

The Rhetoric of Innovation

Self-Conscious Legal Change in Rabbinic Literature



Aaron D. Panken, University Press of America, 2005

In Dr. Aaron Panken's new book, *The Rhetoric of Innovation*, he explores the profound tension that exists between the opposing tendencies of preservation and innovation in rabbinic legal literature. The rabbis made tremendous attempts to safeguard traditions handed down to them from prior generations in the face of significant new challenges. At the same time, these creative religious thinkers boldly invented new practices (or altered old ones) to fit shifting circumstances, designing and utilizing a rich rhetorical vocabulary to allow such necessary innovation.

Through critical examination of more than 1,000 occurrences of terms depicting legal innovation, this study maps the contours of legal change reported during the rabbinic period. *The Rhetoric of Innovation* examines temporal clusters of statements and actions attributed to authority figures in the Tannaitic and Amoraic periods, also reviewing the geographic distribution of these words and their divergent usages in documents edited in Roman Palestine and Babylonia. It also provides significant insight into rabbinic philosophies of legal change, through exploring the various rationales deemed acceptable within the rabbinic corpus. In this respect, the book carries a relevant message for modern Jewish life in its consideration of the history of appropriate boundaries and reasons for legal change—questions that recur frequently in Jewish discourse today.

In this excerpt, Panken discusses a text from the Palestinian Talmud that deals with the ever-poignant question of changing the qualifications required for a Jewish leader – an issue that is as relevant now at HUC-JIR as it was 1500 years ago when this text was written.

The Developing Meaning of *Talmid Hakham* (A Disciple of the Wise)

The status of *talmid hakham* (literally “disciple of the wise” or “wise disciple”)¹ represented a liminal stage in the development of an individual as a Jewish religious leader. The *talmid hakham* was the quintessential apprentice, involved in the daily chore of learning his craft and imbued with some authority, but not yet complete in his own development. Many scholars have discussed the meaning of this ubiquitous term.²

In the Palestinian Talmud, Moed Katan 83b, 3:7 we find a fascinating discussion of the definition of a *talmid hakham* that reflects significant changes in the

meaning of this term over time:

אי זהו תלמיד חכם? חזקיה אמר: כל ששנה הלכות ועוד תורה. א"ל ר' יוסי: הרי דאת אמר בראשונה, אבל עכשיו אפילו הלכות. ר' אבהו בשם ר' יוחנן: כל שהוא מבטל עסקיו מפני משנתו. תני: כל ששואלין אותו והוא משיב. א"ר הושעיה: כגון אנן דרבבינן משגחין עלינן ואנן מתיבין לו. אמר רבי בא בר ממל: כל שהוא יודע לבאר משנתו. ואנן אפילו רבבינן לא חכמין מבארה מתניתן.

Who is a *talmid hakham*? Hezekiah said: anyone who has studied *halakhot* [the body of practically applicable Jewish law created by the rabbis] and more Torah.³ Rabbi Yossi said to him: that which you said is at first, but now,

[one who has studied] even *halakhot*. Rabbi Abbahu [said] in the name of Rabbi Yohanan: anyone who cancels his business for the sake of his study. It was taught: anyone of whom they ask [questions of law] and he answers.⁴ [Rabbi] Hoshaya said: like us, since our rabbis supervise us and we answer to them. Rabbi [Ab]ba bar Memel said: anyone who knows how to explain his Mishnah.⁵ And [with] us, even our rabbis are not wise enough to [fully] explain the Mishnah.⁶

The passage begins by quoting an initial statement from Hezekiah,⁷ an Amoraic immigrant to Babylonia from Palestine who lived in Tiberias in the early

third century. Hezekiah understood the study of *halakhot* and “more Torah” to be the *sine qua non* of discipleship, representing the minimum acceptable level of achievement for this premium status to take hold.

Next, we see Hezekiah's statement overturned, classed as out of date by a statement attributed to Rabbi Yossi, a later emigrant in the opposite direction—from Babylonia to Palestine. Rabbi Yossi, also known as Assi or Issi, was a student of Rabbi Yohanan bar Nappaha in Tiberias, who lived in the mid- to late third century, two generations after Hezekiah. This is the first of three opinions from students of Rabbi Yohanan that we find cited here. Rabbi Yossi's state-

ment dropped the minimum acceptable standard for a *talmid hakham* to a lower level when he defined the requirements as: “now even one who has studied *halakhot*.” Removed from Rabbi Yossi's requirements is the crucial clause “and more Torah.”

The third view presented in this pericope is attributed to the Palestinian Amora Rabbi Abbahu (d. 309 CE), citing Rabbi Yohanan (ca. 200-279 CE),⁸ representing the least stringent of the views presented so far. Rabbinic legend described Rabbi Yohanan as the preeminent leader of Jewish life in Tiberias during the mid-third century. Rabbi Abbahu was his student and a contemporary of Rabbi Yossi (the prior opinion), situated in Caesarea in the late third to early fourth century CE. To qualify for discipleship in R. Yohanan's *Weltanschauung*, one needed only to prioritize the study of Torah over one's business obligations. Here, there was no requisite modicum of knowledge at all, simply a show of commitment to study at some personal expense.

A *baraita* forms the next piece of our passage, bringing with it the idea that anyone who participates in dialogic inquiry about



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Jewish law qualified as a *talmid hakham*. This earlier stratum is inserted to offer a new way to look at the question: being a *talmid hakham* does not imply meeting certain objective standards of Jewish practical and textual knowledge, nor is it required that one downplay the focus upon one's livelihood. Instead, one must have enough ready knowledge to be able to engage in the ongoing shaping of Jewish law through asking and answering questions. In other words, if one asked this *talmid hakham* about any of a number of issues drawn from the broad range of *halakhab*, he had to be ready with an answer. This implies a commitment to the understanding and transmission of appropriate law given the questions being asked at the specific time and place of the disciple's life. Thus, in the *baraita*, the minimum requirement is a steady engagement with the ongoing legal debates of one's day and having ready halakhic answers based on an appropriate level of background knowledge.

One other important implication may be derived from this *baraita*. A distinct element of communal acceptance may also be hidden in its words: community members will only turn to an individual to answer their questions if that individual is considered worthy of providing them with counsel. Thus, this

baraita also suggests that the community of learners/questioners has a role in defining a person's status as a *talmid hakham*: after all, if no one asks these questions of a scholar, then the initial clause of the definition can never be satisfied.

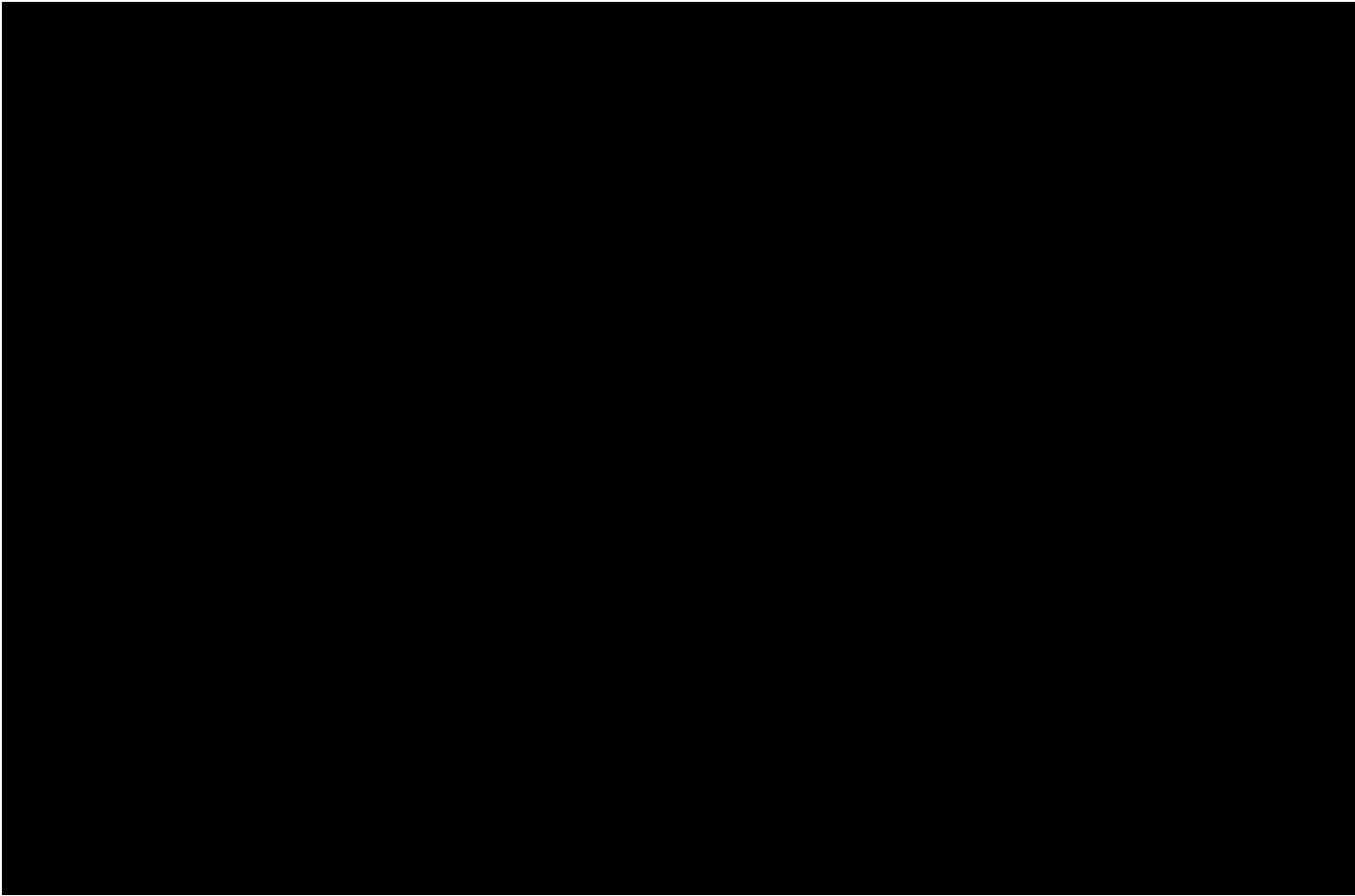
Hoshaya,⁹ an unordained shoemaker and the third student of Rabbi Yohanan in Tiberias encountered in this text,¹⁰ applied this *baraita* to his contemporary situation, indicating that he and his colleagues, who ask and answer questions but are still supervised by their elders, qualified as *talmidei hakhamim* under this definition. Here, the text hints at a delicate communal tension: a *talmid hakham* was neither master nor ordinary person – instead he was a master-in-training. As such, he was able to provide answers to certain halakhic questions, but was still firmly under supervision. Such oversight safeguarded the interests of both the community and the disciple, ensuring that no serious mistake in interpretation or ruling harmed either.

Another implication of this passage is that the *talmid hakham* was responsible for his actions: he *answered*, literally, to his masters. They had the right to question his determinations and to demand a response. Such oversight was not inherent in any of the prior definitions of *talmid hakham* and may have been most

visible to one who held the status of *talmid hakham* himself, such as Hoshaya. Here, the true flavor of the apprenticeship was visible.

Rabbi Ba bar Memel, a Palestinian Amora from the same period as Hoshaya known as Abba Bar Memel in BT,¹¹ concludes this pericope with a statement that rebuts Hoshaya and tells the final truth of this passage all at once: to qualify as a *talmid hakham* no objective level of knowledge can be expected in any absolute terms. Even the greatest of his contemporaries, who constantly supervise disciples, did not achieve total comprehension of what they study.

It is clear, then, that this text reports that the standards for becoming a *talmid hakham* underwent a significant shift over time. Hezekiah's initial definition formed the basis for a useful further discussion. That discussion, if it was indeed historical, most likely took place in Tiberias, as all the voices belong to students of the prominent Tiberian master Rabbi Yohanan. Regardless of whether this is the record of an actual conversation, or a literary construct that a later editor pasted together from transmitted statements, the result is the same: when the redactor finalized this passage, he included a variety of different opinions on the nature of a *talmid hakham* that spanned several



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