] do not think so, because our sugya in the Talmud Bavli is a permitting one [*permissive*] and we do are not concerned about what was forbidden in the Talmud Yerushalmi, because we rely on our sugya [*in the Talmud Bavli*] because it is the last, and they were proficient in the Talmud Yerushalmi more than us, and if it was not clear to them that that statement [*of R. Eleazar*] is not authorised, they would not have permitted.⁵ (Assaf 1955:244; Assis 2018:251; Epstein 1962:291)

He says that he indeed saw that some of our sages (meaning R. Hananel (Ratner 1913:43)⁶ or R. Nissim Gaon (Henshke 1992:32–33 n. 54)) agree with Ulla and rely on the words of the Talmud Yerushalmi in Tractate Yom Tov (5:2, 63a) that notes the method of R. Eleazar, who says that it is forbidden to produce any sound on the Sabbath. But we do not think so, as our sugya (in the Talmud Bavli) presents the method [of Rabbah] that permits producing a sound on the Sabbath (aside from a musical sound). Therefore, we are not concerned about the prohibiting method located in the Talmud Yerushalmi because we rely on (the sugya) in the Talmud Bavli (the permitting method), as the Talmud Bavli is the most recent (later than the Talmud Yerushalmi) and they (Rabbah and Amemar [Ben Ya'akov 1989:117; Ratner 1902:114, 1913:43])⁷ were more proficient in the Talmud Yerushalmi than we are (/he is [Ben Ya'akov 1989:117]),

3. Rosh, Eruvin 104a.

4. R. Hananel, Eruvin 104b; R. Hananel, Eruvin, p. 228, n. 311, Metzger edition; Sefer ha-Eitim, Hilkhoh Eruvei Hatzerot, p. 146.

5. Rif, Eruvin 104a; Sefer ha-Eitim, Hilkhoh Eruvei Hatzerot, p. 146; Sefer ha-Eshkol, vol. 1, Jerusalem 1984, Sh. Albeck edition, pp. 158–159.

6. Perush R. Ishma'el ben Hakhmon 'al Hilkhoh ha-Rif, Eruvin 104b.

7. Hagahot Maimoniyot, Hilkhoh Shabbat 23:4.

and if it had not been clear to them that the (prohibiting) method in the Yerushalmi Talmud was not to be relied upon, they would not have permitted (producing a sound on the Sabbath).

In other words, the Rif relies on the answers to the objections on the method of Rabbah, who permits producing a sound on the Sabbath aside from a musical sound. He relies on the permitting method located in the sugya in the Talmud Bavli more than on the prohibiting method located in the Talmud Yerushalmi because the Talmud Bavli was concluded after the Talmud Yerushalmi and the sages of the Talmud Bavli were more proficient in the Talmud Yerushalmi than us (/him), and if they had not known for certain that the forbidding method in the Talmud Yerushalmi was not to be relied on, they of course would not have followed the permitting method of Rabbah located in the Talmud Bavli and manifested in the objections and answers on his method. Hence, according to the Rif, these answers in the Talmud Bavli can certainly be relied on, and should not be treated as mere rejections or forced answers (Lieberman 1962:32) (as treated by R. Hananel), and therefore the halakha should be ruled accordingly, following the method of Rabbah that permits producing a sound on the Sabbath aside from a musical sound. Namely, the Rif represents the other side in the dilemma of who the halakhic ruling should follow and he contends, in fact, that the answers in the Talmud Bavli's sugya should be relied on, ruling according to the method of Rabbah, because the sages of the Talmud Bavli discussed and clarified his method by posing different objections and answered all the objections concerning his method, and therefore the ruling should follow him as his method of permitting was well clarified in light of the answers to all the objections on his method.

It is evident from the controversy between R. Hananel and the Rif on who the halakha should follow that they are divided on the question of whether and when the answers to objections in a sugya should be relied on. Even if we were to say that there are definitions of when an answer in a sugya should not be relied on (Albeck 1969:549), or when an answer should be relied on (Albeck 1969:553), ultimately this depends on the discretion of each posek. To one posek, the answer appears truthful (Albeck 1969:552) (in our case – the Rif relies on the answers to the objections on Rabbah, whilst to another posek, the answer appears unreliable (Albeck 1969:556) (R. Hananel does not rely on the answers to the objections on Rabbah). According to Kulp and Rogoff (2021):

Rif and R. Hananel correlate their general position concerning noise on Shabbat with their particular position regarding the water-mill [*b. Shabbat 18a*]. To R. Hananel, all noise is prohibited, and thus the water-mill can be prohibited because of the noise. To the Rif, only music is prohibited, and the water-mill prohibition is ascribed to Beit Shammai, because of *shevitat keilim*. (p. 164)

The controversy between R. Hananel and Rif continued as a controversy between the initial commentators (*rishonim*) in the form of two parallel ruling methods (Stollman 2008:391).

This controversy between them leads us to the question of the authority of the two Talmuds from a historical perspective.

The general question of the authority of the Talmud Bavli versus the Talmud Yerushalmi

The question of the developing authority of the Talmud Bavli versus the Talmud Yerushalmi from the perspective of the historical background is very interesting. Historically, the absolute authority of the Talmud Bavli was recognised, where no sage or court of law in the world may differ with it. However, in most cases, the Talmud does not offer explicit and unequivocal rulings. The sugyot discussed in the Talmud contains the interpretations of the amoraim on the Mishna, adding and comparing tannaitic sources not mentioned in the Mishna, processes of give and take within the words of the tannaim and ruling in controversies of the tannaim and of the preceding amoraim, as well as clarifications and amendments regarding the version of the Mishna based on various traditions they held and raising logical conjectures and arguments. Indeed, the Amoraim did not dispute the Tannaim who preceded them because of the honour and authority of the latter, which superseded that of the Amoraim. But the interpretations of the Amoraim were used as a tool for expressing their opinions without disputing the Tannaim and even for giving a different distinct interpretation to the words of one Tanna or another. The proposed interpretations of the Amoraim were considered legitimate and authoritative so long as it was possible to explain the Tanna's words reasonably and logically. After the Talmud Bavli was sealed, the interpretations of the Amoraim on the sugyot of the Talmud Bavli were perceived as another legitimate and authoritative layer, distinct from that of the Tannaitic sources, where once again the Geonim and sages who followed could not dispute their words, just as the Amoraim did not dispute the Tannaim who preceded them (Ta Shma, pp. 251–252). Hence, the legitimate interpretations of the sages from the later period, the Amoraim, are more authoritative than those of the sages from the previous period, the Tannaim. This is also true of the differing authority of the Talmuds. The Talmud Yerushalmi was sealed (in the 4th century AD) before the Talmud Bavli that was sealed subsequently, in the time of Ravina and Rav Ashi (in the 5th century AD). Therefore, the legitimate interpretations formed in the later period, by the Babylonian Amoraim in the Talmud Bavli, are more authoritative than those of the sages from the previous period, the Amoraim of Eretz Israel, in the Talmud Yerushalmi. From this derives the greater authority of the Talmud Bavli compared to the Talmud Yerushalmi from a historical chronological perspective. But notably, in the period of the Savoraim, Babylonian sages would still appeal to the sages of Eretz Israel with questions, for example, sages who were experts in the laws of *treifot* (Hullin 55b) (Assis 2018:250). In Babylonia, they studied their Talmud, the Talmud Bavli. The Babylonian sages did their best to interpret the Talmud Bavli and disseminate it, and when Babylonia and its capital Baghdad became the centre of the Arab world

in 747 AD, this fact helped the contemporary Geonim turn the Talmud Bavli into 'The Talmud'. As a result, the study of the Talmud Yerushalmi was neglected (Assis 2018:251) and the Geonim in Babylonia naturally ruled according to their own Talmud, the Talmud Bavli. In this way, the Talmud Bavli became an authoritative source that overpowered the authority of the Talmud Yerushalmi. In fact, the words of Rif, mentioned above, concerning the increasing authority of the Talmud Bavli over the Talmud Yerushalmi, are based on R. Haye Gaon, who wrote in his responsa:

[I]t is explicit that everything we find in the Eretz Israel Talmud which does not dispute anything in our Talmud [*Bavli*] ... we shall hold to it and rely on it as no worse than the interpretations of the Rishonim, but wherever we find that it disputes our Talmud [*Bavli*] we shall not follow it. (Assis 2018:251; Epstein 1962:291)

The Talmud Yerushalmi was indeed accepted and mentioned by some of the Geonim, for instance, R. Aha of Shabha and R. Amram Gaon (from the 8th century AD) who still mentioned the Talmud Yerushalmi only occasionally, however R. Saadya Gaon (10th century AD) mentions it more often. Similarly, also the sages of Kairouan and Spain (from the 10th to 13th centuries AD), including the Maimonides, mentioned the Talmud Yerushalmi, and in some cases even interpreted the Bavli according to the Yerushalmi, sometimes even ruling according to the Yerushalmi, and used it often. But in Rashi's era (12th century AD), he already used the Talmud Yerushalmi seldom (Assis 2018:251–253) and in time the effect of the Yerushalmi and its acceptance by the first commentators began to wane, as did its authority. Historically, the development of the Talmud Bavli's authority occurred mainly in medieval times, in light of its increasing study (Fishman 2011:8), and since then it became the main source of halakhic ruling (Fishman 2011:12).

Introduction to the literature on halakhic rules

The literature of the halakhic rules notes various general rules for reaching halakhic decisions, resolving disputes between the Talmud sages (Brandes 2002), and the various Talmudic rules deriving from the Talmud Bavli. The primary literature on the halakhic rules was compiled beginning from the 13th century until the 18th century. Some of the main and most well-known books are: *Sefer Krihut* – written by R. Shimshon of Kinon (France, 13th century); *Sefer Halikhot Olam* – by R. Yeshua Halevi (Algiers, 15th century), which contains two interpretative compilations on the book: *Klalei ha-Gmara* (Rules of the Gemara) – by R. Yossef Karo (Safed, 15th century) and *Yavin Shmu'a* – by R. Shlomo Algazi (Turkey, 16th century); *Sefer Klalei Shmuel* – by R. Shmuel Sirilio (Spain, 15th century); *Sefer Yad Malachi* – by R. Malachi ha-Cohen (Italy, 18th century).

The purpose of the compilations within the literature on the halakhic rules was to present to the readers the Talmudic rules followed when reaching halakhic decisions in an organised, consistent and clear way so that they could

navigate them and understand them. These books were compiled and published for various reasons, for instance, *Sefer Krihut* was written following the personal initiative and interest of its author.⁸ *Sefer Halikhot Olam* was written in light of a special appeal to the author and a personal request that he writes the book.⁹ *Klalei ha-Gmara* was written for the benefit those studying *Sefer Halikhot Olam* or as an addition to it.¹⁰ *Yavin Shmu'a* was written to record in memory the name of the author and his innovations.¹¹ *Klalei Shmuel* was written based on *Sefer Halikhot Olam*, and the author arranged his book by alphabetical order to help readers detect and navigate the Talmudic rules.¹² *Yad Malachi* was written as a collection of Talmudic rules that had attracted the author's attention, rules of the poskim and rules of the halakhic laws, in order to teach and instruct young students.¹³

The reflection of the controversy between the Amoraim in the literature on halakhic rules

A reflection of the controversy between R. Hananel and the Rif is also manifested in the literature on the Halakhic rules. Some commentators defined the following rules: 'If their give and take followed a certain [sage], it is learned from this that we follow him' (Ha-Cohen 1976:92–95); 'If their give and take followed a certain [sage], it is learned from this that the halakha follows him' (Ha-Cohen 1976:95–102); 'The give and take in the Shas has significant power to determine the halakha even in a case of one against many' (Medini 1963:88). These rules follow the method of the Rif, who represents the approach whereby if the objections and answers relate only to one of the differing parties, then this indicates that the halakha should follow him (and there are other poskim and commentators who agree with the Rif's method as well) (Medini 1963:88; ed. Zevin 1959:318–319).

Not everyone contends thus, however, and they do not all agree with or accept this approach, rather they contend that:

[T]he gaon the author of *Hikrei Lev*... said that this is not agreed at all... R. Joseph Trani... but if it [*the give and take*] is because of some objection on him [*on the words of a certain Amora*] and his words are answered, it should not be said that [*the halakhic ruling*] follows him for reason of the give and take, as it is the custom of the Amoraim to interpret the words of the ancients. (Medini 1963:88)

Accordingly, the answers to the objections that relate to only one side of the controversy are incapable of deciding in favour of that side and it cannot be said that the ruling should follow that side, as the objections and answers regarding that side of

8. *Sefer Krihut*, Sofer edition, p. 25.

9. *Sefer Halikhot Olam*, Shilo Press, p. 3.

10. *Sefer Halikhot Olam*, *Klalei ha-Gmara*, p. 4.

11. *Sefer Halikhot Olam*, *Yavin Shmu'a*, p. 4.

12. *Klalei Shmuel*, Sofer edition, [p. 23].

13. *Yad Malachi*, 4th rpr. [pp. 8–9].

the controversy take the form customary amongst the Amoraim, who interpret the words of an Amora by means of objections and answers, and do not indicate that the ruling should follow that side of the controversy. This approach represents the method of R. Hananel who ruled following Ulla and was not influenced by the answers to the objections on Rabbah to rule accordingly, rather on the contrary, R. Hananel thought that these answers are forced and cannot be relied on. Not only do they not prove that Ulla's method should be rejected but rather the opposite – the ruling should follow Ulla's method and not that of Rabbah (ed. Zevin 1959:318).

Conclusion

The controversy between Ulla and Rabbah deals with the question of whether it is forbidden to produce any sound on the Sabbath. According to Ulla, who expressed anger towards the person who knocked on R. Manasseh's door on the Sabbath, it appears that it is forbidden to produce any type of sound on the Sabbath as this desecrates the Sabbath. Rabbah disagrees with Ulla and contends that there is no prohibition against producing all types of sound on the Sabbath, rather only a musical sound. Their controversy generated a controversy between R. Hananel and the Rif concerning the halakhic ruling. R. Hananel contends that the answers to the objections on Rabbah should not be accepted and therefore Ulla's opinion should not be rejected rather the ruling should follow him, namely, it is forbidden to produce any type of music on the Sabbath. The Rif at first mentions the sages who ruled as Ulla, who in his opinion relied on that said in the Talmud Yerushalmi in the name of R. Eleazar, whereby it is forbidden to produce any sound on the Sabbath. He contends, however, that the answers to the objections made towards Rabbah should be relied on, and therefore the ruling should follow Rabbah, namely, there is no prohibition against producing any type of sound on the Sabbath, rather it is only forbidden to produce a musical sound on the Sabbath. The Rif justifies his words by saying that our sugya in the Talmud Bavli intends to permit producing sounds on the Sabbath, aside from a musical sound. 'We are not concerned' about the prohibition in the Talmud Yerushalmi concerning producing any musical sound because we rely on our Talmud (the Bavli), which is the last (after the Talmud Yerushalmi), and the permit in the Talmud Bavli (according to Rabbah) to produce any sound on the Sabbath aside from a musical sound is based on the fact that (R. Eleazar's) statement in the Talmud Yerushalmi does not have authority.

The controversy of the Amoraim Ulla and Rabba contributed to the establishment and spread of the approach represented by the Rif, whereby the Talmud Bavli has greater authority than the Talmud Yerushalmi and has the last word halakhically in cases of controversy between these two Talmuds. Indeed, in practice, many more discussions and commentaries developed around the Talmud Bavli than around the Talmud Yerushalmi by most of the commentators in the generations following the Rif's opinion, and most of the halakhic rulings follow the Talmud Bavli. Of course, there were also commentators who related to the Talmud

Yerushalmi, but fewer than those who interpreted the Talmud Bavli. Similarly, there are also halakhic rulings based on the Talmud Yerushalmi, although much less.

Historically, in the period of the Geonim, the Talmud Yerushalmi was still mentioned and was known to the Geonim as well as to the sages of Spain and Kairouan, who used it to explain the Bavli and sometimes even ruled accordingly, but from medieval times, the authority of the Talmud Bavli superseded that of the Talmud Yerushalmi in light of the increased study of the former. Even Rashi in his time only rarely used the Talmud Yerushalmi. Similarly, the first medieval commentators used the Talmud Yerushalmi less, leading to the declining impact of the Yerushalmi and its authority compared to the Talmud Bavli.

Acknowledgements

Competing interests

The author declares that he has no financial or personal relationships that may have inappropriately influenced him in writing this article.

Author's contributions

U.Z. is the sole author of this article.

Ethical considerations

This article followed all ethical standards for research without direct contact with human or animal subjects.

Funding information

This research received no specific grant from any funding agency in the public, commercial or not-for-profit sectors.

Data availability

Data sharing is not applicable to this article as no new data were created or analysed in this study.

Disclaimer

The views and opinions expressed in this article are those of the author and do not necessarily reflect the official policy or position of any affiliated agency of the author.

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