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When reading any text, whether a work of literature or a legal work, there are broadly speaking two possible goals. The goal may be to understand what the author was trying to convey. Alternatively, the goal may be to extract meaning for the reader. Of course, these are two extremes, and a range of options exist in the middle.

The Talmud, and indeed all of rabbinic literature, is an extremely complex and deep corpus, and has been continually studied by Jews for thousands of years. The goal of the study, however, is not so simple. In this essay, I will examine how these texts ought to be approached, both according to their authors and prominent interpreters.

It may be natural to think that the ultimate goal in studying the Talmud is objective truth. As a religious act, the reader is attempting to understand God's word, and thus the goal should be arriving at the meaning originally intended by the authors. However, the issue is far more complex, and as a result has theological implications.

Before looking at any specific piece, it is noteworthy to examine the very structure of the Mishna. The Mishna, like the Talmud after it, is noteworthy in its meticulous inclusion of all opinions, even those conclusively refuted. Unlike other law codes and religious works, the Talmud and Midrashim celebrate conflict, and preserve a multiplicity of opinions. The Mishna in *Eduyot* 1:4-6 explains why minority opinions are included:

> And why do they record the opinions of Shammai and Hillel for naught? To teach the following generations that a man should not [always] persist in his opinion, for behold, the fathers of the world did not persist in their opinion.
> And why do they record the opinion of a single person among the many, when the halakha must be according to the opinion of the many? So that if a court prefers the opinion of the single person it may depend on him. For no court may set aside the decision of another court unless it is greater than it in wisdom and in number. If it was greater than it in wisdom but not in number, in number but not in wisdom, it may not set aside its decision, unless it is greater than it in wisdom and in number. Rabbi Judah said: "If so, why do they

> record the opinion of a single person among the many to set it aside? So that if a man shall say, 'Thus have I received the tradition', it may be said to him, 'According to the [refuted] opinion of that individual did you hear it.'"

We can extract three reasons. Including the minority opinion teaches the important lesson that even the greatest scholars are sometimes wrong. It also allows for a later court to uphold a minority opinion. And further, it keeps a record of what has been refuted, so that such a position is not considered a second time.

From *Eduyot* alone, the reasons seem purely pragmatic. However, *Eruvin* 13b gives a more detailed picture.

> Rabbi Abba said that Shemuel said: For three years Bet Shammai and Bet Hillel disagreed. These said: The halakha is in accordance with our opinion, and these said: The halakha is in accordance with our opinion. Ultimately, a Divine Voice emerged and proclaimed: Both these and those are the words of the living God. However, the halakha is in accordance with the opinion of Bet Hillel.[1]

Here, we are given a theological reason for the inclusion of minority opinions, for they, too, are the word of the living God.[2] Similarly, *Hagiga* 3b states:

> "Those that are composed in collections [*ba'alei asufot*]": These are Torah scholars who sit in many groups [*asupot*] and engage in Torah study. There are often debates among these groups, as some of these Sages render an object or person ritually impure and these render it pure; these prohibit an action and these permit it; these deem an item invalid and these deem it valid. Lest a person say: Now, how can I study Torah when it contains so many different opinions? The verse states that they are all "given from one shepherd." One God gave them; one leader, i.e., Moses, said them from the mouth of the Master of all creation, Blessed be He, as it is written: "And God spoke all these words."

From the above sources, something remarkable emerges. All responsible opinions in a debate are deemed valid. While the halakha must follow one side, that does not make that opinion more correct. Bet Hillel is followed not because they are more correct but because they were more accepting, as *Eruvin* 13b goes on to explain:

> The Gemara asks: Since both these and those are the words of the living God, why were Bet Hillel privileged to have the halakha established in accordance with their opinion? The reason is that they were agreeable and forbearing, showing restraint when affronted, and when they taught the halakha they would teach both their own statements and the statements of Bet Shammai. Moreover, when they formulated their teachings and cited a dispute, they prioritized the statements of Bet Shammai to their own statements, in deference to Bet Shammai.

In fact, not only are both sides of such a debate valid, but the debate itself is considered a good thing! This idea is beautifully formulated in *Avot* 5:17:

> Every dispute that is for the sake of Heaven, will in the end endure; But one that is not for the sake of Heaven, will not endure. Which is the controversy that is for the sake of Heaven? Such was the controversy of Hillel and Shammai. And which is the controversy that is not for the sake of Heaven? Such was the controversy of Korah and all his congregation.

This Mishna establishes another important principle. While we ascribe value to both sides of a debate, that does not apply to all opinions. Some opinions are indeed deemed illegitimate. These debates are termed "not for the sake of heaven," although such a designation is difficult to define precisely.

The above sources establish both pragmatic and theological reasons for keeping both sides of the debate in the dialogue. Still, from the above one would assume that the ultimate purpose of both sides is to determine what God meant. However, one of the most famous passages in the Talmud shatters this notion, the story of the oven of Akhnai in *Baba Metzia* 59a–59b. The Gemara relates a debate between Rabbi Eliezer and the Rabbi's regarding the purity status of an earthenware oven that had been disassembled. Rabbi Eliezer, failing to convince his colleagues of his opinion, resorted to supernatural means to prove his position. After performing several miracles, conditioning their occurrence on his opinion being correct, the Rabbis remained unimpressed. Finally, Rabbi Eliezer resorted to an even more extreme means of proof:

> Rabbi Eliezer then said to them: If the halakha is in accordance with my opinion, Heaven will prove it. A Divine Voice emerged from Heaven and said: Why are you differing with Rabbi Eliezer, as the halakha is in accordance with his opinion in every place that he expresses an opinion?
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> Rabbi Yehoshua stood on his feet and said: It is written: "It is not in heaven" (Deuteronomy 30:12). The Gemara asks: What is the relevance of the phrase "It is not in heaven" in this context? Rabbi Yirmeya says: Since the Torah was already given at Mount Sinai, we do not regard a Divine Voice, as You already wrote at Mount Sinai, in the Torah: "After a majority to incline" (Exodus 23:2). Since the majority of Rabbis disagreed with Rabbi Eliezer's opinion, the halakha is not ruled in accordance with his opinion.

A literal read of the passage is shocking. Once God gave us the Torah, His intent is no longer the important question, but rather our interpretation. This takes the notion of *Eilu v'Eilu* (they are both words of the living God) a step further. Even if it *weren't* God's word, it is still Torah! Or perhaps more accurately, God accepts all interpretations as His word. Indeed, the passage continues to say that God Himself was pleased with this outcome, saying "My children have triumphed over Me."

One interpretation of this story, adopted by some medieval commentators, is that the goal is understanding God's original intent as best as possible, but supernatural means are not a legitimate part of this process. This theory is a result of the uncomfortable implications of removing God's intent from the picture, but is undermined by the simple reading of the texts cited above. Further, this clashes with several tendencies of the Talmud. For example, the Talmud is wont to interpret a Mishna or Beraita in accordance with the accepted opinion despite such a read going against the simple understanding of the text. Further, when defending an opinion from attacks based on earlier sources, often highly nuanced and convoluted reads are accepted as a defense, the simple read of the earlier source notwithstanding.

However, it would be a gross mis-categorization to claim that the Talmud places no value on authorial intent. Not all interpretation and debate is legitimate, as the Mishna in *Avot* so clearly indicates. The careful categorization of Stam Mishnayot with their authors, the precise exploration of and preservation of the words of earlier authorities, and the whole notion of the

mesora (tradition) demonstrates the implausibility of such an argument. But it is equally clear that a standard notion of authorial intent is decidedly not the goal. So which one is it?

The solution emerges from an analysis of the Talmud's notion of fact and fiction. Whenever trying to establish a fact, the Talmud has two options, empirical observation, and canonical sources.

Whenever both exist, the latter is exclusively chosen, even in cases when observations are readily available. Counterintuitively, canon is deemed superior to observable fact.

So what is the Talmud's reason for this inversion? The halakha does not operate in the observable world, but in an abstract one of ideals. This distinction, the subject of Rabbi

Soloveitchik's *Halakhic Man*, has made its way into modern halakhic literature as well, as can be reflected in the attitudes of many contemporary decisors regarding dealing with halakhic ideas that have been empirically refuted, such as spontaneous generation. Its notion of truth, at least in the halakhic realm, exists in this abstract world of ideas.

Thus, it is not at all surprising that this phenomenon extends into authorial intent. This is precisely the idea of *Eilu v'Eilu*. The author's intent is a key factor, but it is not judged by the empirical shackles of this terrestrial world but by the idealized conception of the author as reflected in the canon. In other words, authorial intent is everything in the Talmud, but its process at identifying it operates under foreign axioms.

This theory raises two fundamental questions that must be addressed. First, what exactly are these axioms, and how do they operate? Obviously not all interpretations are valid, so what rubric is used? Second, what is to be made of this idealized reality? What motivated the Rabbis to form this bifurcation and choose their idealized version over empiricism? How can this decision be justified?

My response to the first question is best posed with an analogy. Judaism holds the text of the Bible to be sacred. However, throughout history, two different schools have sought to protect its authenticity. While both are part of one whole, in a way they represent two different traditions.

On the one hand, we have the scribes, who faithfully transcribe the text word for word. Concurrently, we have the *ba'alei keri'a*, the members of the community whose job it is to read the Torah scroll. One theory of the origin of *Kerei u'Ketiv* is divergence between these two schools. While that theory has many issues with it, it illustrates this point perfectly. For, leaving aside the origins of

Kerei u'Ketiv, it remains true that in the preservation of the Torah, we have those reading it and those writing it, but the two groups are indeed preserving a slightly different text.

Regarding *Torah Sheba'al Peh*, the same phenomenon is present. Originally, the Oral law remained oral. However, post the redaction of the Mishna, the *mesora* began to be transmitted in two concurrent forms, that of texts and that of people interpreting the texts. It may be the case that the two are not always identical, but the latter still remains a valid, indeed the only valid, interpretation of the former. This is reflected by the tendency to interpret *mishnayot* in accordance with the accepted h alakha even if they do not seem to be. The accepted norms, as part of the oral tradition, remain as a key factor in the interpretation of texts.[2]

In recognition of this, the Talmud views as legitimate later innovative interpretations of earlier authorities, even as it acknowledges their novelty, as expressed poignantly in the story of Moshe and Rabbi Akiva in *Menahot* 29b:

> Rav Yehuda says that Rav says: When Moses ascended on High, he found the Holy One,
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> Blessed be He, sitting and tying crowns on the letters of the Torah. Moses said before God: Master of the Universe, who is preventing You from giving the Torah without these additions? God said to him: There is a man who is destined to be born after several generations, and Akiva ben Yosef is his name; he is destined to derive from each and every thorn of these crowns mounds upon mounds of halakhot. It is for his sake that the crowns must be added to the letters of the Torah. Moses said before God: Master of the Universe, show him to me. God said to him: Return behind you. Moses went and sat at the end of the eighth row in Rabbi Akiva's study hall and did not understand what they were saying. Moses' strength waned, as he thought his Torah knowledge was deficient. When Rabbi Akiva arrived at the discussion of one matter, his students said to him: My teacher, from where do you derive this? Rabbi Akiva said to them: It is a halakha transmitted to Moses from Sinai. When Moses heard this, his mind was put at ease, as this too was part of the Torah that he was to receive. Moses returned and came before the Holy One, Blessed be He, and said before Him: Master of the Universe, You have a man as great as this and yet You still choose to give the Torah through me. Why? God said to him: Be silent; this intention arose before Me.

As to what may have influenced Hazal to form this conceptualization of the halakha, it seems this arises in part from the text of the Tanakh itself. Several laws point in this direction. The most obvious example is the biblical institution of testimony, which requires several extreme formalities, such as both witnesses being males, seeing each other, and concurring even regarding ancillary facts. The massive gap between these laws and the requirements of having a functioning judicial system is obvious. Hazal recognized this, instituting super-judicial[3] means of bridging the gap between the ideal and concrete by creating the kippah (*Sanhedrin* 81b).

This idea is far from limited to the above illuminating example. In a much broader sense, the very notion of rabbinic and biblical law, a dichotomy all across the Talmud, is much the same idea. Rabbinic law's very existence is an admission that the biblical law as it stands is too far from reality, and needs a bridge of sorts, or perhaps a fence, to ensure its effectiveness.[4]

When faced with this reality, there are two philosophical positions that potentially emerge. The first is that biblical law is flawed. Obviously, this is not even considered in the Talmud. The other recourse is to postulate that Torah Law pertains exclusively to an idealized plane, and is perfect in this abstract

universe, even if it sometimes comes into conflict with the reality of daily life.

With this context, we can attempt to understand the enigmatic imperative of Torah Study for its own sake. This ideal as the goal of Talmud Torah is expressed quite clearly in *Avot* 6:1.[5]

> Rabbi Meir says: "Anyone who engages in Torah for its own sake merits many things, and moreover makes the entire world worthwhile."

A warning of failure to do this can be found in *Avot* 4:5, which states:

> Do not make the Torah a crown to magnify yourself with, or a spade with which to dig. So would Hillel say: "One who make personal use of the crown [of Torah] shall perish." Hence, one who benefits oneself from the words of Torah removes one's life from the world.

This ideal reaches its most famous form in *Pesahim* 50b:

> Rav Yehuda said in the name of Rav: "A person should always be engaged in Torah and mitzvoth, even *she-lo lishmah*, for doing so *she-lo lishmah* leads one to doing so *lishmah*."

The precise meaning of this term is subject of much debate. It seems the simplest understanding is Torah learning not for any personal reward, gain, or practical benefit. It means Torah learning is not a means but an end. In light of the above analysis, this phrase takes on a new meaning. For the goal of learning Torah is not merely reconstructing an earlier historical position, but the further development of its own internal canon, to be understood in its ideal universe. Thus, in a very literal and real way, the only goal of Talmud Torah is its own sake.[6]

[1] All excerpts of the Talmud are from the William Davidson edition, which can be found for free on Sefaria.org.

[2] An integral part of this is the belief that the *mesora*, the way we interpret God's word, is guided over by His providence, making this method of interpretation the only valid one. And thus, a valid opinion is defined as one in accordance with this living tradition. The Hazon Ish made the argument that new manuscripts should not affect the halakha, since presumably God arranged history as it was for a reason. Since whatever transpires is God's will, the way Torah is understood by its legitimate

scholars is thus implicitly given his approval.

[3] Note the fine distinction between super-judicial and extra-judicial. These laws, while not "normal procedure," were codified all the same.

[4] See *Moreh Nevukhim* 3:34 for what I believe is a philosophical restatement of this same idea, namely that law addresses an ideal plane.

[5] Several other sources in the Talmud make a similar point. See *Sanhedrin* 99a, *Sukka* 49b, *Taanit* 7a.

[6] It must be emphasized, Hazal firmly linked Talmud Torah to *Ma'aseh*, application of one's learning. This essay does not mean to undermine that. It is not contradictory for the system to function in an abstract internal sense even as it is a concrete blueprint for how to act. Of course, halakha emerges from Talmud study.