

TRYPHO THE JEW AND RABBI TARFON:  
A CASE OF MISTAKEN IDENTITY?

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## Introduction

Justin Martyr (c. 100-165 CE), an ante-Nicene, early Apostolic church father wrote one of the most important apologetics of the 2nd century, *The Dialogue with Trypho the Jew*. Since the age of modern textual scholarship various authors have proposed that Trypho, the Jew with whom Justin Martyr debates religion and theology, was meant to be none other than the famous tannaitic Rabbi Tarfon (c. 70 - 135 CE).

There are numerous questions and scenarios that have been proposed regarding this possible connection. First, did Justin Martyr actually encounter Rabbi Tarfon on the road fleeing from the „recent war in Judea“, i.e. the Bar Kokhba Revolt of 132-135 CE, as stated in chapter one of the *Dialogue*? Or perhaps the *Dialogue* was meant like so many other dialogues, for example *The Dialogue of Plato*, to be a fictional account not meant to convey a historical event, but rather to function as a rhetorical device used to prove a certain point? If this is true, then is the fictional character of Trypho still meant to be the famous Tarfon? This would make the *Dialogue* a clever device used by Justin Martyr to make his defense of Christianity all the more powerful similar to Plato using Socrates as the main character in his *Dialogues*? Or is this all just mistaken identity in which case the character of Trypho the Jew and Rabbi Tarfon have no connection whatsoever other than a loose etymological one?

The goal of this thesis is to come to some response about these questions and to come to a conclusion as to the relationship between Rabbi Tarfon and Trypho the Jew. This will be accomplished by first looking at the previous arguments made by various scholars as to the likelihood of Rabbi Tarfon and Trypho being the same person. Scholars have attempted to come to some conclusions about this matter by looking at the literary nature of the writings attributed to both figures. They have also tried to form conclusions based on etymological

arguments. Scholars have also analyzed the historical accuracy of the claim that Tarfon and Trypho are one and the same, examining both the locations and times at which both Justin Martyr and Rabbi Tarfon lived. All of these arguments will be analyzed and taken in to account.

Next, this thesis will analyze the text of Justin Martyr's *Dialogue*, especially focusing on the sections where Trypho speaks. The language Trypho uses in the *Dialogue* and the topics that he chooses to engage in indicate a tremendous amount about his character. A cursory biography and character analysis can be made based on his theology as presented in the *Dialogue*.

The following section, and the bulk of this thesis, will analyze the writings attributed to Rabbi Tarfon. This thesis will explore the forty-eight mishnaic passages attributed to Rabbi Tarfon as well as a comprehensive selection of eighteen passages from the Tosefta, three *baraitot* from each Order, for comparison. By comparing both the Mishnah and Tosefta, one is able to make certain claims about Rabbi Tarfon. If both the texts present a similar view of Rabbi Tarfon, one may claim that the Rabbi Tarfon is not just a vehicle used by the redactor or redactors of the Mishnah or Tosefta to produce a certain point of view but rather a real historical character. Through examining these texts, this thesis intends to make a clear characterization of Rabbi Tarfon by plotting his areas of interest and where he was reputed to be stringent and lenient. If different documents portray his opinion in the same way, we will conclude that attributions to a real Rabbi Tarfon are relatively accurate. If his views are portrayed differently in Mishnah and Tosefta, there is the likelihood that each document's author or redactor used Tarfon as a representative of the author's or redactor's views.

Finally, this thesis will conclude by comparing the character of Rabbi Tarfon as presented in the tannaitic texts with the character of Trypho as presented in Justin Martyr's *Dialogue*. In this way we will attempt to come to some conclusions as to whether the two characters are related in any way.

## **Previous Scholarly Arguments Regarding Trypho's Identity as Rabbi Tarfon**

Before examining in close detail both Justin Martyr's *Dialogue with Trypho the Jew* and the collected tannaitic works attributed to Rabbi Tarfon, it is first worthwhile to examine why scholars have made the claim in the past that the character of Trypho is meant to be Rabbi Tarfon. As mentioned earlier, there are four main areas of argument as to why Trypho is often considered Rabbi Tarfon. First, there is a clear etymological connection between the two names. Trypho can very easily be read as a Hellenized version of the Hebrew name, Tarfon. Second, there is a historical argument. Scholars argue that Justin Martyr and Rabbi Tarfon lived at the same time and in similar locations. Therefore they could easily have met and had contact with each other. At least they may have heard of one another. Third, there is the common argument that Rabbi Tarfon vehemently hated Christians and therefore was the perfect candidate for a theological debate between Judaism and Christianity. And finally, scholars have made the argument that Justin Martyr's Trypho could be Rabbi Tarfon based on analysis of the language and subject matter that both Trypho and Tarfon use.

As will be shown, it seems, however, that most of these claims are based on circumstantial evidence and any clear linkage of the two characters is merely speculative.

## **Etymological**

The Hebrew language is essentially a consonantal language. The *nikkudot* or vowels were not added until at least the 7<sup>th</sup> century under the Masoretes. Therefore any sort of transliteration between Hebrew and other languages such as Greek can always encounter some derivation due to the use of two different alphabets. The Hebrew vocalization of

טרפון can easily be read as either Tarfon or Tryphon or a number of other vowel combinations. It is no surprise then that early scholars equated the names Tarfon and Trypho, or often written as Tryphon, because of their consonantal relationship, owing the vowel inconsistencies to a transliteration mistake.

The Tarfon-Trypho connection would then be a logical conclusion if they were the only two people in tannaitic times with that name. However, a cursory look at Catholic Encyclopedia and Jewish Encyclopedia reveals that there were numerous other characters named Tryphon from the same time period and geographic region.

St. Tryphon Zarezan, Tryphon the Trimmer, born 225 CE in Phrygia, modern-day Turkey, was a Christian healer and is now the Eastern Orthodox patron saint of wine. There is also a Tryphon (ca. 60 BCE-10 BCE) who was a Greek grammarian living and working in Alexandria.<sup>1</sup> And there was also Diodotus Tryphon, the king of the Hellenistic Seleucid kingdom in 143 BCE.<sup>2</sup> And finally there is also a brief mention from Josephus' *Antiquities* (XX, 1) of Tryphon, Son of Theudion; one of the four envoys sent by the Jews in 45 CE to petition Emperor Claudius that the high-priestly vestments might remain in the possession of the Jews.<sup>3</sup>

All of these various Tryphons in the region of Israel and within a few hundred years of Rabbi Tarfon and Justin Martyr's Trypho suggest that this name was not that uncommon.

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<sup>1</sup> Herbermann, Charles George, ed., *Catholic Encyclopedia*, (New York: Robert Appleton Company, 1913), s.v. Tryphon

<sup>2</sup> Louis Ginsberg, *Jewish Encyclopedia*, (New York: Funk and Wagnalls, 1905), s.v. Antiochus VI

<sup>3</sup> Isador Singer, *Jewish Encyclopedia*, s.v. Tryphon



Therefore there is no reason to not assume that Justin Martyr merely chose the name Trypho for his character without any thought its relationship to the famous mishnaic sage, Rabbi Tarfon.

## **Historical**

The next area of interest for scholars in the Tarfon-Trypho debate has been the historical accuracy of there being an actual meeting of Justin Martyr and Rabbi Tarfon. It is not that surprising that scholars have made the Tarfon-Trypho connection since one of the earliest church historians alludes to this connection.

The Christian historian, Eusebius, in the 4<sup>th</sup> book of his *History of the Church*, chapter 18:6, writes that, “He [Justin Martyr] composed also a dialogue against the Jews, which he held in the city of Ephesus with Trypho, a most distinguished man among the Hebrews of that day.” Eusebius refers to Trypho as an important Jew but does not specifically relate him with any particular rabbi. Also, Eusebius’ history, written in c. 290 CE, was written well after Justin Martyr’s life and cannot be taken as entirely accurate.

According to the first chapter in the *Dialogue*, the character of Trypho, “having escaped from the war [the Bar Kokhba revolt]” meets Justin on the road. Justin Martyr is commonly dated as living c. 100-165 CE and Rabbi Tarfon is often dated c. 70-135 CE, having lived from destruction of the Second Temple until the fall of Betar.

According to James Kugel, however, "The *Dialogue* is set in the wake of the Bar Kokhba revolt (132-135 CE) but was probably written around 150 CE."<sup>4</sup> Justin probably wrote the *Dialogue* much later, well after the death of Rabbi Tarfon.

According to Larry Heyler, the dating may also be off in regard to Rabbi Tarfon, and the meeting between Justin and Tarfon may not have been possible.

Traditionally, Trypho has been equated with Rabbi Tarfon. This identification, however, seems improbable, since Tarfon is said to have served as a priest at Jerusalem before its destruction in A.D. 70. This would make him much too old to have debated Justin in about A.D. 135. Most scholars accept that Trypho is a fictional character created to suit Justin's literary purpose<sup>5</sup>

According to Heyler, Tarfon and Justin could never have met because he would have been too old in 135 CE after the Bar Kokhba revolt. This is based on the idea that priests had to be 30 before they could work at the Temple. It says in Numbers 4:1-3:

And the LORD spoke unto Moses and unto Aaron, saying: Take the sum of the sons of Kohath from among the sons of Levi, by their families, by their fathers' houses, **from thirty years old** and upward even until fifty years old, all that enter upon the service, to do work in the tent of meeting.

Therefore if Rabbi Tarfon served in the Temple he would have been at least 95 when he met Justin on the road. This is highly improbable as the average lifespan in late antiquity was much younger. The only problem with Heyler's argument, however, is that he bases the idea that Rabbi Tarfon served in the Temple on a talmudic statement. In the Jerusalem Talmud, Yoma 3.7, Rabbi Tarfon is purported to have served in the Temple. This later

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<sup>4</sup> James L Kugel, *Traditions of the Bible*, (Cambridge: Harvard University Press, 1998), p. 923

<sup>5</sup> Larry R Helyer, *Exploring Jewish Literature of the Second Temple Period*, (Downer Grove, IL: Inter-Varsity Press, 2002), p. 493

amoraic statement has no corollary in the Mishnah, Tosefta or any other earlier source and therefore cannot be verified to be as an historical account in any way.

### **Tarfon as Anti-Christian**

The next basis for argument relating Rabbi Tarfon and Justin Martyr's Trypho is based on the concept that Rabbi Tarfon was particularly anti-Christian. In referring to the *Dialogue*, Lawrence Schiffman writes, "The debate shows that the theological battle lines had already been drawn between Jews and Christians by the mid-second century C.E., and Christian hostility to Judaism was already normative."<sup>6</sup> There was clearly anti-Jewish sentiment occurring, as can be seen in the entire *Dialogue* but was there a true anti-Christian sentiment coming from the rabbis and especially Rabbi Tarfon?

The text that is often quoted for this argument is Shabbat 116a from the Babylonian Talmud but the same text is also found in a tannaitic source, which will be examined in more detail later in this thesis, Tosefta Shabbat 13.5.

R. Tarfon said, "May I bury my sons if I would not burn them [the books of the *minim*] together with their Divine Names if they came to my hand. For even if one pursued me to slay me, or a snake pursued me to bite me, I would enter a heathen temple [for refuge], but not the houses of these [people], for the latter know [of God] yet deny [Him], whereas the former are ignorant and deny [Him]."

According to this statement above, Rabbi Tarfon would probably not have actually engaged in dialogue with Justin. He would not even, "enter the houses of these [people]," if

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<sup>6</sup> Lawrence H Schiffman, *Texts and Traditions: A Source Reader for the Study of Second Temple and Rabbinic Judaism*, (Hoboken: Ktav, 1998), p. 418

his life depended on it and therefore would presumably never sit down and talk to a Christian for two days.

However, if this statement or these attitudes of the famous Rabbi Tarfon were known to Justin, Tarfon would have been a clear choice of characters for Justin to portray in a fictional account to give his apologetic more power. At the end of the *Dialogue* (chapter 142), the character of Trypho says,

You see that it was not intentionally that we came to discuss these points. And I confess that I have been particularly pleased with the conference; and I think that these are of quite the same opinion as myself. For we have found more than we expected, and more than it was possible to have expected. And if we could do this more frequently, we should be much helped in the searching of the Scriptures themselves. But since you are on the eve of departure, and expect daily to set sail, do not hesitate to remember us as friends when you are gone.

If the character of Trypho was meant by Justin Martyr to be Rabbi Tarfon, imagine how convincing Justin's argument and the argument of Christianity in general must have been to get the great Christian hater, Rabbi Tarfon, to reform his ways and embrace his brethren.

The main problem with this anti-Christian argument, however, is the translation of the word Hebrew word *minim*. Often translated as Christian, heretic, sectarian or one of the many specific sects during the first and second centuries, the meaning of the word cannot be certain. Reuven Kimmelman, in an article on the *birkat haminim*, claims that the term does not mean Christian at all and merely refers to any rival group to the rabbis.<sup>7</sup> If this is the case

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<sup>7</sup> Reuven Kimelman, "Birkat Ha-Minim and the Lack of Evidence for an Anti-Christian Jewish Prayer in Late Antiquity," *Jewish and Christian Self-Definition: Volume Two*, E.P. Sanders, A.I. Baumgarten and Alan Mendelson, eds., (Philadelphia: Fortress Press, 1981), pp. 226-244

than any claim that Rabbi Tarfon was anti-Christian is unfounded and any connection to Trypho based on this claim has little merit.

## **Content**

The strongest case for the Tarfon-Trypho connection in relation to the content of their respective attributed writings comes from Rabbi Herbert A. Opalek. Rabbi Opalek, who is now Pastor and CEO of Merced Country Rescue Mission in Merced, California, makes many claims about the linkage of Rabbi Tarfon and Trypho the Jew in a lecture he delivered at the Philadelphia Divinity School.

There are some quotes of Trypho that only a learned rabbi might utter; some are even traceable in style and form to Tarfon-utterances. Examples will be given in a forthcoming article by H. Opalek, "The Actuality of Early Jewish-Christian Dialogue."<sup>8</sup>

Although this forthcoming article never appeared and Opalek gives no clear examples in this lecture, this thesis will look at any comments of Trypho that appear to originate with Tarfon.

“In the *Dialogue* 85.6, a friend of Trypho is named as Mnaseas (Menashe?)”<sup>9</sup> This claim by Opalek is as vague as the earlier etymological one. Menashe was a common name. Just because Trypho has a friend by that name says nothing as to the Tarfon-Trypho

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<sup>8</sup> Rabbi Herbert A Opalek, “The Tannaitic and Amoraic Corpora Re-examined and Their Usage in the Study of Christian Origins,” *Philadelphia Seminar on Christian Origins: Volume 8*, Philadelphia Divinity School Library, Meeting of April 6, 1971, 7 p.m.

<sup>9</sup> Ibid.

connection. Furthermore, Tarfon is never in dialogue in any of his attributed tannaitic works with anyone named Menashe.

Justin could have named such greater rabbis as Akiva or Gamliel if he were fabricating. The use of an unknown name lends authenticity to the actuality of a meeting.<sup>10</sup>

Again, this argument seems purely speculative. This is circumstantial evidence to say the least. Menachem Hirshman also agrees that this content-based argument has little merit.

Not surprisingly, then, the teachings of the Jewish sages are cited by Justin rather than by Trypho, as we might have otherwise expected. Justin's goal is to drive a wedge between the educated, inquisitive Jews represented by Trypho, and the 'sages' and leaders of the Jews. Justin says so almost explicitly, at the end of the work: 'setting a higher value on the Christ of the Almighty God than on *your own teachers*' (142:2, emphasis mine). Note that, this sentence alone constitutes sufficient evidence against attempt of some scholars to identify Trypho with the famous R. Tarfon. As I have tried to show, Trypho is a pale character, unimpressive in his knowledge of Jewish teachings.<sup>11</sup>

Hirshman makes a very valuable point, that nowhere in the *Dialogue* does Trypho appear to be especially authoritative in any of his remarks. Yes, he is educated in the Bible but there were plenty of educated Jews who were not rabbis.

It appears clear from the above review of literature that any previous claims that Rabbi Tarfon and Trypho the Jew from Justin Martyr's *Dialogue* were merely speculative and lacking any substantial evidence. However, the rest of this thesis will analyze the

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<sup>10</sup> Ibid.

<sup>11</sup> Menchem Hirshman, *A Rivalry of Genius : Jewish and Christian Biblical Interpretation in Late Antiquity*, (Albany: State University of New York Press, 1996), p. 34

attributed works of Rabbi Tarfon and the language of Trypho in the Dialogue to come to some unbiased conclusions about the traits of both characters.

## **Justin Martyr, his Teachings, and the Role of Trypho the Jew in the Dialogues**

In this section of the thesis I will attempt to analyze the character of Trypho the Jew by examining selected statements made by Trypho in Justin Martyr's *Dialogue*. This section will begin, however, first with a brief biography of Justin Martyr to set the stage for the analysis of the *Dialogue*. This section will look at Justin Martyr's life, his *Dialogue with Trypho the Jew* as a whole text and his overall theology and philosophy based on the *Dialogue*. By first examining in detail the life, the works, and theology of Justin Martyr, one is better able to understand the specific statements of Trypho in context. Finally, this section will conclude with specifically chosen texts which will I will interpret in light of the earlier analyses.

### **The Life of Justin Martyr**

Justin Martyr was born around the year 100 CE. He came from a Greek-speaking, Roman pagan family living in Flavia Neapolis near Shechem in Samaria.<sup>12</sup> In the first few chapters of the *Dialogue*, Justin writes of how he searched for truth, attaching himself to a succession of philosophical schools: Stoicism, Aristotelianism, Pythagoreanism and Platonism. Finally around 130 CE,<sup>13</sup> according to the *Dialogue* (chapter 2), he met an old man while walking on the seashore at Ephesus who pointed out some of the weaknesses in

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<sup>12</sup> Robert M Grant, *Greek Apologists of the Second Century*, (London: SCM, 1988), p. 50

<sup>13</sup> Ibid. p. 57



his Platonic system. He showed Justin how the Old Testament predicted the coming of Christ, but it was seeing the courage of the Christian martyrs that finally convinced him.

During the reign of Antoninus Pius (138-161 CE) Justin ministered in Rome, founding a school that attracted a wide variety of students, including Tatian from Nisibis in Assyria, Irenaeus from Smyrna, and Theophilus from near the Euphrates. There he vigorously opposed the Cynic philosopher Crescens, the Gnostic Valentinians, the Marcionites, and the Jews.<sup>14</sup> Justin earned his surname when he perished during the persecution of Christians by Marcus Aurelius (121-180 CE) in about 165 CE.<sup>15</sup>

## Works

Justin Martyr wrote many theological works but he is most known for his three largest works, *First Apology*, *Second Apology*, and the *Dialogue with Trypho the Jew*, all essentially defenses of Christianity. The date of the writing of the *Apologies* is said to be somewhere between 153 and 155 CE.<sup>16</sup> The *Dialogue* is certainly later than the *Apologies* to which it refers in chapter 120. It seems, moreover, from this same reference that the emperors to whom the *Apologies* were addressed were still living when the *Dialogue* was written. This places it somewhere before 161 CE, the date of the death of Antoninus.

The *Apologies* and the *Dialogue* are difficult to analyze, for Justin's method of composition is free and capricious, and defies habitual rules of logic. The *Dialogue* is much

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<sup>14</sup> Philip Carrington, *The Early Christian Church, Vol. 2*, (Cambridge: CUP, 1957), pp. 101-102

<sup>15</sup> L W Barnard, *Justin Martyr, His Life and Thought*, (Cambridge: CUP, 1967), p. 13

<sup>16</sup> Ibid. p. 24

longer than the two *Apologies* put together and the abundance of exegetical discussions makes any analysis particularly difficult. The following points, however, are a concise, rough outline of the text in its entirety.

#### Chapters 1-9 - Introduction

Justin gives the story of his philosophic education and of this conversion. He explains that one may know God only through the Holy Ghost, the soul is not immortal by its nature and to know truth it is necessary to study the Prophets.

#### Chapters 10-30 - On the law.

Trypho reproaches the Christians for not observing the law. Justin replies that according to the Prophets themselves the law should be abrogated. It had only been given to the Jews on account of their hardness of heart. Justin continues by asserting the superiority of the Christian circumcision of the heart, necessary even for the Jews.

#### Chapters 31-108 - On Christ

Justin explains and attempts to prove multiple aspects of the nature of Christ: his two comings, the law as a prefiguring of Christ, the Divinity and the pre-existence of Christ proved by the Old Testament, the virginal conception, the death of Christ foretold and his resurrection.

#### Chapters 109 - 142 - On the Christians

Finally, Justin concludes with the notion of Christians as a holier people than the Jews; promises were made to them as they were prefigured in the Old Testament. The *Dialogue* concludes with wishes for the conversion of the Jews.

## **Doctrine**

Most scholars agree that Justin Martyr was verbose, confused, inconsistent and often not convincing in his arguments. Nevertheless, he is an important figure in the history of the Church. As he says in the *Dialogue* (chapter 100) Christianity was for him, "Theoretically, the true philosophy, and, practically, a new law of holy living and dying."

In recent years the traditional view that Justin's theology was dominated by his philosophical background has been questioned. His view of creation was very much influenced by Platonism. He used philosophy as a tool to spread orthodox Christianity, rather than translate Christianity into an academic philosophical system.<sup>17</sup>

Justin used allegory extensively in his writings, but it was the Palestinian allegory of the rabbis rather than the Alexandrian allegory of Philo. Given that Justin was born in Samaria this it is not really surprising. For Justin, the key to understanding the Old Testament was Christ and his Christocentric interpretation meant that the meaning of the original writers was considered unimportant.<sup>18</sup>

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<sup>17</sup> Theodore Stylianopoulos, "Justin Martyr," Everett Ferguson, ed., *Encyclopedia of Early Christianity*, (New York: Garland Press, 1990), p.515.

<sup>18</sup> William A Shotwell, *The Biblical Exegesis of Justin Martyr*, (London: SPCK, 1965), p. 40

Using specific examples from the *Dialogue*, the next section will further investigate the specifics of Justin Martyr's apologetical method and his doctrine, including his view on philosophy, revelation, the Bible, God, Jesus and the Holy Spirit.

### **Justin and philosophy**

Justin's chief reproach to the philosophers is their mutual divisions; he attributes this to the pride of the heads of sects and the servile acquiescence of their adherents; and he clearly states in chapter 6, "I care neither for Plato nor for Pythagoras." He concludes that for the pagans philosophy is not a serious or profound thing. Neither life nor action depends on it.

"You are a friend of discourse", says the old man to him before his conversion, "but not of action nor of truth" (chapter 4). For Platonism he retained a kindly feeling as for a study dear in childhood or in youth. Yet he attacks it on two essential points: the relation between God and man, and the nature of the soul (chapter 3).

### **Justin and Christian revelation**

That which Justin despairs of attaining through philosophy he is now sure of possessing through Jewish and Christian revelation. He admits that the soul can naturally comprehend that God exists, just as it understands that virtue is beautiful (chapter 4). He denies, however, that the soul without the assistance of the Holy Ghost can see God or contemplate God directly through ecstasy, as the Platonic philosophers contended. "We cannot know God as we know music, arithmetic or astronomy" (chapter 3); it is necessary

to know God, not with an abstract knowledge, as someone like Maimonides might argue, but as with a person with whom one has a human relationship. The problem which seems impossible to solve is settled by revelation; God spoke directly to the Prophets, who in their turn made God known to God's people (chapter 8).

## **The Bible**

Justin strongly believes in the divinity of the Bible, both the Hebrew Bible and New Testament. In keeping with general Christian thought, Justin views the Hebrew Bible through the lens of Christ. He quotes the Pentateuch often and liberally, especially Genesis, Exodus, and Deuteronomy. Nevertheless, he quotes Psalms and the books of prophesy, especially Isaiah, still more frequently and at greater length.

## **Apologetical Method**

Justin's chief argument, and one calculated to convert his listeners as it had converted him, is the great new fact of Christian morality. He speaks of men and women who have devotion to their children, charity even towards their enemies, a desire to save others (chapter 133), patience and prayers amidst persecution (chapter 18), and a love of mankind (chapters 93 and 110). Justin finds rational evidences for Christianity in the Prophets, especially Isaiah. When arguing with pagans, as is the case in the *Apologies*, Justin must first prove the divinity and authority of his proof texts. However, in the *Dialogue*, arguing with Jews, he can assume this divinity, which they also recognize, and therefore can invoke Scripture as sacred oracles. For him, the evidence of the prophecy is absolutely certain. "Listen to the

texts which I am about to cite; it is not necessary for me to comment upon them, but only for you to hear them" (chapter 53). Nevertheless he recognizes that only Christ could have given the explanation and fulfillment of the Old Testament (chapters 76 and 105). In order to understand Scripture, one must have the interior dispositions that make the true Christian (chapter 112), i.e., divine grace is necessary (chapters 7, 58, 112 and 119). He also appeals to miracles (chapters 7, 35 and 69), but with less insistence than he does to the prophecies.

## **God**

Justin's teachings concerning God have been very diversely interpreted, some seeing in it nothing but philosophic speculation. In reality it is possible to find in it these two tendencies. On one side the influence of philosophy betrays itself in his concept of the Divine transcendency. Thus God is above the heavens. He can neither be seen nor enclosed within space (chapters 56, 60 and 127).

On the other hand, we see the God of the Bible as an all-powerful and merciful God (chapter 84). If God ordained the Sabbath it was not that God had need of the homage of the Jews, but that God desired to attach them to God's self (chapter 22). For Justin, the great duty of man is to love God (chapter 93).

## **The Logos**

The Logos or Word is both Justin's and the common Christian expression of Christ. He is numerically distinct from the Father (chapters 128-129). He was born of the very substance of the Father, not that this substance was divided, but He proceeds from it as one

fire does from another from which it is lit. The Word is God (chapters 34, 76, 86, 113, 115, 126 and 128). The Father engendered Him by a free and voluntary act (chapters 61, 100, 127 and 128), at the beginning of all His works (chapters 61-62). Through the Word, God has made everything (chapter 114). And according to Justin, it was the Word who appeared to the patriarchs (chapters 59 and 60).

Justin insists on the reality of the flesh of Christ (chapters 48, 98 and 103). He states that among the Christians there are some who do not admit the Divinity of Christ but they are a minority; he differs from them because of the authority of the Prophets (chapter 96); the entire *Dialogue*, moreover, is devoted to proving this thesis. Christ is the Master whose doctrine enlightens all (chapters 8, 77, 83, 100 and 113), and also the Redeemer whose blood saves all. (chapters 13, 40, 41 and 95)

### **The Holy Ghost**

For Justin, and for all other Christians, the Holy Ghost occupies the third place in the Trinity. He inspired the prophets (chapter 7). The Holy Ghost gave seven gifts to Christ and descended upon Him (chapters 87-88). As will be seen in the following section, Justin also insists constantly on the virgin birth and the involvement of the Holy Ghost in it. (chapters 43, 76, and 84)

This biography of Justin Martyr is very important as a subtext when continuing into the next section of this chapter. In the following section, various texts attributed by Justin Martyr to Trypho the Jew will be analyzed. Taking in to account Justin Martyr's theology

and the context in which this *Dialogue* was written, a characterization of Trypho can be made.

### **Selected texts from the Dialogue**

Although Justin Martyr speaks about many facets of Christianity in his *Dialogue with Trypho the Jew*, there are only some selected areas to which Trypho responds or questions in a substantial manner. As mentioned above, in the *Dialogue* Justin discusses philosophy, revelation, the Bible, ritual law, morality, and the Trinity. Trypho as portrayed by Justin, however, deals mainly with the issues of the messiah and with the importance of *mitzvot*. Obviously these would be the two issues that would most be of interest to a Jew debating a Christian over which religion is right and true. The observance of ritual *mitzvot*, or lack thereof, was the most significant practical distinction between early Christianity and Judaism. The belief in a divine messiah born of a virgin and said to be the son of God was the most significant theological belief that separated early Christianity from Judaism. Therefore, it seems only logical that these two areas, one regarding action and the other regarding belief, would be the points of debate between Trypho and Justin. It is also worthwhile to note that although the nature of biblical interpretation is not a specific area to which Trypho and Justin Martyr dialogue, it is a constant thread running through their discourse.

For a text that is titled, *The Dialogue with Trypho the Jew*, Trypho speaks surprisingly little. In general Justin speaks much more than Trypho, and when Trypho does speak he is portrayed as asking questions of clarification or questions of a goading nature. In the 142 chapters of the *Dialogue*, Justin often speaks for four or five chapters continuously before we



find a response from Trypho. A prime example of this one-sided dialogue is this first text from chapter 115:

**Chapter 115**

As Trypho was about to reply and contradict me, I said, “Wait and hear what I say first: for I am not to give the explanation which you suppose...”

In this text, Justin has been speaking continuously since chapter 94 with only a few brief interludes such as, “When I had said these words, I continued” (chapter 99); or, “When I had finished these words, I continued” (chapter 110). This style of dialogue, with Justin speaking for 10 to 20 chapters interrupted by a short response from Trypho is very common in the *Dialogue*.

In this specific chapter, Justin is proving that Ezekiel and Isaiah predicted the coming of Christ. In previous chapters, Trypho was sometimes „allowed“ to speak and ask a critical question usually relating to Justin’s interpretation of the Scripture, however in this chapter Justin does not even allow Trypho to speak. Justin assumes Trypho’s question by deducing it from previous arguments made when using proof texts from Isaiah in earlier chapters. If Trypho is merely a character created by Justin to serve as a rhetorical tool than this is of little concern as it is unimportant to Justin’s agenda whether Trypho asks the question or does not. Either way, Justin is given an opportunity to state his proof.

**Messiah**

The next set of quotes from Trypho the Jew all relate to the theme of the messiah. In the following texts Trypho is critical of the idea of Jesus’ divinity, virgin birth, ancestry from

King David, and second coming. All of these issues related to the nature of the messiah are the fundamental dividing lines between Jews and Christians in terms of belief.

#### **Chapter 67**

And Trypho answered, "The Scripture has not, „Behold, the virgin shall conceive, and bear a son," but, „Behold, the young woman shall conceive, and bear a son..."

In this text from chapter 67 Trypho is commenting on Justin's translation of Isaiah 7:14. Justin, as is consistent with his view of the Bible, sees this line in Isaiah as a clear proof text relating to the messiah's virgin birth. This common Christian view originated with the Septuagint's translation of the Hebrew word, *'alma*, as *parthenos*, the Greek word for virgin. This was then taken by Matthew (1:23) as a clear sign that Jesus, born of virgin birth, was the messiah. Justin is clearly picking up on this argument put forth by Matthew with which he would have been well acquainted.

Trypho, however, translates, *'alma*, as "young woman," a translation more true to the original Hebrew text. The entire *Dialogue* takes place in Greek as it was the vernacular of the age. Justin was presumable not very knowledgeable in Hebrew and was only acquainted with the Bible in its Greek Septuagint form. Trypho, however, seems to be very well versed in Hebrew, something not to be taken for granted as many common Jews of this time were both illiterate or did not know Hebrew. From this one may deduce that if the character of Trypho is real, he was part of the intellectual elite of the Jewish people.

#### **Chapter 87**

Trypho said, "Tell me, then, how, when the Scripture asserts by Isaiah, „There shall come forth a rod from the root of Jesse; and a flower shall grow up from the root of Jesse; and the Spirit of God shall rest upon Him, the spirit of wisdom and understanding, the spirit of counsel and might, the spirit of knowledge and piety: and the spirit of the fear of the Lord shall fill Him:" (now you admitted to me," continued he, "that this referred to Christ, and you maintain Him to be pre-existent God, and having become incarnate by God's will, to be born man by the Virgin:) how He can be demonstrated to have been pre-existent, who is filled

with the powers of the Holy Ghost, which the Scripture by Isaiah enumerates, as if He were in lack of them?”

In this next argument, Trypho is using a biblical quotation from Isaiah 11:1 to try and pick up on some of the inconsistencies in Justin’s argument. Specifically, he is focusing on the question of how Christ can be both from a virginal birth, and at the same time be from the house of King David as attested to in the Isaiah text. Again, as in the previous text, Trypho, whether a real character or not, plays the role of the devil’s advocate. He picks up on the main areas of disagreement in belief between Judaism and Christianity and especially those areas that are often cited by Jews as inconsistencies in Christian theology. Trypho is the perfect „set-up man“ for Justin, allowing him to speak verbosely about how Jesus can be both from a virginal birth and from lineage of King David.

#### **Chapter 49**

And Trypho said, “Those who affirm him to have been a man, and to have been anointed by election, and then to have become Christ, appear to me to speak more plausibly than you who hold those opinions which you express. For we all expect that Christ will be a man [born] of men, and that Elijah when he comes will anoint him. But if this man appear to be Christ, he must certainly be known as man [born] of men; but from the circumstance that Elijah has not yet come, I infer that this man is not He [the Christ].”

In this next text relating to the notion of Jesus as the messiah, Trypho takes issue with the whole idea of a divine messiah, meaning a messiah who is the actual son of God and not just an ordinary man as fitting with the standard Jewish perspective. Trypho, maintaining this standard Jewish perspective, believes that a non-divine messiah will come someday. It appears that Trypho, although antagonistic towards Justin and Christians that believe in a Jesus as the son of God, is acceptable of those Christian sects that viewed Jesus as a human messiah.

Trypho also alludes to the idea that Jesus cannot be the messiah because he was not ushered in by Elijah, who according to Malachi 3:19, will anoint the messiah.

#### **Chapter 80**

And Trypho to this replied, "I remarked to you sir, that you are very anxious to be safe in all respects, since you cling to the Scriptures. But tell me, do you really admit that this place, Jerusalem, shall be rebuilt; and do you expect your people to be gathered together, and made joyful with Christ and the patriarchs, and the prophets, both the men of our nation, and other proselytes who joined them before your Christ came?"

In this final text on messianism, Trypho takes issue with the idea that Jerusalem will be rebuilt and that all Christians will be gathered together there during the eschaton, i.e. the second coming of Christ. It is unclear whether Trypho is opposing the idea of Jerusalem being rebuilt in general, an idea that is completely contrary to classical rabbinic thought, or just the idea of Jerusalem being rebuilt as a Christian capital. This cynical view is perhaps the product of having come from the recent Bar Kokhba revolt, a common feeling of hopelessness after a major catastrophe much like the feelings portrayed in the book of Lamentations.

#### **Ritual Law**

The next three texts shed light on the other main area that Trypho is interested in, namely, *mitzvot*. In these quotations, Trypho chastises Justin for believing in the Bible but not following any of its ritual law. He is especially concerned with the laws of Shabbat and circumcision.

#### **Chapter 10**

"This is what we are amazed at," said Trypho, "but those things about which the multitude speak are not worthy of belief; for they are most repugnant to human nature. Moreover, I am aware that your precepts in the so-called Gospel are so wonderful and so great, that I suspect

no one can keep them; for I have carefully read them. But this is what we are most at a loss about: that you, professing to be pious, and supposing yourselves better than others, are not in any particular separated from them, and do not alter your mode of living from the nations, in that you observe no festivals or Sabbaths, and do not have the rite of circumcision; and further, resting your hopes on a man that was crucified, you yet expect to obtain some good thing from God, while you do not obey His commandments. Have you not read that that soul shall be cut off from his people who shall not have been circumcised on the eighth day? And this has been ordained for strangers and for slaves equally. But you, despising this covenant rashly, reject the consequent duties, and attempt to persuade yourselves that you know God, when, however, you perform none of those things which they do who fear God. If, therefore, you can defend yourself on these points, and make it manifest in what way you hope for anything whatsoever, even though you do not observe the law, this we would very gladly hear from you, and we shall make other similar investigations.”

In this selection from chapter 10, Trypho accuses Justin and Christians in general of claiming to worship and fear God, yet not keeping to any of God’s laws. Trypho questions how Justin on one hand can use the Bible to prove the legitimacy of Jesus yet not follow biblical law. Trypho is particularly concerned with the laws of circumcision or *brit milah*. He incorrectly makes it seem that circumcision for slaves and strangers is required by the Torah when in fact it is mostly in relation to partaking of the Passover offering. He also mentions that the Christians do not follow the Jewish calendar, including not observing the Sabbath, but focuses on the rite of circumcision as the most important aspect of Jewish law to be followed. Perhaps this emphasis is based on the physicality of circumcision that so very clearly defines who is and who is not Jewish. Besides the spiritual aspect, circumcision is a symbol for God’s unique covenant with the Jewish people. This emphasis may also appear here because circumcision is one of the earliest Jewish ritual practices, dating back to Abraham. This idea will be reiterated in chapter 46 (see below).

It is interesting that all of the above laws and all laws that Trypho speaks about are biblical. Nowhere in the *Dialogue* does Trypho speak about laws *d’rabban*, from the rabbis.

The fact that we see no *halakhah* in these interchanges, and even some errors in regular Jewish interpretation of Scripture, indicates that Trypho may not have been a rabbinic Jew and certainly not a rabbi.

Another very interesting point in this text is that Trypho claims to have read the Gospels. Trypho claims that there is no way that all Christians are able to keep all the precepts prescribed in Gospels. Trypho is clearly knowledgeable in the Hebrew Bible, but the fact that he also has knowledge of the Gospels suggests he is quite liberal in some regards. This may have already been evident as he is willing to engage in dialogue with a Christian.

Finally, in this text, Trypho is also making an important claim about the nature of biblical interpretation. It seems that according to Trypho, one cannot „pick and choose“ which parts of the Bible they choose to follow. For Trypho, one must completely believe and observe everything in the Bible, following the law to the fullest extent possible, in order to truly “obtain some good thing from God.”

**Chapter 27**

And Trypho said, “Why do you select and quote whatever you wish from the prophetic writings, but do not refer to those which expressly command the Sabbath to be observed? For Isaiah thus speaks: „If you shall turn away your foot from the Sabbaths, so as not to do your pleasure on the holy day, and shall call the Sabbaths the holy delights of your God; if you shall not lift your foot to work, and shall not speak a word from your own mouth; then you shall trust in the Lord, and He shall cause you to go up to the good things of the land; and He shall feed you with the inheritance of Jacob your father: for the mouth of the Lord hath spoken it.”

In this text, Trypho uses the classic argument from the Shakespeare’s *Merchant of Venice*, that „even the devil can quote scripture for his own end.” Trypho is arguing that Justin only chooses to quote those biblical sources that agree with his belief system. By

quoting Isaiah (58:13-14), a prophet whom Justin quotes extensively, Trypho has very cleverly shown that *mitzvot*, in this case Sabbath observance, is just as important as any prophecies about the future messiah.

Again, it is interesting to note that Trypho focuses specifically on Sabbath observance as opposed to any other *mitzvah* about which Isaiah speaks. Perhaps this is because like circumcision, Sabbath observance was such an overt and distinctive sign that clearly delineated one as Jewish. No other group observed a Sabbath in antiquity, and for Jews the Sabbath has a special significance as a sign between God and the Jewish people. Whatever the reason, one can say that Trypho is particularly interested in the subjects of Shabbat and *brit milah* as he confronts Christianity.

#### **Chapter 46**

“But if some, even now, wish to live in the observance of the institutions given by Moses, and yet believe in this Jesus who was crucified, recognizing Him to be the Christ of God, and that it is given to Him to be absolute Judge of all, and that His is the everlasting kingdom, can they also be saved?” he inquired of me.

And I replied, “Let us consider that also together, whether one may now observe all the Mosaic institutions.”

And he answered, “No. For we know that, as you said, it is not possible either anywhere to sacrifice the lamb of the Passover, or to offer the goats ordered for the fast; or, in short, [to present] all the other offerings.”

And I said, “Tell [me] then yourself, I pray, some things which can be observed; for you will be persuaded that, though a man does not keep or has not performed the eternal decrees, he may assuredly be saved.”

Then he replied, “To keep the Sabbath, to be circumcised, to observe months, and to be washed if you touch anything prohibited by Moses, or after sexual intercourse.”

And I said, “Do you think that Abraham, Isaac, Jacob, Noah, and Job, and all the rest before or after them equally righteous, also Sarah the wife of Abraham, Rebekah the wife of Isaac, Rachel the wife of Jacob, and Leah, and all the rest of them, until the mother of Moses the faithful servant, who observed none of these [statutes], will be saved?”

And Trypho answered, “Were not Abraham and his descendants circumcised?”

In this final text on the theme of observance of the ritual law Trypho and Justin argue back and forth. The chapter begins with Trypho asking whether one can be saved even if he or she observes ritual *mitzvot*. Justin then responds without truly answering Trypho’s question, but by asking a question of his own, “Can one even observe all of the laws anymore?” Trypho responds that the laws related to the Temple, i.e. offerings, can no longer be observed post-destruction. Justin then asks which commandments can still be kept. Again it is interesting to note the specific laws that Trypho is interested in. He mentions the two that have come up throughout the *Dialogue*, Shabbat observance and circumcision. But to this list, he also adds: “...observing months,” that is, *Rosh Chodesh*, and washing, presumably speaking about ritual purity and the use of a *mikveh*.

#### **Chapter 79**

On this, Trypho, who was somewhat angry, but respected the Scriptures, as was manifest from his countenance, said to me, “The utterances of God are holy, but your expositions are mere contrivances, as is plain from what has been explained by you; nay, even blasphemies, for you assert that angels sinned and revolted from God.”

And I, wishing to get him to listen to me, answered in milder tones...

Although this final text does not fit into any of the clearly delineated areas of interest for Trypho, it does shed some light on the character of the Jew. This statement from chapter 79 is just one of many instances (chapters 17, 25, etc...) where Trypho is portrayed as short-tempered and angry. In this chapter, Trypho is seen to be getting enraged as Justin remains calm and collected. The cause of Trypho’s unbridled anger is incorrect readings of the Hebrew Bible. In a way this shows Trypho as a careful interpreter of the law who, when



seeing someone carelessly misinterpret the Biblical, becomes personally offended and outraged.

### **General Statements about Trypho**

It is difficult to make any conclusive statements about the characteristics of Trypho the Jew since there are not a significant number of texts to work with. However, from what texts are available it is possible to make the following general statements about him:

According to Justin's description in chapter one, Trypho is a Jew who has recently fled from the violence of the Bar Kokhba rebellion. He is traveling with a group of other likeminded Jews but seems to be the most moderate among them. Trypho is clearly a very well educated Jew with knowledge of Hebrew and Greek and the Hebrew Bible and the Gospels. Also one may say that Trypho has a non-fundamentalist, liberal mindset that allows him to dialogue with non-Jews.

However, Trypho also has an angry side. He gets enraged when he hears Justin "defiling" sacred biblical texts with incorrect biblical interpretation. Trypho is very protective of his own biblical interpretation, implying that he comes from a tradition well versed in biblical analysis.

He is particularly interested in two key areas in relation to his dialogue with Justin, the messiah and ritual *mitzvot*. In terms of the messiah, Trypho follows the Jewish normative view that the messiah is still yet to come, will be of human origin and will be ushered in by Elijah. As for *mitzvot*, Trypho is an observant Jew, paying special attention to the laws of the Sabbath and laws of circumcision. Trypho is only interested in laws *d'oraita*, from the

Torah, and not *d'rabbanan*. He seems to also be interested in the laws of ritual purity and the use of the *mikveh* to achieve it.

## Rabbi Tarfon, his Life and Attributed Tannaitic Works

Rabbi Tarfon was a rabbi and priest of the third generation of *tannaim* who lived in the late first and early second centuries CE. He lived in Lydda, also known as Lod. After the destruction of Jerusalem, Lydda was famous as a seat of Jewish scholarship, and the academy which flourished there is frequently mentioned in the Talmud and other works of traditional literature. Two characters that Tarfon is often portrayed speaking with, Rabbi Eliezer and Rabbi Akiba, also lived at Lydda.<sup>19</sup> Rabbi Tarfon was the teacher of Rabbi Yehuda bar Ilai, and was a prominent leader of the generation of rabbis active at the town of Yavneh after the destruction of the Temple.

According to the Jewish Encyclopedia, there is quite a bit of biographical information about Rabbi Tarfon. He was so devoted to his mother that he used to place his hands beneath her feet when she crossed the courtyard barefoot. (bKid. 61b) On one occasion, when from his window he saw a bridal procession of the poorer classes pass before his window, he requested his mother and sister to anoint the bride that the groom might find more joy in her. (ARN. xli). And on festivals and holy days Tarfon was accustomed to delight his wife and children by preparing for them the finest fruits and dainties. (pPes. 37b)<sup>20</sup>

However, according to Joel Gereboff, because most of the biographical traditions about Rabbi Tarfon are found in late compilations which were redacted many years after Tarfon's death, as is the common case for the biographical data of most rabbis of the time, a

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<sup>19</sup> Joseph Jacobs and Eduard Neumann, *Jewish Encyclopedia*, s.v. Lydda

<sup>20</sup> Wilhelm Bacher and Schulim Ochser, *Jewish Encyclopedia*, s.v. Tarfon

meaningful reconstruction of the details of a biography of Tarfon's life is not possible.<sup>21</sup>

Nevertheless we can know the major outlines of Tarfon's general legal and theological views.

Among the forty-eight unique texts from the Mishnah and forty-nine texts from the Tosefta attributed to Rabbi Tarfon his areas of interest is fairly diverse. The following chart shows the breakdown of the number of texts in each Order.

|         | Zeraim | Moed | Nashim | Nezikin | Kodashim | Tohorot |
|---------|--------|------|--------|---------|----------|---------|
| Mishnah | 5      | 5    | 9      | 5       | 9        | 7       |
| Tosefta | 5      | 7    | 9      | 3       | 10       | 15      |

The Mishnah and Tosefta have similar divisions in respect to the areas on which Rabbi Tarfon comments. He appears most concerned with issues of purity in relation to Temple sacrifices. Tarfon's major independent legislation dealt with issues of interest to the priests. In matters of dispute his materials consistently rule in favor of the priestly families. His legal rulings frequently relate to rituals performed by priests. Tarfon's dicta emphasized that the priests could play a central role in the life of the Jews even after the destruction of the Temple. His ruling, for instance, that a Priest may receive heave-offering of wine and oil from a householder throughout the year, exemplifies his legislation in favor of the priestly groups.

Gereboff identifies two strands within the traditions associated with Rabbi Tarfon. One group of materials was probably formulated by pro-Akivan masters. These place Tarfon in a position secondary to Rabbi Akiva and occasionally mock Tarfon for his foolish

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<sup>21</sup> Joel Gereboff, *Rabbi Tarfon: The Tradition, the Man and Early Rabbinic Judaism*, (Missoula: Scholars Press, 1979), p. 427

behavior or opinion. A second group of traditions which cite Tarfon's actions as precedents for Judah's rulings appear to have been formulated by disciples of Judah bar Ilai.

Gereboff concludes that in the realm of religious philosophy Rabbi Tarfon emphasized the importance of deed over intention, of formal action or objective fact over subjective thought. This posture differs sharply from that of Rabbi Akiva who appears to have placed greater emphasis on the role of a person's intention in establishing the criteria for legal decisions. In several instances it seems that Tarfon's view serves merely as a foil for Akiva's authoritative opinion.<sup>22</sup>

In the following chapters, I will analyze all forty-eight mishnaic texts as well as a selection of eighteen texts from the Tosefta in order to determine how these works characterize Rabbi Tarfon.

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<sup>22</sup> Ibid.

## **Mishnah Texts**

### **Priestly Bias**

One of the most distinct areas of interest that Rabbi Tarfon comments on in the Mishnah is the condition of priests. As a priest himself, Tarfon shows a clear bias towards his fellow priests. In the following fourteen mishnahs, Rabbi Tarfon attempts to stretch the law in order to obtain for the priests the most tithe, the best „first fruits“ and any other donations.

In a further attempt to try to characterize Rabbi Tarfon, it is interesting to look at the historical situation of priests in the second century. The question that emerges is, “Is there a legitimate, altruistic reason for trying to support the priests or is this just a form of nepotism?”

In the wake of the destruction of the Second Temple in 70CE, the priestly class clearly still exists but they no longer have the Temple as an economic base. Were priests still wealthy during the time of Rabbi Tarfon? If so, then Tarfon’s insistence on increasing priestly revenue would imply a certain amount of corruption on his part. However, if priests were quite poor, then Rabbi Tarfon is merely looking out for the disadvantaged in society, a trait that will be explored further in the next chapter.

According to Sigalit Ben-Zion, "Generally, priests who survived the Great Jewish Revolt did not lose their property."<sup>23</sup> Therefore, even if priests were no longer receiving the same amount of sustenance from various tithes and offerings they still had an economic base

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<sup>23</sup> Sigalit Ben-Zion, *A Roadmap to the Heavens*, (Boston: Academics Studies Press, 2009), p. 23

in their land ownership to provide for a livelihood. This would imply that Tarfon is being overly biased in his effort to ensure that the priestly class was taken care of.

Ben-Zion continues, "However, literary evidence reveals that the social status among the priests was not equally distributed among its members."<sup>24</sup> Ben-Zion then refers to mTerumot 9:2 (see below) which refers to poor priests. The fact that there were poor priests makes Rabbi Tarfon's many statements in favor of priests seem more altruistic. Davies and Finkelstein also ask this same question about the priests of the tannaitic period:

The priests, then, were an aristocracy. They had status - only well-pedigreed Israelites could intermarry with them [Kiddushin 4.5] - but did they also have wealth and power? One tannaitic midrash remarks, 'Most priests are wealthy', [Sifre Deuteronomy 352] but we do not know whether this is wishful thinking or the truth, and whether the remark was intended to refer to Second Temple days or to the second century. In the decades before the war of CE 66-70 some priests took the priestly offering by force, leaving the poor priests with nothing. [Josephus, Jewish Antiquities xx. 181] In the second century, however, R. Simeon b. Gamaliel assures us that priests acted charitably toward their brethren when collecting tithes. [Pe'ah 4.3] Some priests obviously were poor even in the second century.<sup>25</sup>

Therefore, it seems clear that there were some poor priests in Rabbi Tarfon's time and that he was clearly looking out for their interests. There were, however, also wealthy priests who did not need the added help of Tarfon, making his decrees seem somewhat superfluously greedy.

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<sup>24</sup> Ibid, p. 23

<sup>25</sup> W. D. Davies and Louis Finkelstein, *The Cambridge History of Judaism, Vol. 2: The Hellenistic Age*, (Cambridge: Cambridge University Press, 1989), p. 943

mTerumot 4:5

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| <p>המרבה בתרומה רבי אליעזר<br/>אומר אחד מעשרה כתרומת<br/>מעשר יתר מכאן יעשנה<br/>תרומת מעשר למקום אחר רבי<br/>ישמעאל אומר מחצה חולין<br/>ומחצה תרומה רבי טרפון ורבי<br/>עקיבא אומרים עד שישייר שם<br/>חולין</p> | <p>If one wishes to give more <i>terumah</i>, R. Eliezer says, “He may give up to a tenth part, as in the case of heave-offering of tithe.”</p> <p>[If he gave] more than this [measure] he must make it <i>terumah</i> of tithe for other produce.</p> <p>R. Ishmael says, “Half will be <i>hullin</i> and half <i>terumah</i>.”</p> <p>R. Tarfon and R. Akiva say, “As long as he retains a part as plain produce [any amount beyond that can be <i>terumah</i>].”</p> |
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This first text, from mTerumot 4:5, is one the few instances where Rabbi Tarfon and Rabbi Akiva are in agreement about anything. Rabbi Eliezer raises the issue of whether someone is allowed to voluntarily give more *terumah*, the heave-offering, than they are required. Rabbi Eliezer rules that a person may give only up to 1/10<sup>th</sup> of his produce as *terumah*, presumably as a means of protecting the Israelite from feeling compelled in any way to give more than he or she can afford.

Rabbi Ishmael is more lenient and allows one to give up half of one's produce as *terumah*. Rabbi Tarfon and Rabbi Akiva say that *terumah* has no measure and one can give as much as one wants as long as one leaves **something** for oneself. For Tarfon, making a comment like this is no surprise, as he is a priest and clearly showing his priestly bias wants to get as much as possible for his brethren. What is quite surprising is the fact that Rabbi Akiva makes this statement with Tarfon. Akiva is general portrayed as fairly anti-priestly class in terms of *terumah*. However, he is not specifically saying that the priests should



receive any extra amount of *terumah*, he is just allowing each individual Israelite a certain amount of freedom in terms of voluntary giving.

#### mTerumot 9:2

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| <p>בוחייבת בלקט ובשכחה ובפאה.<br/> עניי ישראל ועניי כהנים.<br/> מלקטים. ועניי ישראל. מוכרין<br/> את שלהם לכהנים בדמי תרומה.<br/> שלהם. רבי טרפון אומר והדמים<br/> לא ילקטו אלא עניי כהנים. שמא<br/> ישכחו ויתנו לתוך פיהם. אמר לו<br/> ר' עקיבא. אם כן. לא ילקטו אלא<br/> טהורים</p> | <p>And it is subject to gleanings, the forgotten sheaf and <i>pe'ah</i>. Poor Israelites and poor priests may glean them, but the poor Israelites must sell theirs to priests for the price of <i>terumah</i> and the money becomes theirs.</p> <p>R. Tarfon says, "Only poor priests may glean them, lest [the others] forget and put it into their mouths."</p> <p>Whereupon R. Akiva said to him, "If that be so, then only those who are ritually pure should be allowed to glean."</p> |
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Before analyzing this mishnah, it is important to first look at the previous mishnah, mTerumot 9:1 to gain a context for the issue being discussed. The first mishnah in this chapter deals the accidental and purposeful planting of *terumah* wheat in a field designated for regular wheat. Therefore, in this mishnah, the issues being debated is what to do in regards to gleaning the wheat that is sacred and is reserved for consumption only by priests.

The *tanna qama*, the first anonymous voice in the mishnah, states that any poor person can glean from the field. However, because the wheat is *terumah* only priests can eat it. Therefore poor Israelites must sell their gleanings to priests. They are then, of course, able to use this money however they please.

Uncharacteristically, Rabbi Tarfon is actually more stringent than the *tanna qama* in this instance, stating that only poor priests are allowed to glean from the *terumah*. On one hand, this could be viewed as Rabbi Tarfon looking out for the poor Israelite. When it comes to *terumah*, Rabbi Tarfon would like to help out the poor but from his perspective they are worse off if they violate the laws governing *terumah*, they are subject to death at the hands of heaven, *mitah bidei shamayim*. However, this can also be viewed as Rabbi Tarfon being biased towards the priests and ensuring that disadvantaged priests, who most likely do not have their own property, are taken care of.

In his response at the end, Rabbi Akiva is making fun of Tarfon's ruling. It is as if he is saying, "If you are going to prevent Israelites from gleaning on a silly fear that they are going to accidentally eat prohibited produce, then you should prevent anyone who is not ritually pure including priests for gleaning because they too would suffer punishment if they accidentally ate the *terumah*." Rabbi Akiva is rejecting Rabbi Tarfon's view that favors priests in this instance.

#### mMa'aserot 3:9

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| <p>נפן שהיא נטועה בחצר. נוטל את<br/>כל האשכול. וכן ברמון. וכן<br/>באבטיח. דברי רבי טרפון. רבי<br/>עקיבא אומר מגרגר באשכולות.<br/>פורט ברמון. וסופת באבטיח.<br/>בוסבר שהיא זרועה בחצר.<br/>מקרטם עלה עלה ואוכל. ואם</p> | <p>If a vine was planted in a courtyard, a man may take a whole cluster [of grapes without tithing]. Similarly with a pomegranate, or a melon. So [said] R. Tarfon.</p> <p>R. Akiva says, "He should pick single grapes from the cluster, or split the pomegranate into slices, or cut slices of melon."</p> <p>If coriander was sown in a courtyard one may pluck it leaf by leaf and eat [it without tithing], but if he ate them together he is liable [to give tithe].</p> |
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| <p>צֶרֶף. חֵיִב. הַסִּיָּאָה וְהָאֶזוֹב<br/> יֶהְיוּ לְחֵטְא שֶׁבַח צֶרֶף. אִם הָיוּ<br/> נִשְׁמָרִים. חֵיִבִּין</p> | <p>Savory and hyssop, and thyme which are in the courtyard, if kept watch over, are liable to the tithe.</p> |
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This text relating to the laws of tithing seems to also contradict to the rest of the texts in this chapter. In this instance Rabbi Tarfon appears not to be favoring the priests. If a product is not properly harvested but rather eaten right in a field, then Tarfon rules that tithing is not necessary. This is surprising as requiring a tithe on these fruits would mean more revenue for the priests. The main issue here is whether the food being eaten in the field is a meal or just a snack. According to Rabbi Tarfon even a whole pomegranate, melon, or cluster of grapes is not a meal while Rabbi Akiva maintains that it is only a snack if one eats only single grapes or just a slice of fruit. As such it requires no tithing.

#### mYevamot 15:6

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| <p>הָאִשָּׁה שֶׁהִלְכָה הִיא וּבִעְלָהּ<br/> לְמַדִּינַת הַיָּם וּבָאָה וְאָמְרָה מֵת<br/> בְּעָלִי תִנְשֵׂא וְתִטּוֹל כְּתוּבָתָהּ<br/> וְצִרְתָּהּ אִסּוּרָה הִיא בֵּת יִשְׂרָאֵל<br/> לִכְהֵן תֹּאכַל בְּתִרּוּמָה דְּבָרֵי<br/> רַבִּי טַרְפוֹן ר' עֲקִיבָא אָמַר אֵין זֶה<br/> דֶּרֶךְ מוֹצִיאָתָהּ מִיַּד עֲבִירָה עַד<br/> שֶׁתִּהְיֶה אִסּוּרָה לִינְשָׂא וְאִסּוּרָה<br/> מִלְּאֲכֹל בְּתִרּוּמָה</p> | <p>If a woman and her husband went to a country beyond the sea, and she returned and stated, "My husband is dead." She may remarry, and she also receives her <i>ketubah</i>. Her rival, however, is forbidden [to remarry].</p> <p>If [her rival] was the daughter of an Israelite [who was married] to a priest, she is permitted to eat <i>terumah</i>, so [says] R. Tarfon.</p> <p>R. Akiva, however, said, "This is not a way that would lead her out of transgression, unless [it be enacted that] she shall be forbidden both to marry and to eat <i>terumah</i>."</p> |
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The above text from mYevamot 15:6 is set in the context of an entire chapter dealing with the fate of *`agunot*. *`Agunot* are women who cannot prove that their husbands are dead or cannot get a *get*, a Jewish bill of divorce, for one reason or another and are thus unable to remarry. In this particular case, the *tanna qama* rules that a woman who testifies that her husband is dead, where there is no evidence of the death, is allowed to remarry and is given her *ketubah*, a monetary sum that is part of her marriage contract. Her co-wife, however, is forbidden to remarry and remains an *`agunah*.

There is a presumption here that co-wives hate one another and are bitter rivals. That being the case, the rabbis picture a situation in which a wife could lie about her husband's death in order that a co-wife would remarry illegally. Although, this would be "cutting of the nose to spit the face," since she would also be also potentially causing herself to be in an illegal marriage, this was not that unlikely a scenario in the minds of the rabbis. Rabbi Tarfon, in what appears to be an act of priest bias and looking out for the disadvantaged, rules that the co-wife, if she was married to a priest, is allowed to eat *terumah*. As an *`agunah* the co-wife is unable to remarry and theoretically has no means of supporting herself. By allowing her to eat from the *terumah* offerings, Rabbi Tarfon is at least giving her some sort of financial support.

Rabbi Akiva, on the other hand, takes a much stricter stance and argues that the co-wife is forbidden both from remarrying and from eating *terumah*.

#### **mYevamot 15:7**

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| אמרה מת בעלי ואחר כך מת חמי | If she said, "My husband died first and my father-in-law died after him," she may marry again and she also receives her <i>ketubah</i> , but |
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| <p>תנשא ותטול כתובתה וחמותה<br/> אסורה היתה בת ישראל לכהן<br/> תאכל בתרומה דברי<br/> רבי טרפון ר' עקיבא אומר אין זו<br/> דרך מוציאתה מידי עבירה עד<br/> שתהא אסורה לינשא ואסורה<br/> לאכול בתרומה</p> | <p>her mother-in-law is forbidden.</p> <p>If [the latter] was the daughter of an Israelite [who was married] to a priest, she is permitted to eat <i>terumah</i>, so [says] R. Tarfon.</p> <p>R. Akiva, however, said, "This is not a way that would lead her out of transgression, unless [it be enacted that] she shall be forbidden both to marry again and to eat <i>terumah</i>."</p> |
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In this mishnah, like the previous one, there is an assumption that just as women hate their co-wives, so too do they hate their mother-in-laws. Just as a woman could lie about a husband's death to spite her co-wife, so too a woman could lie about her father-in-law's death to spite her mother-in-law. Again, this is a very negative view of woman by the rabbis; they assume women are vindictive, competitive and spiteful. Once again, as in the previous, mishnah, Rabbi Tarfon, in what appears to be an act of priest bias and benevolence for the disadvantaged, rules that the mother-in-law, if she was married to a priest, is allowed to eat *terumah*. Rabbi Akiva disagrees just as above.

#### mKetubot 5:2

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| <p>נותנין לבתולה שנים עשר חדש<br/> משתבעה הבעל לפרנס את עצמה<br/> וכשם שנותנין לאשה כך נותנין<br/> לאיש לפרנס את עצמו ולא למנה<br/> שלשים יום הגיע זמן ולא נשאו<br/> אוכלות משלו ואוכלות בתרומה</p> | <p>A virgin is allowed twelve months from the [time her intended] husband claimed her, [in which] to prepare her marriage outfit. And, as [such a period] is allowed for the woman, so is it allowed for the man for his outfit. For a widow, thirty days [are allowed]. If the respective periods expired and they were not married, they are entitled to maintenance out of the man's estate and [if he is a priest] they may also eat <i>terumah</i>.</p> |
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| <p>רבי טרפון אומר נותנין לה הכל<br/>תרומה רבי עקיבא אומר מחצה<br/>חולין ומחצה תרומה</p> | <p>R. Tarfon said, "All [the sustenance] for such a woman may be given of <i>terumah</i>."</p> <p>R. Akiva said, "One half of plain produce and one half of <i>terumah</i>."</p> |
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Again, in this text, Rabbi Tarfon, the priest, is ruling on priestly issues in which he has a vested interest. In this particular case, Tarfon and Akiva are in disagreement. If a woman is betrothed, but not married after twelve months, the man who intended to marry her must support her. If he is a priest, the question then asked is, "Can he sustain her with *terumah* even though they are not married yet?" This has benefits for a priest because it means that all or part of the support of his future wife costs him nothing.

According to the *tanna qama*, yes, the woman may eat *terumah*. But how much *terumah* and how much *hullin*, profane, unconsecrated food that will cost the priest something, must he contribute? Rabbi Tarfon is of the opinion that all the sustenance for the woman may be provided from *terumah*. This ruling is much more protective of the priest than his bride-to-be. As will be seen in future texts, as protective as Rabbi Tarfon often is, he tends to not be very protective of women in general. It is less onerous on the priest to only have to provide the woman with *terumah* because he gets that for free from Israelite offerings. However, any other food, i.e. *hullin*, would presumably have to come from his own estate. Also, another issue for the woman is that she would only be able to eat *terumah* if she was in a state of ritual purity, and any time that she was ritually impure she would not have any sustenance under Rabbi Tarfon's ruling. The ruling of Rabbi Akiva, however, protects the woman much more by decreeing that she should be supported with half *terumah* and half *hullin*.

**mZevachim 10:8**

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| <p>אמר רבי שמעון אם ראית שמן<br/>         שהוא מתחלק בעזרה אין אתה<br/>         צריך לשאול מה הוא אלא מותר<br/>         רקיקי מנחות ישראל ולוג שמן<br/>         של מצורע אם ראית שמן שהוא<br/>         נתון על גבי האשים אין אתה<br/>         צריך לשאול מה הוא אלא מותר<br/>         רקיקי מנחות כהנים ומנחת כהן<br/>         המשיח שאין מתנדבים שמן רבי<br/>         טרפון אומר מתנדבים שמן</p> | <p>R. Simeon said, "If you see oil being doled out in the Temple court, you need not ask what it is, for it is the residue of the wafers [<i>reqiqim</i>] of the Israelite's meal-offerings, or of the leper's <i>log</i> of oil. If you see oil being poured on to the fires, you need not ask what it is, for it is the residue of the oil of the wafers of priests' meal-offerings, or of the anointed priest's meal-offering; for people cannot offer oil [alone]."</p> <p>R. Tarfon says, "Oil can be donated [by itself]."</p> |
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In the above text from mZevachim 10:8, Rabbi Simeon explains that oil cannot be offered, i.e., as an obligatory offering, by itself. This is why one should not worry about various oils in various scenarios at the Temple. Simeon's ruling appears to be in accordance with Rabbi Akiva's ruling from the next mishnah in this section namely, oil cannot be offered by itself. Rabbi Tarfon's addition at the end of the mishnah stating that oil can be donated as a freewill offering as opposed to a obligatory offering seems to be an interpolation by the redactors of the mishnah. The statement, which is identical to his statement in the following mishnah seems to have been placed here to offer some clarifications between oil that is donated and oil that is offered. This texts shows Tarfon's priestly nepotism once again by allowing oil to be donated on its own which only further increases priestly revue.

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| <p>מתנדבים יין ואין מתנדבים שמן<br/> דברי רבי עקיבא רבי טרפון אומר<br/> מתנדבין שמן אמר רבי טרפון מה<br/> מצינו ביין שבא חובה ובא נדבה<br/> אף השמן בא חובה ובא נדבה<br/> אמר לו רבי עקיבא לא אם אמרת<br/> ביין שכן הוא קרב חובתו בפני<br/> עצמו תאמר בשמן שאינו קרב<br/> חובתו בפני עצמו אין שנים<br/> מתנדבים עשרון אחד אבל<br/> מתנדבים עולה ושלמים ובעוף<br/> אפילו פרידה אחת</p> | <p>One may offer wine but not oil. This is the opinion of R. Akiva.</p> <p>[But] R. Tarfon says, "One may also offer oil."</p> <p>R. Tarfon said, "As we find that wine which is offered as an obligation may be offered as a freewill-offering, so oil which is offered as an obligation may be offered as a freewill-offering."</p> <p>R. Akiva said to him, "No, if you say so of wine [that it can be a freewill-offering] it is because it is offered by itself even when offered as an obligation. Can you say the same of oil which is not offered by itself when offered as an obligation?"</p> <p>Two [people] may not jointly offer one tenth [of an <i>ephah of flour offering</i>]; but they may jointly offer a burnt-offering or a peace-offering, and [an offering] of birds even a single bird.</p> |
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Once again, in this mishnah, Rabbi Tarfon is attempting to expand the boundaries of what may be offered as a freewill offering to the largest extent possible in what appears as an attempt to further provide for the priestly class. Rabbi Akiva argues that one may offer wine, as a freewill offering, but not oil. Tarfon, however, disagrees, and using analogical reasoning, he argues that just as wine can be offered either as an obligatory or freewill offering, so too oil which is offered as an obligatory offering should be able to be offered as someone's freewill offering. Rabbi Akiva using a different analogy argues that wine is offered by itself as an offering, but oil cannot be offered by itself. Therefore one cannot donate oil as a freewill offering.



mKeritot 5:2

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| <p>רבי עקיבא מחייב על ספק<br/>מעילות אשם תלוי וחכמים<br/>פוטרם ומודה רבי עקיבא שאין<br/>מביא את מעילתו עד שתתודע לו<br/>ויביא עמה אשם ודאי אמר<br/>רבי טרפון מה לזה מביא שתי<br/>אשמות אלא יביא מעילה וחומשה<br/>ויביא אשם בשני סלעים ויאמר<br/>אם ודאי מעלתי זו מעילתי וזה<br/>אשמי ואם ספק המעות נדבה<br/>ואשם תלוי שממין שהוא מביא<br/>על הודע מביא על לא הודע</p> | <p>[For doubtful misappropriation of sacred property] R. Akiva declares one liable to a suspensive guilt-offering; while the sages declare him exempt.</p> <p>R. Akiva, however, admits that he need not make restitution until he becomes aware [of his trespass], when he must bring with it an unconditional guilt-offering.</p> <p>R. Tarfon said, “Why should he bring two guilt-offerings? Let him rather restore the capital together with the fifth, offer a guilt-offering of the value of two <i>sela</i>’s and stipulate, „If I did commit sacrilege, here is my restitution and this is my guilt-offering; and if the sacrilege was doubtful, let the money be a freewill gift and the [offering a] suspensive guilt-offering; since that which is offered for a known [trespass] is of the same kind as that offered for a doubtful one.”</p> |
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mKeritot 5:3

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| <p>אמר לו רבי עקיבא נראים דבריו<br/>במעילה מעוטה הרי שבא על ידו<br/>ספק מעילה במאה מנה לא יפה<br/>לו שיביא אשם בשתי סלעים ואל<br/>יביא ספק מעילה במאה מנה הא<br/>מודה רבי עקיבא<br/>לרבי טרפון במעילה מועטת<br/>האשה שהביאה חטאת העוף ספק<br/>אם עד שלא נמלקה נודע לה</p> | <p>R. Akiva said, “His words seem plausible in the case of a minor misappropriation; but if his doubt related to the misappropriation of a hundred <i>manehs</i>, would it not be more advantageous for him to bring a guilt-offering for two <i>sela</i>’s rather than restore out of doubt the sum of a hundred <i>manehs</i>?”</p> <p>R. Akiva indeed agrees with R. Tarfon in the case of a minor misappropriation.</p> |
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| שילדה ודאי תעשנה ודאי שממין<br>שהיא מביאה על לא הודע מביאה<br>על הודע |  |
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In these previous two mishnahs from mKeritot, Rabbis Tarfon and Akiva agree. In these texts, the issue of minor misappropriations is being discussed. According to the sages, if someone misappropriated sacred property, that person is exempt from bringing any sort of offering. Rabbi Akiva, however, argues that the person does need to bring a guilt-offering to the priests but only if he is sure he made a misappropriation. Rabbi Tarfon, once again showing his priestly bias, says that the person should bring an offering regardless of whether he is sure he committed an offense or not. According to Rabbi Tarfon, one should “play it safe” or as the famous rabbinic adage goes, “build a fence around the Torah.” By doing so the offering would be a guilt offering if the offence was committed. If not, then the offering would just be a freewill offering.

On one hand, this ruling could be seen as a protective measure towards the potential sinner. On the other hand, this ruling could just be a way for Rabbi Tarfon to increase priestly revenue. If the man did not sin, there is no need to bring any offering. An offering brought in error is also not a good thing. Therefore by allowing the sinner to bring an offering in a case of uncertainty and allowing the offering to be viewed as freewill if the misappropriation did not occur, Rabbi Tarfon is increasing the chances that people will bring offerings in general. One can imagine a potential sinner saying, “If it can’t hurt to bring an offering, I might as well just bring something to be safe...”

**mBechorot 2:6**

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| <p>רחל שלא בכרה וילדה שני זכרים<br/>ויצאו שני ראשיהן כאחד רבי יוסי<br/>הגלילי אומר שניהם לכהן<br/>(שנאמר) שמות י"ג (הזכרים לה'<br/>וחכמים אומרים אי אפשר אלא<br/>אחד לו ואחד לכהן<br/>רבי טרפון אומר הכהן בורר לו<br/>את היפה רבי עקיבא אומר<br/>משמנים ביניהן והשני ירעה עד<br/>שיסתאב וחייב במתנות ר' יוסי<br/>פוטר מת אחד מהן רבי טרפון<br/>אומר יחלוקו רבי עקיבא אומר<br/>המוציא מחברו עליו הראיה זכר<br/>ונקבה אין כאן לכהן כלום</p> | <p>If a ewe which never gave birth before bore two males and both heads came forth simultaneously, R. Jose the Galilean says, "Both belong to the priest for Scripture says, „The males shall be the Lord's.""</p> <p>[Whereas] The sages say, "It is impossible to ascertain exactly [if both heads came forth simultaneously]. One therefore remains [with the Israelite] and the other is for the priest."</p> <p>R. Tarfon says, "The priest chooses the better one."</p> <p>R. Akiva says, "We compromise between them, and the second one [in the Israelite's possession] is left to pasture until it becomes blemished [at which point the Israelite can slaughter it and use it for food]. The owner is liable for the [priest's] gifts<sup>26</sup>." R. Jose exempts him.</p> <p>R. Tarfon says, "If one of them died, they divide [the living one]."</p> <p>R. Akiva says, "The claimant must produce the evidence [of his ownership rights. Therefore until the priest can prove the animal is a firstborn, he has no right to it]." [If it gave birth to] a male and a female, the priest receives nothing [in such circumstances].</p> |
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**mBechorot 2:7**

<sup>26</sup> According to Deuteronomy 18:3, the priest gifts are the shoulder and the two cheeks and the maw, the first stomach in ruminants.

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| <p>שתי רחלות שלא בכרו וילדו שני זכרים נותן שניהם לכהן זכר ונקבה הזכר לכהן שני זכרים ונקבה אחד לו ואחד לכהן רבי טרפון אומר הכהן בורר לו את היפה רבי עקיבא אומר משמנים ביניהן והשני ירעה עד שיסתאב וחייב במתנות רבי יוסי פוטר מת אחד מהן רבי טרפון אומר יחלוקו רבי עקיבא אומר המוציא מחברו עליו הראיה שתי נקבות וזכר או שני זכרים ושתי נקבות אין כאן לכהן כלום</p> | <p>If two ewes which never gave birth before bore two males, ones gives both of them to the priest. [If] a male and a female [are born], the male [is given] to the priest. [If] two males and a female [are born], one [male is given] to him [the owner] and one [male is given] to the priest.</p> <p>R. Tarfon says, "The priest chooses the better one."</p> <p>R. Akiva says, "We compromise between them, and the second one [in the Israelite's possession] is left to pasture until it becomes blemished. The owner is liable for the [priest's] gifts." R. Jose exempts him.</p> <p>If one of them died, R. Tarfon says, "They divide [the living one]."</p> <p>R. Akiva says, "The claimant must produce the evidence."</p> <p>[If it gave birth to] two females and a male or two males and two females, the priest receives nothing [in such circumstances].</p> |
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#### mBechorot 2:8

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| <p>אחת בכרה ואחת שלא בכרה וילדו שני זכרים אחד לו ואחד לכהן רבי טרפון אומר הכהן בורר לו את היפה רבי עקיבא אומר משמנים ביניהן והשני ירעה עד שיסתאב וחייב במתנות רבי יוסי פוטר שהיה רבי יוסי אומר כל שחליפיו ביד כהן פטור מן</p> | <p>If one ewe which had given birth before and one ewe which never before had given birth bore two males, one [is given] to him [the owner] and one to the priest.</p> <p>R. Tarfon says, "The priest chooses the better one."</p> <p>R. Akiva says, "We compromise between them, and the second one [in the Israelite's possession] is left to pasture until it becomes blemished. The owner is liable for the [priest's] gifts."</p> |
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| <p>המתנות רבי מאיר מחייב מת<br/> אחד מהן רבי טרפון אומר יחלוקו<br/> רבי עקיבא אומר המוציא מחברו<br/> עליו הראיה זכר ונקבה אין כאן<br/> לכהן כלום</p> | <p>R. Jose exempts him. R. Jose used to say, "Wherever the priest receives [an animal] in its stead, he is exempt from the priests gifts." R. Meir however makes him liable.</p> <p>If one of them died, R. Tarfon says, "They divide [the living one]."</p> <p>R. Akiva says, "The claimant must produce the evidence."</p> <p>[If it gave birth to] a male and a female, the priest receives nothing [in such circumstances].</p> |
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The previous three texts, mBechorot 2:6-8, are a collection united by a common formula known as a *qovetz*. In this particular *qovetz*, the laws of *bechorot*, firstlings, are debated in relation to unusual births where it is difficult or impossible to determine the first-born animal that must be given to the priests. In all three cases, Rabbi Tarfon is once again showing his priestly bias and ruling in favor of the priests in every instance. In the case of two ewes being born at the same time, where there is clearly no way of proving which one came first, Rabbi Tarfon simply argues that the choicest of the two be given to the priest. If one of the ewes should die, Rabbi Tarfon argues that the living one be divided between the owner and the priests. Rabbi Akiva, however, argues that the claimant, the priest, must produce evidence that the living ewe was the first one and should rightfully be given to the priest.

For Tarfon the rule is, "If in doubt, favor the priest." For Akiva the rule is, "If in doubt, favor the proof." Although at the onset this appears to be another case of Rabbi Tarfon's priestly bias, this could also just be Tarfon's way of protecting the animal's owner.

As it has been shown earlier, Rabbi Tarfon tends to err on the side of caution so as to prevent someone from violating a law, in this case a law from the Torah itself.

#### mBechorot 2:9

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| <p>יוצא דופן והבא אחריו רבי טרפון<br/>אומר שניהם ירעו עד שיסתאבו<br/>ויאכלו במומן לבעלים רבי עקיבא<br/>אומר שניהן אינן בכור הראשון<br/>משום שאינו פטר רחם והשני<br/>משום שקדמו אחר</p> | <p>With regard to [an animal] extracted through cesarean section and the firstling which came after it, R. Tarfon says, “Both pasture until blemished and are eaten with their blemishes by the owners.”</p> <p>R. Akiva says, “In both cases the law of the firstling does not apply: in the first, because it is not the first-birth of the womb, and the second, because another [animal] preceded it.”</p> |
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Contrary to the rest of chapter, the above mishnah seems to disfavor the priestly class. This text rules on what is to be done when an animal gives birth first via cesarean section and then via normal birth. This follows on from the previous three mishnahs (mBechorot 2:6-8) regarding unusual multiple birth scenarios. Rabbi Tarfon rules in all three previous cases that the priest should get the best animal when the order of birth was indiscernible. However in this case Tarfon rules that both animals should pasture until they become blemished and then they are both eaten by their owner.

Rabbi Akiva then argues that Rabbi Tarfon’s argument is invalid because this particular case does not even fall under the category of *bechorot*. The first animal came via cesarean section and therefore is not subject to *bechorot* and the second animal was born second and thus not a first born.

It is clear from the above mishnahs that Rabbi Tarfon shows a bias towards those in the priestly class. Although, there are occasions when he deviates from this trend, his nepotism towards priests is fairly blatant. The majority of his rulings deal with the issue of priestly income through various offerings. In most cases, he is lenient towards the priests allowing them as much income as *halakhah* will allow. It appears that during the second century there were poor priests and rich priests just like there were poor and rich Israelites. Rabbi Tarfon's rulings do not seem particularly altruistic and seem merely just to favor his own class.

### Helping the Disadvantaged

The next selection of mishnahs all deal with the theme of helping the disadvantaged in society. It has been shown in the previous section that Rabbi Tarfon is primarily concerned with the welfare of the priestly class, looking out for priests who may no longer be receiving enough support due to the progressively more defunct Temple system. However, Rabbi Tarfon is also very concerned with the welfare of the poor, women and the disadvantaged in general.

#### mPe'ah 3:6

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| רבי אליעזר אומר קרקע בית<br>רובע חייבת בפאה רבי יהושע<br>אומר העושה סאתים ר"ט אומר<br>ששה על ששה טפחים רבי יהודה | R. Eliezer says, "A piece of ground, one fourth of a <i>kab</i> in size is subject to <i>pe'ah</i> ."<br>R. Yehoshua says, "It must [be large enough] to produce two <i>se'ahs</i> ."<br>R. Tarfon maintains that it must be six handbreadths by six. |
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| <p>בן בתירה אומר כדי לקצור<br/>ולשנות והלכה כדבריו ר"ע אומר<br/>קרקע כל שהוא חייבת בפאה<br/>ובבכורים ולכתוב עליו פרוזבול<br/>ולקנות עמו נכסים שאין להם<br/>אחריות בכסף ובשטר ובחזקה</p> | <p>R. Yehuda b. Batyra says, "[It must be large enough] for the sickle to cut at least two handfuls." The <i>halakhah</i> is according to his words.</p> <p>R. Akiva says, "Even the tiniest plot is liable to <i>pe'ah</i> and the first-fruits. And [it is sufficient] for the writing of the <i>prozbul</i>, and also to acquire through it movable property by money, by deed of sale, or by a claim based on undisturbed possession."</p> |
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In the above mishnah from mPe'ah, various rabbis argue over how large an area of land must be to be liable for *pe'ah*. *Pe'ah* is the portion of the crop that must be left standing for the poor in accordance with Leviticus 19:9 and 23:22. Rabbi Eliezer maintains that the area must be one fourth of a *kab*. A *kab* is one sixth of a *se'ah*, meaning that Eliezer says even 1/24th of a *se'ah* of produce is liable for *pe'ah*. Rabbi Yehoshua, Tarfon's teacher, is much more lenient on the farmer and less generous to the poor stating that anything under two *se'ahs* of produce is not liable for *pe'ah*. Rabbi Tarfon then states that 6 handbreadths squared is the area liable for *pe'ah*.

It is interesting to note that while the previous two rabbis ruled in terms of dry measure, Rabbi Tarfon rules according to area. The area that Tarfon defines is not large and thus he is being helpful to poor. He, however, is not the most helpful in this case. Rabbi Akiva is actually more generous to the poor stating that all land, regardless of size, is subject to *pe'ah*. The *halakhah*, however, goes with rabbi Yehuda ben Batyra who states that any area where a sickle can cut at least two handfuls grain is subject to *pe'ah*.



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| <p>ואלו יוצאות שלא בכתובה<br/>העוברת על דת משה ויהודית<br/>ואיזו היא דת משה מאכילתו<br/>שאינו מעושר ומשמשתו נדה ולא<br/>קוצה לה חלה ונודרת ואינה<br/>מקיימת ואיזוהי דת יהודית יוצאה<br/>וראשה פרוע וטוה בשוק<br/>ומדברת עם כל אדם אבא שאול<br/>אומר אף המקללת יולדיו בפניו<br/>רבי טרפון אומר אף הקולנית<br/>ואיזו היא קולנית לכשהיא מדברת<br/>בתוך ביתה ושכניה שומעין קולה</p> | <p>These are to be divorced without receiving their <i>ketubah</i>: a wife who transgresses the law of Moses or [one who transgresses] Jewish practice.</p> <p>And what is [regarded as a wife's transgression against] the law of Moses? Feeding her husband with untithed food, having intercourse with him during the period of her menstruation, not setting apart her dough offering, or making vows and not fulfilling them.</p> <p>And what [is deemed to be a wife's transgression [against] Jewish practice? Going out with uncovered head, spinning in the street or conversing with every man.</p> <p>Abba Saul said, "[Such transgressions include] also that of a wife who curses her husband's parents in his presence."</p> <p>R. Tarfon said, "Also one who is loud." And who is regarded a loud? A woman whose voice can be heard by her neighbors when she speaks inside her house.</p> |
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The above text about Rabbi Tarfon's care for the disadvantaged presents another side of Rabbi Tarfon. Although he is mostly defensive of women, in this mishnah he is not. Rabbi Tarfon takes an incredibly stringent stance on the issue of modesty and rules that a man may divorce his wife on the grounds that his wife is prone to be loud enough that the neighbors can hear her. Not only can he divorce her, but he is allowed to divorce her without paying out her *ketubah*, leaving her poor and alone. This ruling from Rabbi Tarfon is not *d'oraita* and merely violates *dat yehudit*, rabbinically approved customary behavior related to the general modesty level of the community that still carries with it a certain amount of authority.

**mKetubot 9:2**

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| <p>מי שמת והניח אשה ובעל חוב<br/> וירשין והיה לו פקדון או מלוה<br/> ביד אחרים רבי טרפון אומר<br/> ינתנו לכושל שבהן רבי עקיבא<br/> אומר אין מרחמין בדין אלא ינתנו<br/> ליורשין שכולן צריכין שבועה<br/> ואין היורשין צריכין שבועה</p> | <p>If a man died and left a wife, a creditor, and heirs and he also had a deposit or a loan in the possession of others, this, R. Tarfon says, "This shall be given to the one who is under the greatest disadvantage."</p> <p>R. Akiva says, "No pity is to be shown in a matter of law; and it shall rather be given to the heirs, for all the others must take an oath while the heirs need not take any oath."</p> |
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**mKetubot 9:3**

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| <p>הניח פירות תלושין מן הקרקע כל<br/> הקודם זכה בהן זכתה אשה יותר<br/> מכתובתה ובעל חוב יותר על חובו<br/> המותר רבי טרפון אומר ינתנו<br/> לכושל שבהן רבי עקיבא אומר<br/> אין מרחמין בדין אלא ינתנו<br/> ליורשים שכולם צריכין שבועה<br/> ואין היורשים צריכין שבועה</p> | <p>If he left produce that was detached from the ground, then whoever seizes it first acquires possession. If the wife took possession of more than the amount of her <i>ketubah</i>, or a creditor took more than the value of his debt, the balance, R. Tarfon says, "The balance shall be given to the one who is under the greatest disadvantage."</p> <p>R. Akiva says, "No pity is to be shown in a matter of law; and it shall rather be given to the heirs, for all the others must take an oath while the heirs need not take any oath."</p> |
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In the above two texts from mKetubot, Rabbi Tarfon and Rabbi Akiva disagree once again. This time they are concerned with inheritance. Two different but relatable cases are presented in the two mishnahs. The first is a simple case of inheritance where a man has died and left a wife, creditors and heirs and has some money that is owed to him. The question is,

“To whom does the money go?” According to Rabbi Tarfon it goes to the one who is most in need. Rabbi Akiva shows no pity and simply states that the money goes to the heirs who are most deserving according to the law. In the second case, a man dies, but he has produce left over after paying out his wife’s *ketubah* or his debts and the question of the remaining produce is pondered. Again, Rabbi Tarfon argues that the extra produce should be given to the one in most need. Akiva repeats that, “We show no mercy in a legal case,” and the remaining produce should be given to the man’s rightful heirs.

### mKiddushin 3:13

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| <p>רבי טרפון אומר יכולין ממזרים<br/>ליטהר כיצד ממזר שנשא שפחה<br/>הולד עבד שחררו נמצא הבן בן<br/>חורין רבי אליעזר אומר הרי זה<br/>עבד ממזר</p> | <p>R. Tarfon says, “<i>Mamzerim</i> can be purified.”<br/>How? If a <i>mamzer</i> marries a bondmaid, her son is a slave. If he is freed, the child is a free man.<br/>R. Eliezer says, “Behold, he is a slave and a <i>mamzer</i>.”</p> |
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This next mishnah deals with issues of personal status and patrilineal versus matrilineal decent. The mishnah raises the question of whether a *mamzer* can be purified. A *mamzer* is a product of various types of unlawful unions. These included children born of incest and adultery. Also certain foundlings were considered *mamzerim*. The status of *mamzerut* can also be passed down hereditarily, an issue that is at the heart of this mishnah. According to Rabbi Tarfon, *mamzerim* can be purified in that he can free his children from the restrictions that *mamzerut* imposes. These restrictions pertain solely to marriage as *mamzerim* are only allowed to marry other *mamzerim*, converts to Judaism or non-Jewish

slaves.<sup>27</sup> If the *mamzer* marries a female slave, their children take the status of the mother and are slaves. If those slaves are freed, then the children are free. Freed slaves have the status of proselytes, full participants within the Jewish people. Rabbi Eliezer disagrees and says that the lineage of the child follows both the mother and father and thus the child is both a slave and a *mamzer* and thus incapable of being purified. In this mishnah, Rabbi Tarfon is using the law to the best of his ability in order to give the *mamzer* a chance to allow his children to marry any Israelite.

#### mBaba Kama 2:5

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| <p>שור המזיק ברשות הניזק כיצד<br/>נגח נגף נשך רבץ בעט ברשות<br/>הרבים משלם חצי נזק ברשות<br/>הניזק רבי טרפון אומר נזק שלם<br/>וחכמים אומרים חצי נזק אמר<br/>להם רבי טרפון ומה במקום<br/>שהקל על השן ועל הרגל ברשות<br/>הרבים שהוא פטור החמיר עליהם<br/>ברשות הניזק לשלם נזק שלם<br/>מקום שהחמיר על הקרן ברשות<br/>הרבים לשלם חצי נזק אינו דין<br/>שנחמיר עליה ברשות הניזק<br/>לשלם נזק שלם אמרו לו דיו לבא<br/>מן הדין להיות כנדון מה ברשות</p> | <p>What is meant by an ox doing damage on the plaintiff's premises? In case of goring, pushing, biting, lying down or kicking, if in the public domain, the payment is half. But if on the plaintiff's premises: R. Tarfon says, "Payment is in full." The sages say, "Only half damages [are required]."</p> <p>R. Tarfon said to them, "Since the law was lenient regarding [damage by the animal's] tooth or foot in the case of the public domain allowing total exemption, but it was strict regarding them for [damage done on] the plaintiff's premises where it imposed payment in full. Therefore, in the case of [damage by the animal's] horn, where the law was strict regarding [damage done on] the public domain because it imposed at least the payment of half damages, does it not stand to reason that we should make it equally strict with reference to the plaintiff's premises so as to require compensation in full?"</p> |
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<sup>27</sup> See Deuteronomy 23:3

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| <p>הרבים חצי נזק אף ברשות הניזק<br/> חצי נזק אמר להם אני לא אדון<br/> קרן מקרן אני אדון קרן מרגל ומה<br/> במקום שהקל על השן ועל הרגל<br/> ברשות הרבים החמיר בקרן מקום<br/> שהחמיר על השן ועל הרגל<br/> ברשות הניזק אינו דין שנחמיר<br/> בקרן אמרו לו דיו לבא מן הדין<br/> להיות כנדון מה ברשות הרבים<br/> חצי נזק אף ברשות הניזק חצי נזק</p> | <p>They said to him, “It is quite sufficient that the law in respect of the thing inferred should be no different from that which it is derived. Just as for damage done on the public domain the compensation [in the case of damage done by the animal’s horn] is half, so also for damage done on the plaintiff’s premises the compensation should not be more than half.”</p> <p>He [R. Tarfon] said to them, “But I do not infer [damage done by the animal’s] horn [on the plaintiff’s premises] from [damage done by the animal’s] horn [on the public domain]. I infer [damage done by the animal’s] horn or foot. In the case of [damage done on] the public domain the law, though lenient with reference to [damage done by the animal’s] tooth or foot, is nevertheless strict regarding [damage done by the animal’s] horn. In the case of the plaintiff’s premises, where the law is strict with reference to [damage done by the animal’s] tooth or foot, does it not stand to reason that we should apply the same strictness to [damage done by the animal’s] horn?”</p> <p>They said to him, “It is quite sufficient that the law in respect of the thing inferred should be no different from that which it is derived. Just as for damage done on the public domain the compensation [in the case of damage done by the animal’s horn] is half, so also for damage done on the plaintiff’s premises the compensation should not be more than half.”</p> |
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This next text once again illustrates Rabbi Tarfon’s propensity towards ruling in favor of the more disadvantaged party. In this case, from the order of Nezikin (damages), Rabbi Tarfon argues with the sages about how much money should be paid to someone who has suffered damage by an animal on his or her own property. The sages, following the law as

described in Exodus 21:20, rule that the plaintiff should only receive half damages. Rabbi Tarfon, favoring the injured plaintiff, rules that the injured party should receive full damages.

Rabbi Tarfon uses a classical *qal v'chomer* argument. He disputes that just as full payment of damages is required when there is a case of attack by "tooth and foot" on either public or private land, so too damages done by an animal's horns, as is the case in this mishnah, should also be paid out in full whether on public or private land.

The sages, however, disagree and claim that Rabbi Tarfon is using incorrect logic. In essence, the sages do not believe that a *qal vachomer* used to determine damages paid to an injured party can produce a greater amount to be paid than the one that starts the *qal vachomer* argument off in the first place. In such a case the *qal vachomer* only generates culpability, but it does not increase the damages paid to the injured party. Instead, the sages suggest using a more relevant *qal vachomer*. They say that just as damages done on public ground requires a payment of half, so too damage done on private ground should require half payment.

The main issue of discussion here is the role of private versus public property. According to the sages there is no difference between public and private property in regards to an animal's actions. However, Rabbi Tarfon believes that once an animal is on one's private property the law should reflect the fact that the animal does not belong there.

Although Rabbi Tarfon is trying to help the injured party to the full extent of the law, it seems that the law is clearly with the sages. In Exodus 21:35, the Torah states that only full payment is required when an animal has gored three times or more. This implies that an animal that does not customarily injure people cannot be held fully accountable for its one-off actions. Essentially, it is a surprise that the animal would injure someone. Therefore the

owner cannot be held fully accountable for its actions. If the mishnah were dealing with an animal that habitually attacked people, then Rabbi Tarfon would have more of a basis for his argument. After all, the owner would be responsible for his violent animal whether on private or public property.

#### mMakot 1:10

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| <p>מי שנגמר דינו וברח ובא לפני<br/>אותו בית דין אין סותרים את דינו<br/>כל מקום שיעמדו שנים ויאמרו<br/>מעידין אנו באיש פלוני שנגמר<br/>דינו בבית דין של פלוני ופלוני<br/>ופלוני עדיו הרי זה יהרג סנהדרין<br/>נוהגת בארץ ובחוצה לארץ<br/>סנהדרין ההורגת אחד בשבוע<br/>נקראת חובלנית רבי אליעזר בן<br/>עזריה אומר אחד לשבעים שנה<br/>רבי טרפון ורבי עקיבא אומרים<br/>אילו היינו בסנהדרין לא נהרג<br/>אדם מעולם רבן שמעון בן<br/>גמליאל אומר אף הן מרבין שופכי<br/>דמים בישראל</p> | <p>If one fled after having been convicted at a court and again comes up before the same court, the [first] judgment is not set aside. Wherever two witnesses stand up and say, “We testify that ,a” was tried and convicted at the court of ,b” and that ,c” and ,d” were the witnesses in the case,” the accused is executed.</p> <p>A sanhedrin has jurisdiction within the land [of Israel] and outside it. A sanhedrin that effects an execution once in seven years, is branded a destructive tribunal; R. Eliezer b. Azariah says, “Once in seventy years.”</p> <p>R. Tarfon and R. Akiva say, “If we were members of a sanhedrin, no person would ever be put to death.”</p> <p>Rabban Simeon b. Gamaliel says, “They would also multiply shedders of blood in Israel.”</p> |
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In this famous text from mMakot, Rabbis Tarfon and Akiva once again have one of their rare moments of agreement. Both present a very clear anti-death penalty position. Rabbi Eliezer b. Azariah states that a sanhedrin that doles out the death penalty once in

seventy years is a destructive court. Akiva and Tarfon go further to say that if they had been on a sanhedrin with the right to inflict capital punishment<sup>28</sup> they would have never put anyone to death. To this, Rabban Simeon b. Gamaliel replies that they would be causing murderers to flourish. Clearly Gamaliel is for the death penalty and worries that this sort of leniency will only lead to more lawlessness.

Although this text appears to be a prime example of compassion on the part of Rabbi Tarfon, and Akiva in this case, there are a lot of undefined elements. Tarfon and Akiva reject the death penalty but perhaps they have something else in store for the criminal that is even worse, for example, a life in prison with the proverbial bread and water diet.

#### **mPirke Avot 2:15-16**

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| <p>רבי טרפון אומר היום קצר<br/>והמלאכה מרובה והפועלים<br/>עצלים והשכר הרבה ובעל הבית<br/>דוחק</p> <p>הוא היה אומר לא עליך המלאכה<br/>לגמור ולא אתה בן חורין ליבטל<br/>ממנה אם למדת תורה הרבה<br/>נותנים לך שכר הרבה ונאמן הוא<br/>בעל מלאכתך שישלם לך שכר</p> | <p>R. Tarfon says, "The day is short, and the work [to be performed] is much; and the workmen are indolent, but the reward is much; and the master of the house is insistent."</p> <p>He [R. Tarfon] used to say, "It is not [incumbent] upon you to finish the work, but neither are you a free man so as to [be entitled to] refrain from it.</p> <p>If you have studied much Torah, they give you much reward, and faithful is your employer to pay you the reward of your labor; and know that the grant of reward to the righteous is in the time to come.</p> |
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<sup>28</sup> i.e., one before the fall of the Second Temple as the rabbis believed that in post-Temple times the sanhedrin had lost its power to inflict capital punishment



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| <p>פעולתך ודע מתן שכרן של<br/>צדיקים לעתיד לבא</p> |  |
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These two mishnahs from mPirke Avot are perhaps the most famous texts attributed to Rabbi Tarfon. These two adages are non-*halakhic* in nature but still are worth including as they convey something about the character of Rabbi Tarfon.

Rabbi Tarfon is clearly interested in the common man. Tarfon is the elite of the elite as he is both a rabbi and a priest. He is wealthy and one would expect him to be completely out of touch with the average worker. However, Rabbi Tarfon gives the average worker hope. He understands that work is hard and we cannot do everything but we should still try our best and the reward will make it all worth it in the end.

**mYada'im 4:3**

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| <p>בו ביום אמרו עמון ומואב מה הן<br/>בשביעית גזר ר"ט מעשר עני וגזר<br/>ר"א בן עזריה מעשר שני א"ר<br/>ישמעאל אלעזר בן עזריה עליך<br/>ראיה ללמד שאתה מחמיר שכל<br/>המחמיר עליו ראיה ללמד אמר לו<br/>ר"א בן עזריה ישמעאל אחי אני<br/>לא שנית מסדר השנים טרפון<br/>אחי שינה ועליו ראיה ללמד השיב<br/>ר"ט מצרים ח"ל = חוץ לארץ =<br/>עמון ומואב ח"ל מה מצרים</p> | <p>On that day they said, "What is the law applying to Ammon and Moab in the seventh year?"</p> <p>R. Tarfon decreed [that those districts should give the] tithe for the poor; and R. Eleazar b. Azariah decreed [that they should give the] second tithe.</p> <p>R. Ishmael said, "Eleazar b. Azariah, the onus is upon you to produce your proof because you are expressing the stricter view; for the onus is [always] upon the person who expresses a stricter view to produce the proof."</p> <p>R. Eleazar b. Azariah said to him, "Ishmael, my brother, I have not deviated from the sequence of years, Tarfon, my brother, has</p> |
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| <p>מעשר עני בשביעית אף עמון<br/>ומואב מעשר עני בשביעית השיב<br/>ר"א בן עזריה בבל ח"ל עמון<br/>ומואב ח"ל מה בבל מעשר שני<br/>בשביעית אף עמון ומואב מעשר<br/>שני בשביעית אמר ר"ט מצרים<br/>שהיא קרובה עשאוה מעשר עני<br/>שיהיו עניי ישראל נסמכים עליה<br/>בשביעית אף עמון ומואב שהם<br/>קרובים נעשים מעשר עני שיהיו<br/>עניי ישראל נסמכים עליהם<br/>בשביעית אמר לו ר"א בן עזריה<br/>הרי אתה כמהנן ממון ואין אתה<br/>אלא כמפסיד נפשות קובע אתה<br/>את השמים מלהוריד טל ומטר<br/>שנאמר (מלאכי ג') (היקבע אדם<br/>אלהים כי אתם קובעים אותי<br/>ואמרתם במה קבענוך המעשר<br/>והתרומה א"ר יהושע הריני<br/>כמשיב על טרפון אחי אבל לא<br/>לענין דבריו מצרים מעשה חדש<br/>ובבל מעשה ישן והנדון שלפנינו<br/>מעשה חדש ידון מעשה חדש<br/>ממעשה חדש ואל ידון מעשה<br/>חדש ממעשה ישן מצרים מעשה<br/>זקנים ובבל מעשה נביאים והנדון<br/>שלפנינו מעשה זקנים ידון מעשה</p> | <p>deviated from them and so the onus is upon him to produce the proof.”</p> <p>R. Tarfon answered, “Egypt is outside the land of Israel and Ammon and Moab are outside the land of Israel. Just as Egypt must give the tithe for the poor in the seventh year, so must Ammon and Moab give the tithe for the poor in the seventh year.”</p> <p>R. Eleazar b. Azariah answered, “Babylon is outside the land of Israel and Ammon and Moab are outside the land of Israel. Just as Babylon must give the second tithe in the seventh year, so must Ammon and Moab give the second tithe in the seventh year. “</p> <p>R. Tarfon said, “On Egypt which is near, they imposed the tithe for the poor so that the poor of Israel might be supported thereby during the seventh year. Therefore we should impose the tithe for the poor on Ammon and Moab which are near so that the poor of Israel may be supported thereby during the seventh year.”</p> <p>R. Eleazar b. Azariah said to him, “Behold, you are like a person who would benefit them with gain, yet you are really as one who causes souls to perish. Would you rob the Heavens so that dew or rain should not descend? As it is said, „Will a man rob God? Yet you rob me.” (Mal 3:8) But you say, „How have we robbed you?” In tithes and heave-offerings.”</p> <p>R. Yehoshua said, “Behold, I shall reply on behalf of Tarfon, my brother, but not in accordance with his arguments. The law regarding Egypt is a new act and the law regarding Babylon is an old act; and the law which is being argued before us is a new act. A new act should be argued from [another] new act, but a new act should not be argued from an old act. The law regarding Egypt is</p> |
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| <p>זקנים ממעשה זקנים ואל ידון<br/> מעשה זקנים ממעשה נביאים נמנו<br/> וגמרו עמון ומואב מעשרין מעשר<br/> עני בשביעית וכשבא ר' יוסי בן<br/> דורמסקית אצל רבי אליעזר בלוד<br/> אמר לו מה חדוש היה לכם בבית<br/> המדרש היום אמר לו נמנו וגמרו<br/> עמון ומואב מעשרים מעשר עני<br/> בשביעית בכה רבי אליעזר ואמר<br/> (תהלים כה) סוד ה' ליראיו<br/> ובריתו להודיעם צא ואמור להם<br/> אל תחושו למנינכם מקובל אני<br/> מרבן יוחנן בן זכאי ששמע מרבו<br/> ורבו מרבו עד הלכה למשה מסיני<br/> שעמון ומואב מעשרין מעשר עני<br/> בשביעית</p> | <p>the act of the elders and the law regarding Babylon is the act of the prophets, and the law which is being argued before us is the act of the elders. Let one act of the elders be argued from [another] act of the elders, but let not an act of the elders be argued from an act of the prophets.</p> <p>The votes were counted and they decided that Ammon and Moab should give tithe for the poor in the seventh year.</p> <p>And when R. Jose b. Durmaskit visited R. Eliezer in Lod he [R. Eliezer] said to him, "What new thing was learned in the house of study today?"</p> <p>He said to him, "Their votes were counted and they decided that Ammon and Moab must give tithe for the poor in the seventh year."</p> <p>R. Eliezer wept and said, "The counsel of the Lord is with them that fear Him and His covenant, to make them know it." (Ps 25:14) Go and tell them, "Do not have any apprehension on account of your voting. I received a tradition from R. Johanan b. Zakkai who heard it from his teacher, and his teacher from his teacher, and so back to a <i>halachah</i> given to Moses from Sinai, that Ammon and Moab must give tithe for the poor in the seventh year."</p> |
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This mishnah begins with the words *bo bayom*, on that day. This mishnah, along with many others, is referring to the day that Rabban Gamliel was deposed as head of the counsel in Yavneh and Eleazar ben Azariah was installed as his replacement. Many important halakhic decisions were also made on that fateful day. The particular issue being discussed in this text is whether Israelites living in Ammon and Moab, two countries close to Israel, have to tithe during a *shemittah*, sabbatical, year.

Some background information about the nature of tithing is in order. The Torah mandates three tithes for the Israelites. The *ma`aser rishon*, first tithe, goes to the Levites (Numbers 18:20). The Israelites are also to bring a *ma`aser sheini*, second tithe, of their corn, wine, oil, flocks, and herds to the central sanctuary, the place that God will choose. If the central sanctuary is too far, then they can convert this wherewithal into money and take that to Jerusalem instead. At the central sanctuary, they are to use the money or tithe to rejoice before God, as they eat, drink, and be merry. (Deuteronomy 14:22-29) But they are also supposed to remember the Levite, who has no inheritance. Every three years, they are to devote the entire second tithe to the poor Levite, the resident alien, the orphan, and the widow, all of whom are economically vulnerable and lack the means for self-support. They pool their tithes into a location within their local gates, and the poor come to collect in order to be satisfied. This is the *ma`aser `ani*, poor tithe.

According to Leviticus 25:1-7, the Israelites living in Israel are to let the land lie fallow every seventh year. They cannot sow, reap or prune their vineyards and fields. Because the Israelites in Israel do not grow anything in the seventh year, they do not pay tithes during that period of time, since demanding a tenth of crops when so little grows would be onerous.

But what about the Israelites who live and farm or ranch outside of Israel, in Babylon, Egypt, Ammon, or Moab? For them, the rules are different, for they have to pay some tithe. It may be the second tithe, which the Israelites from those locations would presumably bring to the central sanctuary in Israel. Or it could be the tithe for the poor, meaning perhaps that they would have to pay it in years three, six and seven of the seven year cycle.

Rabbi Tarfon, in an effort to help the poor, decrees that the Ammon and Moab should give the tithe for the poor while Rabbi Eleazar b. Azariah, the new head of the Sanhedrin, holds that Ammon and Moab should give the second tithe. Rabbi Tarfon compares Egypt with Ammon and Moab. Just as Egypt is outside of the land of Israel and gives tithe for the poor, so too Ammon and Moab, which are outside the land of Israel, should give tithe for the poor.

Eleazar b. Azariah disagrees citing Babylon, which is also outside of Israel, where the custom is to give the second tithe. Rabbi Tarfon then renews his argument stating that because Egypt is close to Israel, the tithe for the poor is imposed so that the poor of Israel can travel to get food in Egypt. Therefore, because Ammon and Moab are close to Israel, they too should institute the tithe for the poor. Although his original argument has changed slightly, Rabbi Tarfon is now proposing the *ma'aser `ani* for purely altruistic reasons.

Rabbi Eleazar b. Azariah then counters with an argument that Rabbi Tarfon has actually made in other mishnahs, Terumot 9:2, for example. Essentially, it is better to play it safe than risk accidentally violating *halakhah*. Eleazar b. Azariah claims that by not instituting the second tithe and by trying to help the poor, Tarfon is risking divine punishment in the form of natural disasters as foretold in Malachi 3:8.

Rabbi Yehoshua, who is one of Rabbi Tarfon's teachers, then enters the debate on the side of Rabbi Tarfon but argues from a different analogy. He says that because the laws concerning the tithes in Egypt are a new enactment that the elder, i.e., the Rabbis, ordained and the laws concerning the tithes in Babylon are an old enactment of the Prophets, the laws regarding Ammon and Moab, which are now being considered as a new rabbinic enactment,

should be parallel to those regarding Egypt. Therefore Ammon and Moab, like Egypt, should institute the *ma'aser `ani*.

The mishnah ends with Rabbi Tarfon and Rabbi Yehoshua's argument winning out in a vote. This decision is given even more authority when Rabbi Eliezer of Lod declares that he learned the very same thing from Yochanan ben Zakai who received this law, through the rabbinic chain of tradition, from Moses at Sinai.

The above ten mishnahs show us a very clear picture of Rabbi Tarfon as quite philanthropic . With few exceptions, Rabbi Tarfon fights for the rights of the classically disenfranchised groups of late antiquity. Tarfon is mostly concerned with making sure the disadvantaged are supported financially. However, we see that he also takes on issues of status, capital punishment and women's rights. Although by no means a true humanitarian by today's standards, Tarfon is tremendously aware of the disadvantaged considering his powerful position in society.

## **Literalism**

In the next section of mishnahs, Rabbi Tarfon is portrayed as a halakhic literalist. Tarfon follows the letter of the law to an exact, and sometimes detrimental, degree. In his literal approach, he is often overly specific and deals with the individual matter being discussed as opposed to the general rule to be derived from it.

### **mBerachot 1:3**

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| בית שמאי אומרים בערב כל אדם | Beit Shammai says, "In the evening every man should recline and recite [the Sh'ma], |
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| <p> יטו ויקראו. ובבוקר יעמודו.<br/> שנאמר (דברים ו) ובשכבך<br/> ובקומך. ובית הלל אומרים כל<br/> אדם קורא כדרכו. שנאמר (שם)<br/> ובלכתך בדרך. אם כן. למה נאמר<br/> ובשכבך ובקומך. בשעה שבני<br/> אדם שוכבים. ובשעה שבני אדם<br/> עומדים. אמר רבי טרפון. אני<br/> הייתי בא בדרך. והטתי לקרות.<br/> כדברי בית שמאי. וסכנתי בעצמי<br/> מפני הלסטים. אמרו לו. כדי היית<br/> לחוב בעצמך. שעברת על דברי<br/> בית הלל </p> | <p> and in the morning he should stand, as it says,<br/> "...and when you lie down and when you rise<br/> up." </p> <p> Beit Hillel, however, says, "Every man<br/> should recite in his own way, as it says,<br/> "...and when you walk by the way." </p> <p> Why then is it said, "...and when you lie<br/> down and when you rise up?" [This means],<br/> at the time when people lie down and at the<br/> time when people rise up. </p> <p> R. Tarfon said, "I was once walking by the<br/> way and I reclined to recite the Sh'ma in the<br/> manner prescribed by Beit Shammai, and I<br/> incurred danger from robbers." </p> <p> They said to him, "You deserved to come to<br/> harm, because you acted against the opinion<br/> of Beit Hillel." </p> |
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In this famous mishnah from mBerachot, the Houses of Hillel and Shammai argue over whether the Sh'ma should be said while reclining or standing depending on which Sh'ma one is reciting. The House of Shammai maintains that one should stand when the Sh'ma is said in the morning and say the declaration while reclining at night because the Torah states explicitly, "...when you lie down and when you rise up." (Deuteronomy 6:7)

The House of Hillel, however, cites the first half of Deuteronomy 6:7, "...and when you walk by the way," saying that each person should say the Sh'ma in his or her own way, meaning whatever position one is currently in when reaching the time to recite the

*Sh'ma*.<sup>29</sup> As for Shammai's argument, Hillel states that the second half of Deuteronomy 6:7 only refers to the time that the Sh'ma should be said; when people customarily lie down and rise up. The law follows the House of Hillel.

In this text, Rabbi Tarfon is presented as a Shammaite insofar as he follows the law presented by Shammai, even at risk of his own personal safety. There is no clear statement in rabbinic literature that indicates that Rabbi Tarfon belonged to the House of Shammai; however, he studied under Rabbi Eliezer who was known as "*shamuti*," a term that can either mean excommunicated or having a tendency to be a Shammaite. Rabbi Tarfon is also portrayed as a student of Shammai here not just because he follows the law according to Shammai but because of his literalist nature. Like the House of Shammai, who in this mishnah and in others tend to interpret texts hyperliterally, Rabbi Tarfon lays down in the middle of a dangerous road to say the Sh'ma because it says in the Torah, "You shall speak them... when you lie down." Rabbi Tarfon is often portrayed as quite a pragmatic character, often making a ruling that is less ideological and more about common sense. However, in this first mishnah we have examined, Rabbi Tarfon is anything but pragmatic. Rather he is putting himself at risk just to make a point. It is not surprising therefore that the sages tell him he deserved to come to harm; for acting against the view of the House of Hillel.

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<sup>29</sup> This is quite a relevant debate as this issue is still debated among various North American Reform congregations, with some congregations rising for the Sh'ma based on an early, classical Reform custom meant to delineate the Sh'ma from the rest of the service and signal its importance. Other Reform congregations choose to sit during this Sh'ma, as they have already been seated up to this point in the service.



**mBerachot 6:8**

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| אכל תאנים וענבים ורמונים מברך<br>אחריהן שלש ברכות דברי רבן<br>גמליאל וחכמים אומרים ברכה<br>'ע אומר אפי"אחת מעין שלש ר<br>אכל שלק והוא מזונו מברך אחריו<br>ברכות השותה מים לצמאו ג'<br>טרפון 'אומר שהכל נהיה בדברו ר<br>אומר בורא נפשות רבות | <p>"If one has eaten grapes, figs or pomegranates he says a grace of three blessings after them." So [says] R. Gamaliel.</p> <p>The sages, however, say, "One blessing which includes three."</p> <p>R. Akiva says, "If one ate only boiled vegetables, and that is his meal, he says after it the grace of three blessings."</p> <p>If one drinks water to quench his thirst, he says the benediction, "...by whose word all things exist."</p> <p>R. Tarfon says, "...who creates many living things and their requirements."</p> |
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This mishnah from mBerachot, chapter 6, deals with the issue of what constitutes a meal. The main issue at heart is the nature of intentionality in relation to eating a meal. The basic blessing after meals, *Birkat HaMazon*, consists of three blessings: *hazan et ha kol*, *`al ha'aretz v'`al hamazon* and *uv'nei Yerushalyim*. This blessing must be said after eating a meal. But what constitutes a meal?

According to Rabban Gamliel, grapes, figs or pomegranates are sufficient to be counted as a meal and would require the threefold blessing after them. However, the sages say that one need only say one abbreviated blessing which includes the themes of *Birkat HaMazon* mentioned in short form when one ate figs, grapes or pomegranates, presumably because these do not constitute a full meal. Rabbi Akiva then enters the conversation and says that if one ate only boiled vegetable, but it was the central part of his or her meal, they would be obligated to say all three benedictions. Although Rabbi Akiva uses the example of

boiled vegetables, he is making a much more general rule here. According to Akiva it does not matter what you eat, so long as it is the central part of your meal, you must say the three blessings.

The anonymous voice of the sages then decrees that when one is drinking water to quench one's thirst, he or she says *shehakol n'hiyeh bidvaro*, a default blessing that can be used in any circumstance when a more appropriate blessing cannot be found. Rabbi Tarfon then enters the conversation and says that one should actual say *borei n'fashot*, a prayer praising God for God's creations and their requirements.

The key to his argument is that the sages specifically mention the fact that the person drinking the water is thirsty. If the water was being drunk purely for social reasons *shehakol* could be the correct blessing, but because the person is thirsty, thereby signifying a human deficiency, Tarfon argues that the blessing should reflect this state. Therefore, he suggests using *borei n'fashot* because it speaks about how humans have deficiencies and needs and that God provides for them.

Rabbi Tarfon suggests this blessing because it makes the most sense for this particular situation. He is, however, being hyperliteral and relating only to this case and not the general rule. Rabbi Tarfon is concerned with the intention behind drinking the water. Although this text is placed in this chapter about Rabbi Tarfon as a literalist, it can also be interpreted to represent Tarfon's focus on intentionality which will be discussed in the next chapter. This idea of choosing the most appropriate blessing is also found in the next text.

#### **mPesachim 10:6**

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| <p>עד היכן הוא אומר בית שמאי<br/>אומרים עד אם הבנים שמחה<br/>ובית הלל אומרים עד חלמיש<br/>למענינו מים וחותם בגאולה רבי<br/>טרפון אומר אשר גאלנו וגאל את<br/>אבותינו ממצרים ולא היה חותם<br/>רבי עקיבא אומר כן ה' אלהינו<br/>ואלהי אבותינו יגיענו למועדים<br/>ולרגלים אחרים הבאים לקראתינו<br/>לשלוש שמחים בבנין עירך<br/>וששים בעבודתך ונאכל שם מן<br/>הזבחים ומן הפסחים כו' עד ברוך<br/>אתה ה' גאל ישראל</p> | <p>How far does one recite it? Beit Shammai maintains until, "As a joyous mother of children," while Beit Hillel says until, "The flint into a fountain of waters," and he concludes with [a formula of] redemption.</p> <p>R. Tarfon used to say, "Who redeemed us and redeemed our fathers from Egypt," but he did not conclude [with a blessing].</p> <p>R. Akiva said, "So may the Lord our God and the God of our father allow us to reach other seasons and festivals which shall come to us for peace; rejoicing in the rebuilding of your city and glad in your service, and there we will partake of the sacrifices and the Passover-offerings, etc," as far as, „Blessed are you, Lord, who has redeemed Israel.”</p> |
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This well known mishnah, recited during the Passover *Seder*, is another example of Rabbi Tarfon as a literalist. Before delving into this mishnah, it is important to first discuss the previous mishnah, mPesachim 10:5, for context. In 10:5, Rabban Gamliel says that everyone is required to mention the Passover offering, *pesach*, the unleavened bread, *matzah*, and the bitter herbs, *maror*, during the Passover *Seder*. Gamliel continues by discussing why each of these items needs to be mentioned. He then tells us the famous line, "In every generation a man is bound to regard himself as though he personally had gone forth from Egypt," and its rationale. Finally, Gamliel concludes by saying that because of all that God did for us, we must thank, praise, glorify, and exalt God with the words of Hallel.

This mishnah picks up with a debate between Hillel and Shammai as to how to far one needs to recite Hallel and how to end it. Beit Shammai argues that Hallel should

conclude with, “As a joyous mother of children,” (Pslam 113) signifying that the Exodus is essentially about obtaining freedom. Beit Hillel says to end Hallel with, “The flint into a fountain of waters,” (Psalm 114) signifying that the Exodus is essentially about receiving the Torah. Beit Hillel then ends with a blessing on the theme of redemption.

Rabbis Tarfon and Akiva then join the debate. The two rabbis are discussing the details of the blessing alluded to by Hillel. Tarfon argues that the only blessing that must be said is a short line about God redeeming the Israelites from Egypt with no *chatimah*. Rabbi Tarfon’s blessing is very specific and relates directly to the theme of Passover. Rabbi Akiva offers a much longer blessing that includes mentions of other festivals and the rebuilding of the Temple in Jerusalem, items that are not directly related to the Passover narrative.

Rabbi Tarfon’s literalist personality has him choosing the most appropriate specific blessing for the remembering the Exodus from Egypt.

Although there are only three mishnahs in this section, they all portray Rabbi Tarfon as a literalist. In an effort to best follow the letter of the law, Tarfon recites prayers in a manner that is meant to reflect the literal nature of the commandment being observed. Tarfon’s focus on the literal is also essentially intertwined with his focus on intention. On one hand he seeks to make rulings based on *keva* and the exact circumstance while at the same time his rulings attempt to appropriately deal with the *kavana* of a matter.

## **Intentionality**

The following section contains texts that all deal with the theme of intentionality. In the previous chapter it was shown that Rabbi Tarfon can be somewhat of a literalist. In this

chapter he appears to also be very interested in the intention behind certain laws as opposed to just their practice.

#### mKil'ayim 5:8

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| <p>המקיים קוצים בכרם רבי אליעזר<br/>א לא קדש אלא "אומר קדש וחכ<br/>הארוס דבר שכמוהו מקיימין<br/>והקיסום ושושנת המלך וכל מיני<br/>זרעים אינן כלאים בכרם הקנבס<br/>רבי אומר אינו כלאים וחכמים<br/>אומרים כלאים והקינרס כלאים<br/>בכרם</p> | <p>If one allows thorns to remain growing in a vineyard, R. Eliezer said, "He affects a state of prohibition."</p> <p>But the sages said, "Nothing causes such a state of prohibition except that which it is a common practice [in the place concerned] to permit to grow."</p> <p>Iris, ivy, and the king's lily, likewise all manner of seeds [other than those already specifically dealt with] are not <i>kil'ayim</i> in a vineyard. [As for] cannabis, R. Tarfon said, "It is not <i>kil'ayim</i>."</p> <p>But the sages say, "It is <i>kil'ayim</i>."</p> <p>Artichokes are <i>kil'ayim</i> in a vineyard.</p> |
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The above text deals with prohibition against planting multiple different crops in the same field. In this particular case, the rabbis are questioning whether inedible weeds like thorns and ivy are considered *kil'ayim*. The issues at the heart of this mishnah are intentionality and benefit. If someone allows thorns to grow in a vineyard, Rabbi Eliezer says they are violating the laws of *kil'ayim*. Presumably the thorns were not planted on purpose but the owner of the vineyard derives benefit from them as they can be used as a makeshift fence or food for camels. The sages disagree with Eliezer and allow any 'common' weeds which were not planted on purpose to remain in a field without violating the law.

Rabbi Tarfon then enters the argument and rules contrary to the sages that cannabis is not *kil'ayim*. For Tarfon, this is an issue of intention versus benefit. Cannabis, which could have many uses like making rope, is not a food and as long as it was not planted on purpose, can remain growing in a vineyard according the laws of *kil'ayim*. The possible benefits are unimportant to Tarfon as he seems to only be interested in whether the cannabis was planted on purpose or not.

#### m'Eruvin 4:4

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| <p>מי שישב בדרך ועמד וראה והרי<br/>הוא סמוך לעיר הואיל ולא היתה<br/>כוונתו לכך לא יכנס דברי רבי<br/>מאיר ר' יהודה אומר יכנס אמר<br/>רבי יהודה מעשה היה ונכנס<br/>ר' טרפון בלא מתכוין</p> | <p>“If a man sat down by the way and when he rose up he observed that he was near a town he may not enter it, since it had not been his intention to do so; so [says] R. Meir.</p> <p>R. Yehuda ruled [that] he may enter it. R. Yehuda says, “It once actually happened that R. Tarfon entered a town though this [i.e., entering the town] was not his intention [when the Sabbath had begun].”</p> |
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This mishnah from m'Eruvin deals with issues of intentionality in regards to Sabbath observance. As the title of this *masechet* implies, this mishnah deals with *`eruvim*. First it is important to clarify some terms in relation to this argument. There are three types of *eruvim*: *`eruv tavshilin*, *`eruv techumin*, and *`eruv chatzerot*. An *`eruv tavshilin* refers to “mixing of [cooked] dishes,” whereby one prepares a cooked food prior to a Jewish holiday that will be followed by the Shabbat. Normally, cooking is allowed on Jewish holidays, but only for consumption on that day, and not for consumption after the holiday. The *`eruv tavshilin* permits cooking from festival to Shabbat.

An *`eruv techumin* enables one to walk beyond the “Sabbath limit” on Shabbat or a Jewish holiday. One prepares food prior to Shabbat or the holiday on which he plans to travel farther than 2000 cubits, which is normally allowed on such days. One places the food somewhere along his journey’s path prior to Shabbat or the holiday. This establishes a form of second domicile for the traveler from which he or she can then travel another 2000 cubits.

The *`eruv chatzerot*, or “mixed [ownership of] courtyards/domains,” operates so that all the residents of a community can treat a semi-public area as private space thereby allowing them to carry on Shabbat. This particular case is dealing with a situation in which there is no *`eruv chatzerot* as the traveler is outside of a city. The issue of *`eruv tavshilin* is not related to this matter. However, by stopping, presumably for a meal, the issue of *`eruv techumin* falls into question. Is the *`eruv techumin* valid even though this was not the intention of the traveler?

According to Rabbi Meir, a student of Rabbi Akiva, if a man sat down, Shabbat came, and he got up and noticed a town, he may not enter the town because it was not his intention to go there before Shabbat arrived. Rabbi Yehuda disagrees citing a *ma`aseh* involving his teacher, Rabbi Tarfon where this exact set of events occurred and Tarfon did enter the town even though it was not his intention. Rabbi Tarfon's ruling is lenient in terms of *`eruv techumim*, however, he is quite *machmir*, stringent, in regards to *`oneg Shabbat*, celebrating the Sabbath with joy. Sitting alone on the side of a road for Shabbat might be more fitting with the *halakhah* but he would have to spend Shabbat alone, hungry and exposed to the elements, thereby violating Isaiah’s prescription to call the Sabbath a pleasure. Tarfon accents another aspect of Shabbat *halakhah*.

This mishnah also tells the reader something about the true nature of the Tarfon-Akiva debate which will be discussed further in the next chapter. In this text the student of Akiva is arguing against the student of Tarfon on their respective teachers behalves. If the Tarfon-Akiva debate is merely a redactor's device, then would the redactor have also thought to include their two students in this literary device?

#### mNedarim 6:6

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| <p>הַנוֹדֵר מִן הַבָּשָׂר מוֹתֵר בְּרוֹטָב<br/>וּבְקִיפָה וּר' יְהוּדָה אוֹסֵר אָמַר ר'<br/>יְהוּדָה מַעֲשֶׂה וְאָסַר עָלַי<br/>רַבִּי טַרְפוֹן בִּיצִים שֶׁנִּתְבַּשְׁלוּ עִמּוֹ<br/>אָמְרוּ לוֹ וְכֵן הַדָּבָר אֵימָתִי בְּזִמְנָא<br/>שֶׁאָמַר בָּשָׂר זֶה עָלַי שֶׁהִנּוֹדֵר מִן<br/>הַדָּבָר וְנִתְעַרְבַּ בְּאַחֵר אִם יֵשׁ בּוֹ<br/>בְּנוֹתֵן טַעַם אֲסוּר</p> | <p>He who vows [abstinence] from meat, he may partake of broth and the sediments of boiled meat. But R. Yehuda forbids them.</p> <p>R. Yehuda said, "It once happened that [in such a case] R. Tarfon forbade us [even] eggs boiled with it [meat]."</p> <p>They replied, "That is so, but only if he vows, „this meat is forbidden to me“ for if he vows [to abstain] from something, and it is mixed up with another, if it [the forbidden food] is sufficient to impart its taste [to the other]. It is forbidden.</p> |
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In this mishnah from mNedarim the *tanna qama* argues that if one vowed not to eat meat, he or she may still eat food that has been cooked with meat. Rabbi Tarfon, however, is more stringent than the *tanna qama* and does not allow one to eat anything that has been cooked with meat, as told in a *ma'aseh* by Rabbi Yehuda, his student. The sages then reply that this is only the case if the forbidden food imparts flavor unto the non-forbidden food. In this argument, Rabbi Tarfon takes the side of intention. By making a vow, the *kavana* behind that decision it was not eat a certain food, however it is prepared. The sages,



however, argue from the standpoint of a halakhic loophole that allows one to consume something forbidden provided that it is of such a small measure as not to impart flavor.

#### mNazir 5:5

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| <p>היו מהלכין בדרך ואחד בא כנגדן<br/>אמר אחד מהן הריני נזיר שזה<br/>פלוגי ואחד אמר הריני נזיר שאין<br/>זה פלוגי הריני נזיר שאחד מכם<br/>נזיר שאין אחד מכם נזיר ששניכם<br/>נזירים שכולכם נזירים בית שמאי<br/>אומרים כולן נזירים ובית הלל<br/>אומרים אינו נזיר אלא מי שלא<br/>נתקיימו דבריו ורבי טרפון אומר<br/>אין אחד מהם נזיר</p> | <p>If [people] were walking along the road and [saw] someone coming towards them, and one said, "I declare myself a nazirite if it is so-and-so," while another said, „I declare myself a nazirite if it is not so-and-so," [and a third man says that], „I declare myself a nazirite if one of you is a nazirite," [and a fourth man says that, „I declare myself a nazirite] if neither of you is a nazirite," [and a fifth says, „I declare myself a nazirite] if both of you are nazirites, [and a sixth says, „I declare myself a nazirite] if all of you are nazirites."</p> <p>Beit Shammai say, "All [six] of them are nazirites."</p> <p>But Beit Hillel says, "Only those whose words were not fulfilled, are nazirites."</p> <p>R. Tarfon says, "Not one of them is a nazirite."</p> |
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This mishnah deals with making conditional vows. A group of travelers all make vows to be nazirites based on whether an approaching man is who they think he is. And others in the group make vows to be nazirites based on whether the previous men will become nazirites. According to Beit Shammai, all of them are nazirites. Beit Hillel says only the ones whose conditional statements came true are nazirites. Rabbi Tarfon, breaking from the Shammaite camp, argues that none of them are nazirites. Beit Shammai is the most stringent in this case, holding all of the men to account. Tarfon is the most lenient, allowing

all of the men to renounce their vow, and Beit Hillel is somewhere in the middle. Tarfon's argument is based on the idea that a vow predicated on someone else's situation or vow is invalid. Rabbi Tarfon is concerned with the intention behind making the vow. One should make a vow for the proper intentions, not because someone else is making the vow.

The four mishnahs from this section portray a clear picture of Rabbi Tarfon as someone interested in issues of intentionality. In relation to planting *kil'ayim* and making vows, Tarfon rules on the side of intention. However, in relation to *`eruv techumin*, he rules against intention. This discrepancy may not be so much a statement of Rabbi Tarfon's feeling towards the *kavana* related to *`eruv techumin* but rather his primary focus on *`oneg Shabbat*.

### **Relationship with Rabbi Akiva**

In this penultimate selection of *mishnayyot*, I will examine the relationship between Rabbis Tarfon and Akiva. According to Joel Gereboff, most of the texts in which Tarfon and Akiva argue were composed by a pro-Akiva camp using the character of Rabbi Tarfon as merely a rhetorical device to give Akiva's rulings more clout. Gereboff claims that Akiva often mocks Tarfon for his foolish beliefs.<sup>30</sup> However, as we will see in the following texts, there is a much more complex relationship between Rabbis Akiva and Tarfon portrayed in the Mishnah.

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<sup>30</sup> Gereboff, p. 400

**mSukkah 3:4**

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| רבי ישמעאל אומר שלשה הדסים<br>ושתי ערבות לולב אחד ואתרוג<br>אחד אפילו שנים קטומים ואחד<br>אינו קטום רבי טרפון אומר אפילו<br>שלשתן קטומים רבי עקיבא אומר<br>כשם שלולב אחד ואתרוג אחד כך<br>הדס אחד וערבה אחת | R. Ishmael says, “[One must have] three myrtle-branches, two willow-branches, one palm-branch and one <i>etrog</i> . Even if two [of the myrtle-branches] have their tips broken off and [only] one is whole [the wreath is valid].”<br><br>R. Tarfon says, “Even if all three have their tips broken off.”<br><br>R. Akiva said, “Just as [it is needed to have but] one palm-branch and one <i>etrog</i> , so [it is needed to have but] one myrtle-branch and one willow-branch.” |
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In this text, Rabbi Ishmael argues that a valid *lulav* must have two willow branches, one palm branch and at least one myrtle branch intact. Rabbi Tarfon disagrees stating that all three myrtle branches can have broken tips. Rabbi Akiva then argues that only one willow branch and one myrtle branch are needed.

The above mishnah is not actually a debate between Rabbi Tarfon and Rabbi Akiva. There are two distinct debates occurring in this mishnah; one between Tarfon and Ishmael and one between Akiva and Ishmael. The debate between Ishmael and Tarfon is about how many tips can be broken off the three myrtle branches. The debate between Ishmael and Akiva is about how many willow and myrtle branches are necessary. Rabbis Tarfon and Akiva are discussing two different aspects of a valid *lulav*. It seems that this is a case of Akiva and Tarfon being redacted together.

**mYevamot 15:7**

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| <p>קידש אחת מחמש נשים ואין יודע<br/>איזו קידש כל אחת אומרת אותי<br/>קידש נותן גט לכל אחת ואחת<br/>ומניח כתובה ביניהן ומסתלק<br/>דברי רבי טרפון רבי עקיבא<br/>אומר אין זו דרך מוציאתו מידי<br/>עבירה עד שיתן גט וכתובה לכל<br/>אחת ואחת גזל אחד מחמשה ואין<br/>יודע מאיזה גזל כל אחד אומר<br/>אותי גזל מניח גזילה ביניהן<br/>ומסתלק דברי רבי טרפון רבי<br/>עקיבא אומר אין זו דרך מוציאתו<br/>מידי עבירה עד שישלם גזילה<br/>לכל אחד ואחד</p> | <p>A man was engaged to one of five women and does not know which of them he was engaged to, and each one says, "He was engaged to me."</p> <p>"He gives a <i>get</i> to each of them and leaves the <i>ketubah</i> among them and withdraws." So [says] R. Tarfon.</p> <p>R. Akiva, however, says, "This is not a way that would lead one out of the power of sin, unless one gives a <i>get</i> and <i>ketubah</i> to everyone [of the persons involved]."</p> <p>A man robbed one of five persons and does not know which of them he has robbed, and each one says, "he has robbed me."</p> <p>"He leaves the [amount of] the robbery among them and withdraws," so [says] R. Tarfon.</p> <p>R. Akiva, however, says, "This is not a way that would lead one out of the power of sin, unless one pays [the full amount of the robbery] to everyone [of the persons involved]."</p> |
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The first section of this mishnah which was discussed in relation to Rabbi Tarfon's priestly bias dealt with a woman lying about her father-in-law's death to spite her mother-in-law. In the second section of this text which is quoted above, the rabbis propose an absurd situation in which a man betrothed a woman but then is confused about who he betrothed and five different women come forward claiming it was she. In a reversal of opinions from the previous section, Rabbi Akiva seems to be more protective of the woman than Rabbi Tarfon. Rabbi Akiva is general known to be not very nice towards women except in relation to *ketubot*. Rabbi Tarfon argues that the man should give each woman a *get*, leave the *ketubah*

between the woman and depart in order for the women to presumably fight it out. Rabbi Tarfon is being protective of the man in this case who may be the victim of some sort of marriage fraud. Rabbi Akiva, on the other hand, decrees that the man should give each woman a *get* and a *ketubah*. Rabbi Akiva is being protective of the women requiring the man to pay each woman.

The final section of this mishnah repeats the exact same scenario as above only with the case of a robber and five people who claim to be the robbed one. Once again Tarfon is protective of the robber while Akiva is protective of the ones who were robbed.

**mBaba Metzi'a' 2:7**

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| <p>אמר את האבדה ולא אמר סימניה<br/>לא יתן לו והרמאי אף על פי<br/>שאמר סימניה לא יתן לו שנאמר<br/>(דברים כ"ב) עד דרוש אחיך<br/>אותו עד שתדרוש את אחיך אם<br/>רמאי הוא אם אינו רמאי כל דבר<br/>שעושה ואוכל יעשה ויאכל ודבר<br/>שאין עושה ואוכל ימכר שנאמר<br/>(שם/דברים כ"ב/ב) (והשבותו לו<br/>ראה היאך תשיבנו לו מה יהא<br/>בדמים רבי טרפון אומר ישתמש<br/>בהן לפיכך אם אבדו חייב<br/>באחריותן רבי עקיבא אומר לא<br/>ישתמש בהן לפיכך אם אבדו אין<br/>חייב באחריותן</p> | <p>If he [the claimant] identifies a lost article, but not its identifying marks, it must not be surrendered to him. But if he is a cheat, even if he states its identifying marks, it must not be given up to him, because it is written, "[And it will be with you] until the seeking of your brother after it," meaning, until you have examined your brother as to whether he is a cheat or not.</p> <p>Everything [i.e., an animal] which works for its keep must [be kept by the finder and] earn its keep. But an animal which does not work for its keep must be sold, for it is said, "And you will return it to him," [which means], consider how to return it to him.</p> <p>What happens with the money? R. Tarfon says, "He may use it; therefore if it is lost, he bears responsibility for it."</p> <p>R. Akiva says, "He must not use it; therefore if it is lost, he bears no responsibility."</p> |
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In this text from mBaba Metzi`a", Rabbis Tarfon and Akiva are discussing the use of found items. The mishnah begins with a somewhat unrelated matter to the argument between Tarfon and Akiva. If someone attempts to claim a lost article, that person must be able to identify any distinguishing markings on the item. If the person claiming the item is a known cheat then he or she cannot claim the article, even if he or she is aware of any identifying markings, nor may a lost item be returned until a thorough background investigation has been made about the character of the claimant.

The second section of this mishnah deals with the issue of found animals. If the animal is a work animal such as a horse or ox, the person who found the animal is allowed to use that animal for labor. Since the finders are presumably paying to house and feed the animal, they should be able to recoup some of their losses through the animal's labor.

What happens, however, in the case of lost and found money? Can one use the money to try and make more money the same way one would use work animal? This issue comes down to whether the person guarding the money is a *shomer chinam*, an unpaid guardian, or a *shomer sachar*, a paid guardian.

Rabbi Tarfon argues that money is the same as a work animal and that it can be used. Tarfon, however, makes it clear that if the money is lost, the *shomer sachar* must repay the money. He has a certain amount of responsibility to the money as he is being paid in a way to watch it. Rabbi Akiva disagrees and forbids the use of the money. The *shomer chinam* is then no longer responsible if something should happen to the money because he was not being paid to watch it.

It is difficult to say who is more stringent or lenient in this mishnah. Akiva is more cautious and espouses the idea of building a fence around the Torah, setting up boundaries in order to prevent people from getting themselves into trouble. By not allowing the use of the money, Akiva prevents the *shomer* from making any money but also prevents him from losing any. This argument is not so different from one advocated by Rabbi Tarfon in Terumot 9:2 where he disallows non-priestly poor to glean *terumot* for fear of them accidentally eating it. Tarfon takes a more risky position in this particular mishnah allowing the *shomer* to use the money but also making him responsible for the risk involved.

**m`Eduyot 1:10**

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| <p>הפורט סלע של מעשר שני<br/>בירושלם בית שמאי אומרים בכל<br/>הסלע מעות ובית הלל אומרים<br/>בשקל כסף ובשקל מעות הדנים<br/>לפני חכמים אומרים בשלשה<br/>דינרים כסף ובדינר מעות רבי<br/>עקיבא אומר בשלשה דינרים כסף<br/>וברביעית כסף ברביעית מעות<br/>ורבי טרפון אומר ארבעה אספרי<br/>כסף שמאי אומר יניחנה בחנות<br/>ויאכל כנגדה</p> | <p>Whoever changes a <i>sela`</i> from second tithe in Jerusalem, Beit Shammai says, "Copper for the whole <i>sela`</i>."</p> <p>And Beit Hillel says, "Silver for one <i>shekel</i> and copper for one <i>shekel</i>."</p> <p>The disputants before the sages say, "Silver for three dinars and copper for one dinar."</p> <p>R. Akiva says, "Silver for three <i>dinars</i> and for the fourth silver, a fourth copper."</p> <p>R. Tarfon says, "Four <i>aspers</i> in silver."</p> <p>Shammai says, "He must leave it in a shop and eat on the credit thereof."</p> |
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This mishnah is set in the context of the *ma`aser sheni*, the second tithe. The second tithe involves the setting aside of one tenth of specific agricultural produce from the first,

second, fourth, and fifth, years of each *shemittah* or seven year cycle, for the purpose of taking it to Jerusalem, and consuming it there as required by Deuteronomy 14:22-29. The second tithe could also be redeemed and then the money from the redemption would be used to buy food to eat in Jerusalem. With this understood, it is now important to understand the currency system used in this text. The following coin conversions should be helpful: 1 *sela`* = 2 *shekels* = 4 *dinars* = 20 *aspers*.

If a farmer obtained one *sela`* for his second tithe, he would presumably need to change this large currency into smaller coins to spend on food. In this mishnah four rabbis debate which is the best method to change the second tithe money. The following chart shows how each rabbi rules in regards to the amount of silver and copper to get for one *sela`*.

|              |                         |                        |                     |
|--------------|-------------------------|------------------------|---------------------|
| Beit Shammai | 1 <i>sela`</i> copper   | No silver              | 100% copper         |
| Beit Hillel  | 1 <i>shekel</i> copper  | 1 <i>shekel</i> silver | 50/50 copper/silver |
| Akiva        | 1 <i>dinar</i> copper   | 3 <i>dinars</i> silver | 25/75 copper/silver |
| Tarfon       | 16 <i>aspers</i> copper | 4 <i>aspers</i> silver | 80/20 copper/silver |

Unsurprisingly, it appears that Rabbi Tarfon follows the same logic as Beit Shammai. Both think the majority of the *sela`* should be converted into copper coins. Presumably people wanted copper coins as they would have been the easiest to spend. Hillel says that there should be an even copper/silver split while Akiva takes a position almost exactly contrary to Tarfon saying the majority should be in silver. This mishnah uses a chiasmic structure, A-B-B-A, with Shammai and Tarfon as the A's and Hillel and Akiva as the B's.

#### mBechorot 4:4

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| הדין זיכה את החייב וחייב את | ...If a judge in giving judgment has declared innocent a person who was really liable or |
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| <p>הזכאי טמא את הטהור וטהר את<br/> הטמא מה שעשה עשוי וישלם<br/> מביתו ואם היה מומחה לבית דין<br/> פטור מלשלם מעשה בפרה<br/> שנטלה האם שלה והאכילה<br/> רבי טרפון לכלבים ובא מעשה<br/> לפני חכמים והתירוה אמר תודוס<br/> הרופא אין פרה וחזירה יוצאה<br/> מלאכסנדריא עד שהם חותכין את<br/> האם שלה בשביל שלא תלד אמר<br/> רבי טרפון הלכה חמורך טרפון<br/> אמר לו רבי עקיבא רבי טרפון<br/> פטור אתה שאתה מומחה לבית<br/> דין וכל המומחה לבית דין פטור<br/> מלשלם</p> | <p>made liable a person who was really innocent,<br/> declared defiled a thing which was ritually<br/> pure or declared ritually pure a thing which<br/> was really defiled, his decision stands but he<br/> has to make reparation out of his own estate.<br/> If, however, the judge was an expert<br/> according to a [recognized] <i>beit din</i>, he is<br/> absolved from making reparation.</p> <p>It happened once that a cow's womb was<br/> taken away and R. Tarfon gave it [the womb]<br/> to the dogs to eat. The matter came before<br/> the sages at Yavneh and they permitted the<br/> animal [for] Theodos the physician had said,<br/> “No cow or sow leaves Alexandria of Egypt<br/> before its womb is cut out in order that it may<br/> not breed.”</p> <p>R. Tarfon said, “Your ass is gone, Tarfon.”</p> <p>R. Akiva said to him, “Rabbi Tarfon, you are<br/> absolved, for you are an expert according to<br/> the <i>beit din</i> and whoever is an expert for the<br/> <i>beit din</i> is absolved from reparation.”</p> |
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In this strange mishnah from mBechorot, Rabbi Akiva defends Rabbi Tarfon. The rabbis discuss what is to be done if a judge misrules in a case. According to the sages his decision stands but he has to make reparations. If the judge is an expert then he does not have to make reparations. This ruling is then illustrated with a *ma'aseh* involving Tarfon and Akiva.

Rabbi Tarfon ruled that a cow's womb was not kosher and should be fed to the dogs. However, Theodos offered a counter testimony that implies that the removal of the cows womb is a fairly regular occurrence and there is nothing *treifah* (un-kosher) about the womb. Tarfon realizes this and says, "Your ass is gone, Tarfon," implying that he must make

restitution for this misjudgment with an animal of his own. Surprisingly, Rabbi Akiva defends Tarfon and absolves him from any reparations as he is considered an expert.

### mOhalot 13:3

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| <p>החור שבדלת שעורו מלא אגרוף<br/>דברי רבי עקיבא ר' טרפון אומר<br/>בפותח טפח שייר בה החרש<br/>מלמטן או מלמעלן הגיפה ולא<br/>מירקה או שפתחתו הרוח שעורו<br/>מלא אגרוף</p> | <p>[With regard to] a hole in the door, its minimum size is that of a fist. This is the opinion of R. Akiva.</p> <p>R. Tarfon says, “One handbreadth squared.”</p> <p>If the carpenter had left a space at the bottom or the top [of the door], or if one had shifted [the door] but not closed it tightly, or if the wind blew it open, the minimum size is that of a fist.</p> |
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This *mishnah* comes from mOhalot (tents), a *masechet* of the mishnah dealing with the spread of impurity within confined spaces. According to Rabbi Akiva, a hole in the door the size of a fist allows for the transfer of impurity. As usual, Rabbi Tarfon is more lenient than Akiva by specifying that the hole needs to be at least one handbreadth squared, a size much larger than a fist, to allow impurity to enter the tent. It appears from the final anonymous statement in this mishnah that the law follows Rabbi Akiva.

### mOhalot 16:1

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| <p>כל המטלטלין מביאין את הטומאה<br/>כעובי המרדע אמר רבי טרפון<br/>אקפח את בני שזו הלכה מקופחת<br/>ששמע השומע וטעה שהאיכר</p> | <p>All movable things form a passage for ritual impurity when they are of the thickness of an ox-goad.</p> <p>R. Tarfon said, “May I [see the] ruin of my sons if this is [not] a ruined <i>halachah</i> which someone [deduced from the following case</p> |
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| <p>עובר והמרדע על כתפו והאהיל<br/> צדו אחד על הקבר וטמאוהו<br/> משום כלים המאהילים על המת<br/> אמר רבי עקיבא אני אתקן שיהו<br/> דברי חכמים קיימין שיהו כל<br/> המטלטלין מביאין את הטומאה על<br/> אדם הנושאן בעובי המרדע ועל<br/> עצמן בכל שהן ועל שאר אדם<br/> וכלים בפותח טפח</p> | <p>which he had] heard and misunderstood. A farmer was passing by and over his shoulder was an ox-goad, one end of which overshadowed a grave. He was declared ritually impure on account [of carrying] vessels that were overshadowing a corpse.</p> <p>R. Akiva said, "I can amend [the <i>halachah</i>] so that the words of the sages can exist [as they are]. All movable things form a passage for ritual impurity to come upon a person carrying them when they are of the thickness of an ox-goad; upon themselves. When they are of whatsoever thickness; and upon other men or vessels [which they overshadow]. When they are one handbreadth wide."</p> |
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In this text from mOhalot Akiva and Tarfon do not entirely disagree. Tarfon vehemently disagrees with the *tanna kama* and it is Akiva who seeks to bridge the gap between the sages and Tarfon.

The mishnah begins with an anonymous statement that ritual impurity can be transferred to any moveable object that is thicker than an ox-goad. An ox-goad is a long stick similar to a cattle prod that is not particularly wide.

Rabbi Tarfon is then portrayed as quite angry at this ruling. This mishnah is one of a few passages in which Rabbi Tarfon uses the clever phrase, "May I see the ruin of my sons, if this not is a ruined halachah..." Although there are other instances in the Mishnah where rabbis get angry, this is quite a strong statement swearing on the lives of one's children. Tarfon, again being somewhat hyperliteral, offers a specific case where this ruling caused a problem. He refers to a man who was carrying an ox-goad over his shoulder and the ox-goad

overshadowed a grave and became impure. The man then became impure because he was holding on to the ox-goad.

Akiva deals with this discrepancy by ruling that the ox-goad is still *tame*, ritually impure, but it does not pass on this impurity to the holder unless the handle is a handbreadth's wide.

#### mMakshirin 5:4

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| <p>המודד את הבור בין לעמקו בין<br/>לרחבו ה"ז בכי יותן דברי ר'<br/>טרפון ר"ע אומר לעמקו בכי יותן<br/>ולרחבו אינו בכי יותן</p> | <p>If a cistern was measured, whether for its depth or for its breadth, it [the measuring stick] comes under the law of „if water be put.“ (Lev 11:38) This is the opinion of R. Tarfon.</p> <p>But R. Akiva says, “If [it was measured] for its depth, it [the measuring stick] comes under the law of „if water be put,“ but if [it was measured] for its breadth, it does not come under the law of „if water be put.“</p> |
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This text from mMakshirin deals with the laws of *b'chi yutan*, if water be put. According to Leviticus 11:38, if water is put on a plant after being harvested, the plant is susceptible to ritual impurity. A measuring stick used to measure the water from a cistern falls under the category of *b'chi yutan*. If this measuring stick became wet and thus impure and then was put back into the cistern, all the water in the cistern would become impure. Rabbi Tarfon argues that if a cistern is measured by depth and width, the measuring stick falls under the category of *b'chi yutan*. Rabbi Akiva is more lenient and only cisterns measured by their depth fall cause the stick to become impure. Akiva is essentially saying that when measuring a cistern by its breadth, there is no need to put the stick in water and the

issue of *b'chi yutan* does not apply. This mishnah falls within the minority of cases where Rabbi Tarfon is actually more *machmir*, strict, than Rabbi Akiva.

The above eight mishnahs present a very complex relationship between Rabbis Tarfon and Akiva. They range in topics including matters of ritual purity, engagements and financial matters. In most of the cases, Tarfon and Akiva disagree in respect to the *halakhah* but it is not clear in most of the cases as to whom the law sides with. There are also cases such as mSukkah 3:5 where Akiva and Tarfon are not even discussing the same issue but have been redacted together. Finally, in clear opposition to Gereboff's claims, there are also cases such as mBechorot 4:4 where Akiva actually defends Tarfon.

### Miscellaneous

The final nine mishnahs in which Rabbi Tarfon is mentioned do not fall under any of the previous categories and have no unifying themes of their own. They are therefore placed in this chapter of miscellaneous mishnahs. Although they have no thematic link, it is still valuable to analyze and discuss these texts as they still speak to the character of Rabbi Tarfon.

### mMa'aser Sheni 2:4

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| <p>כרשיני מעשר שני יאכלו<br/>צמחונים ונכנסים לירושלם<br/>ויוצאין נטמאו רבי טרפון אומר<br/>יתחלקו לעסות וחכמים אומרים</p> | <p>Vetches of second tithe may be eaten only when still tender and may be brought into Jerusalem and taken out again.</p> <p>If they became ritually impure, R. Tarfon says, "They must be divided among pieces of dough."</p> |
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| יפדו ושל תרומה | But the sages say, “They may be redeemed.” |
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The above mishnah deals with laws regarding the second tithe. The issue of debate here is essentially whether vetches, which are only eaten in times of extreme poverty, are considered food and subject to the laws of the second tithe. The sages rule that they may be eaten when still young but not subject to the laws of *ma`aser sheni* in respect to where they are eaten.

If a *ma`aser sheni* offering becomes ritually impure Rabbi Tarfon rules that the vetches should be mixed with bread so that they will be edible. They can no longer be redeemed but at least they will not go to waste. In a way this appears to promote the idea of *bal taschit*, the prohibition on wasting.

The sages, however, rule that the vetches can still be redeemed for money even if they become ritually impure. The money would then be used to buy produce to eat in Jerusalem according to the laws of the second tithe.

## mShabbat 2:2

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| <p>שרפה ביום טוב רבי ישמעאל<br/>אומר אין מדליקין בעטרן מפני<br/>כבוד השבת וחכמים מתירין בכל<br/>השמנים בשמן שומשמין בשמן<br/>אגוזים בשמן צנונות בשמן דגים<br/>בשמן פקועות בעטרן ובנפט<br/>רבי טרפון אומר אין מדליקין אלא</p> | <p>One may not kindle [lamps] on a festival with oil [or ritually defiled <i>terumah</i>, which must be] burned.</p> <p>R. Ishmael said, “One may not light [it] with <i>`itran</i>, due to the honor of the Sabbath.”</p> <p>But the sages permit lighting it with all oils: with sesame oil, nut oil, radish oil, fish oil, gourd oil, <i>`itran</i> and naphtha.</p> <p>R. Tarfon said, “One may light only with olive oil.”</p> |
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## בשמן זית בלבד

The above text from tractate mShabbat refers to oil that can be used for Shabbat and festival lamps. Rabbi Ishamel allows any oil except for *`itran*. Because of its bad smell and smoky nature, *`itran* would not be keeping with the ideal of honoring Shabbat. The sages are more lenient and allow any oil. Rabbi Tarfon is the most stringent and only allows olive oil. Olive oil was the only oil that was used in the *menorah* of the Temple. Tarfon's ruling may be due to his priestly background.

### mTa'anit 3:9

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| <p>גשמים קודם הנץ החמה לא<br/>         ישלימו לאחר הנץ החמה ישלימו<br/>         לא רבי אליעזר אומר קודם חצות<br/>         ישלימו לאחר חצות ישלימו<br/>         מעשה שגזרו תענית בלוד וירדו<br/>         להם גשמים קודם חצות אמר<br/>         צאו ואכלו ושתו טרפון להם רבי<br/>         ועשו יום טוב ויצאו ואכלו ושתו<br/>         בין הערבים ועשו יום טוב ובאו<br/>         וקראו הלל הגדול</p> | <p>[If while they are fasting] rain falls, [and] it is before sunrise, they do not complete the fast, [but] if after sunrise, they do complete the fast.</p> <p>R. Eliezer says, "If [the rain fell] before noon they do not complete the fast, after noon they do complete it."</p> <p>It happened that the rabbis ordained a fast in Lod and rain fell before noon. R. Tarfon said to them, "Go, eat and drink and observe the day as a holiday."</p> <p>They went and ate and drank and observed the day as a holiday and at evening time they came and recited the great Hallel.</p> |
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The mishnah above is set in the context of tractate mTa'anit in which the rabbis decree varying degrees of fasts when rain does not come in its appointed time. This mishnah states that if the rain does finally come before sunrise while the community is still fasting,

they need not continue the fast. As the day begins at sundown, they clearly have not been fasting even half of a day yet and do not need to continue. If the rain falls after sunrise, the community has been fasting for long enough that they must continue out the fast.

Rabbi Eliezer disagrees with the sages and sets the cut off time at noon. He is much more lenient since by noon in the months of *Chesvan* when this would have been occurring, the sun set about 6 or so hours later. The mishnah then cites an instance in which Rabbi Tarfon was also lenient in accordance with Eliezer's ruling.

The *ma'aseh* used to prove Rabbi Eliezer's view does not change the argument in any way. Tarfon is more exuberant in his ruling saying that not only should the fast end but community should observe the opposite and celebrate.

#### **mBaba Metzi'a' 4:3**

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| <p>האונאה ארבעה כסף מעשרים<br/>וארבעה כסף לסלע שתות למקח<br/>עד מתי מותר להחזיר עד כדי<br/>שיראה לתגר או לקרובו הורה<br/>רבי טרפון בלוד האונאה שמנה<br/>כסף לסלע שליש למקח ושמהו<br/>תגרי לוד אמר להם כל היום<br/>מותר להחזיר אמרו לו יניח לנו ר'<br/>טרפון במקומנו וחזרו לדברי<br/>חכמים</p> | <p>Fraud is constituted by [an overcharge of] four silver [<i>ma'ahs</i>] in twenty four; which is a <i>sela'</i>, [hence] a sixth of the purchase. Until what time is one permitted to revoke [the sale]? Until one can show [the article] to a merchant or a relative.</p> <p>R. Tarfon ruled in Lod that fraud is constituted by eight silver [<i>ma'ahs</i>] in twenty-four, which is a <i>sela'</i>, [hence] a third of the purchase. The Lod merchants rejoiced. But, he said to them, "One may retract the whole day."</p> <p>"Then let R. Tarfon leave us in status quo," they requested; and so they reverted to the ruling of the sages.</p> |
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In this text from mBaba Metzi`a`, the issue of commercial fraud is discussed. According to the *tanna kama* fraud is considered an overcharge of a sixth of the price or more. The *tanna kama* also rules that if one feels that he or she has been cheated, there is only a limited amount of time to return the item or ask that the overcharge be refunded. This amount of time is limited to the amount of time it takes to show the overpriced item to another merchant or relative, which is a relatively short amount of time.

Rabbi Tarfon, however, ruled in Lod, his hometown, that fraud is not committed until a merchant has overcharged by more than a third. This allows the merchant much more room to overcharge unwitting customers. Rabbi Tarfon, however, makes a counterbalance to this ruling and allows the customer to return an item all day.

On one hand, Rabbi Tarfon is more lenient towards the merchants in giving them more leeway in their pricing; he permits up to one third as opposed to one sixth overcharge. But on the other hand, he is being more stringent towards the shopkeepers and protective of the customer giving the customer all day to make a return as opposed to just the time it takes to prove that the purchase price was fair.

The merchants choose to follow the ruling of the sages rather than Rabbi Tarfon. This is presumably because they would rather have a less profitable sale that is easily finalized than a more profitable sale which could be negated at any moment. The uncertainty caused by Rabbi Tarfon`s ruling would put the merchants in a precarious position. They would not be able to make any decisions about inventory and would not be able to spend their earnings for fear that a customer might renege on a deal at any moment.

This text reveals much about both the rabbinate in general and about Rabbi Tarfon in particular. The rabbis ruled on issues that were important to the general population. They

wanted to be heard and followed and therefore decreed rulings that would be popular among the people. Rabbi Tarfon, besides being a priest and rabbi, is also a worldly, business savvy community leader. He is specifically concerned for the economic stability of his hometown. He is revered as leader but not respected enough that the merchants of Lod actually follow his ruling.

**mZevachim 11:7**

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| <p>אחד שבישל בו ואחד שעירה<br/>לתוכו רותח אחד קדשי קדשים<br/>ואחד קדשים קלים טעונין מריקה<br/>ושטיפה רבי שמעון אומר קדשים<br/>קלים אינן טעונין מריקה ושטיפה<br/>רבי טרפון אומר אם בשל בו<br/>מתחלת הרגל יבשל בו את כל<br/>הרגל וחכמים אומרים עד זמן<br/>אכילה מריקה ושטיפה מריקה<br/>כמריקת הכוס ושטיפה כשטיפת<br/>הכוס מריקה בחמין ושטיפה בצונן<br/>והשפוד והאסכלה מגעילן בחמין</p> | <p>Whether one boiled in it or poured boiling [flesh, etc...] into it, whether it is most sacred sacrifices or lesser sacrifices, [the pot] requires scouring and rinsing. R. Simeon says, "Lesser sacrifices do not necessitate scouring and rinsing."</p> <p>R. Tarfon says, "If one boiled [flesh in a pot] at the beginning of a festival, he can boil in it during the whole festival."</p> <p>But the sages say, "Until the time of eating, [one must] scour and rinse. Scouring is as the scouring of a goblet; and rinsing is as the rinsing of a goblet. Scouring and rinsing are done in cold [water]. The spit and the grill are scalded in hot water."</p> |
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The above mishnah from mZevachim deals with vessels taking on various levels of ritual purity. The sages begin by stating that a pot requires two types of cleaning, scouring and rinsing, between uses. Rabbi Simeon, however, says one does not need to clean a pot when going from a less sacred to more sacred dish. This is based on the idea of *notar*, meat or smaller bits of an offering which has remained after the time allotted for its eating. If the

pot's walls take in some of the juices of a sacrifice, these juices will become *notar* once the time for eating the sacrifice has passed. If the taste of the *notar* flavors other food cooked in the pot, then that food becomes forbidden as *notar* as well. There is no issue of *notar* if moving to higher levels of purity because the more sacred food cancels out the *notar* from the less sacred food.

Rabbi Tarfon then rules that if one starting cooking something in a pot at the beginning of a festival, there is no need to clean the pot at all during the festival. Presumably the pot will be in continual use during festival and therefore the issue of *notar* is irrelevant. As usual, Tarfon's ruling is lenient compared with the sages who require cleaning right away even if the pot is going to be used again within a short period of time.

#### mKeilim 11:4

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| <p>ואם רוב מן הטהור טהור מחצה<br/>למחצה טמא וכן מן החלמא ומן<br/>הגללים קלוסטרטא טמאה ומצופה<br/>טהורה הפין והפורנה טמאין<br/>והקלוסטרטא ר' יהושע אומר<br/>שומטה מפתח זה ותולה בחברו<br/>בשבת ר' טרפון אומר הרי היא לו<br/>ככל הכלים ומטלטלת בחצר</p> | <p>If ritually impure iron was smelted together with clean iron and the greater part was from the ritually impure one, [the vessel made of the composition] is ritually impure; but if the greater part was from the clean iron the vessel is clean. If each represented a half, it is ritually impure. The same law also applies to a mixture of cement and cattle dung.</p> <p>A door-bolt is susceptible to ritually impureness, but [one of wood] that is only plated with metal is not susceptible to ritually impureness. The clutch and the crosspiece [of a lock] are susceptible to ritually impureness. In regards to a door-bolt, R. Yehoshua says, "It may be drawn off one door and hung on another on the Sabbath."</p> <p>R. Tarfon says, "It is like all other vessels and may be carried about in a courtyard."</p> |
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This mishnah is set in the context of *keilim*, vessels that can take on ritual impurity. The text begins with a discussion of ritually pure and impure materials that are smelted or mixed together. The sages apply the concept of *rov*, if half or more of the mixture is from the ritually impure substance, the entire mixture is ritually impure. The mishnah goes on to state that a door-bolt of solid metal is susceptible to ritual impurity while one that is merely plated in metal is not.

Rabbi Yehoshua, a teacher of Rabbi Tarfon, adds that a door-bolt can be moved and re-hung on Shabbat provided that it is never actually carried. Yehoshua, using the word *shumtah*, implies one must “drag” the door-bolt because it is forbidden to carry it on the Sabbath. Yehoshua’s ruling defines a door-bolt as *mukseh* (set aside in a negative sense) and therefore, not a valid vessel. Rabbi Yehoshua sees a door-bolt as just a piece of metal without a specific function.

Rabbi Tarfon is more lenient than his teacher and rules that door-bolt is a vessel because it has a function that is permissible on Shabbat as one can lock doors on the Sabbath. Therefore the door-bolt can be carried on Shabbat because it is like all other vessels that can be carried inside an *eruv*.

The issue of whether the door-bolt is a *keli*, vessel, is also critical to the discussion in the first part of the mishnah. If the door-bolt is not a *keli*, as Yehoshua implies, it is not susceptible to ritual impurity regardless of its metal or wood composition.

#### **mKeilim 11:7**

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| קרן עגולה טמאה ופשוטה טהורה | A curved horn is susceptible to ritually impurity and a straight one is not susceptible. If its mouthpiece was of metal it is ritually |
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| <p>אם היתה מצופית שלה של מתכת<br/> טמאה הקב שלה<br/> רבי טרפון מטמא וחכמים<br/> מטהרין ובשעת חבורן הכל טמא<br/> כיוצא בו קני מנורה טהורין<br/> הפרח והבסיס טמאים ובשעת<br/> חבורן הכל טמא</p> | <p>impure.</p> <p>R. Tarfon declares its wide side susceptible to ritually impureness and the sages declare it clean.</p> <p>While they are joined together the whole instrument is susceptible to ritually impureness.</p> <p>Similarly the branches of a candlestick are clean and the cups and the base are susceptible to ritually impureness, but while they are joined together the whole candlestick is susceptible to ritually impureness.</p> |
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This second text from mKeilim begins with the anonymous statement that a curved horn can become *tame'*, ritual impure, while a straight one cannot. Presumably this is because if something ritually impure fell into a straight horn, it would go right through it while something ritually impure could get stuck in a curved horn. A curved horn would thus be considered a vessel and fall under the laws of *keilim*.

If the mouthpiece of the horn, whether straight or not, was made of metal, the mouthpiece is impure. This is because of the laws related to *chalal cherev*. Literally referring to the corpse of someone killed by the sword, this law defines all metal objects as susceptible to impurity because of their similarity to a sword which takes on impurity through its act of killing.

Rabbi Tarfon rules that the wide, non-metal, side of a metal mouth-pieced horn is also susceptible to ritually impureness while the sages say it is not. However, when the two pieces are completely joined together, the horn becomes a whole unit and it all susceptible to ritually impureness. Rabbi Tarfon's ruling in this case is uncharacteristically stringent. He

rules that a non-metal piece on its own can still become ritually impure because of its future potential to be a part of a horn which can become ritually impure.

**mKeilim 25:7**

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| <p>כל הכלים יש להן אחוריים ותוך<br/>ויש להם בית צביעה<br/>ר' טרפון אומר לעריבה גדולה<br/>של עץ רבי עקיבא אומר לכוסות<br/>ר' מאיר אומר לידיים הטמאות<br/>והטהורות אמר ר' יוסי לא אמרו<br/>אלא לידיים הטהורות בלבד:</p> | <p>All vessels are subject to different laws in regard to their outer and inner sides respectively and also in regard to the part by which they are held.</p> <p>R. Tarfon says, "This applies only to a large wooden baking trough."</p> <p>R. Akiva says, "It also applies also to cups."</p> <p>R. Meir says, "It applies only to ritually pure and impure hands."</p> <p>R. Yose says, "They spoke only of ritual pure hands."</p> |
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This third mishnah from mKeilim deals with the issue of a vessels that can contract ritual impurity from liquids. If the inner side of a vessel became ritually impure from a liquid the outside also becomes impure, but if the outer side became ritually impure the inner side remains clean. If the vessel becomes ritually impure, this impurity can spread to an individual. However, a *beit tzviah*, something like a handle, protects one from taking on impurity even if the outside of the vessel becomes impure. But if ritual impure liquid touches the *beit tzviah*, it too becomes *tame'*.

Rabbi Tarfon is the most stringent in this argument, stating that this law is only in regards to a large wooden baking trough. Presumably the trough is so big that one would never have to worry about *tame'* liquids coming outside and touching the outside Rabbi

Akiva is more lenient by allowing also cups. Rabbi Meir rules it does not matter whether one's hands are ritually pure or impure. In either case the *beit tzviah* protects the holder if there is some *tame'* liquid inside the vessel. Rabbi Yose is more stringent and rules that the *beit tzviah* protects the holder only if he or she already had ritually pure hands.

#### mMikva'ot 10:5

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| <p>כל ידות הכלים שהם ארוכין<br/>ועתיד לקוצץ מטבילין עד מקום<br/>המדה ר' יהודה אומר עד שיטביל<br/>את כולו שלשלת דלי גדול<br/>ארבעה טפחים ושל קטן עשרה<br/>מטבילין עד מקום המדה ר' טרפון<br/>אומר עד שיטביל את כל הטבעת<br/>החבל שהוא קשור בקופה אינו<br/>חבור אלא אם כן תפר</p> | <p>Any handles of vessels that are too long and which will be cut short, need only be immersed up to the point of their proper measure.</p> <p>R. Yehudah says, "[They are ritually impure] until the whole of them is immersed."</p> <p>As for the chain of a large bucket, to the length of four handbreadths, and a small bucket, to the length of ten handbreadths - they need only be immersed up to the point of their proper measure.</p> <p>R. Tarfon says, "It is not clean unless the whole of the ring is immersed."</p> <p>The rope bound to a basket is not counted as a connection unless it has been sewn on.</p> |
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In the final text of this chapter, there is a debate as to how much handles, chains and ropes need to be purified in a *mikveh* (ritual bath). According to the *tanna qama* if a handle is eventually going to be cut, only the part which will remain needs to be immersed and purified. Rabbi Yehudah argues that the whole handle needs to be immersed in order for it to be clean. The argument here is similar to Tarfon's ruling in mKeilim 11:7 that states whatever will happen in the future is considered to have already happened now.

In the next section of the mishnah the sages rule on how far bucket chains need to be immersed. Rabbi Tarfon clarifies the sages ruling by adding that if the proper measurement of the chain ended halfway through a chain link, one should err on the side of caution and immerse the whole link, thereby immersing the chain to a greater measure than the sages require. Rabbi Tarfon is saying that if one only immerses half a chain link, it is not ritually pure. Tarfon is slightly more stringent than the *chachamim* in this instance.

The mishnahs in this section were not connected by any overarching theme but still tell us about the character of Rabbi Tarfon. MBaba Metzi`a" 4:3 shows us that Tarfon is a respected community leader who is in touch with the common person. He is also especially concerned with issue of ritual purity. He also can be very emphatic in his rulings as seen in Ta'anit 3:9.



## Tosefta Texts

In this chapter, I will analyze a selection of texts from the Tosefta. I have chosen a total of eighteen *baraitot*, three from each order, as a reliable subset to be examined in relation to texts from the Mishnah, which will act as out control set. The Mishnah has portrayed Rabbi Tarfon as someone interested in priests, the disenfranchised, literal interpretation and intentionality. If the texts from the Tosefta, which is our experimental set, present the same view of Rabbi Tarfon, then we can more accurately claim that Rabbi Tarfon was an historical character and not just a creation of the Mishnah and Tosefta's redactors.

According to Jacob Neusner works like the Mishnah and Tosefta represent each respective redactor's views. His students, including Joel Gereboef, author of the most comprehensive work on Tarfon in the Mishnah and Tosefta, agree. They claim that no factual statements can be made about Rabbi Tarfon, the man, since any comments attributed to him in the Mishnah and Tosefta were placed there to by the redactors. If, however, the presentation of Rabbi Tarfon in the Tosefta is the same as Rabbi Tarfon of the Mishnah, more certain claims about the historical Rabbi Tarfon can be made.

## Priestly Bias

### tHagigah 3:33

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| מעשה בר' טרפון שהיה מהלך<br>בדרך מצאו זקן אחד אמ' לו מפני<br>מה בריות מרננות אחריך והלא<br>כל דברריך אמת וישר הן אלא | It once happened that R. Tarfon was going along the way. A certain old man came across him [and] said to him, "Why do people complain against you? And are not all your rulings true and right? But you accept food in the status of heave-offering on the other days of the year [outside of the harvest time, wine- |
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| שאתה מקבל תרומה בשאר ימות<br>השנה מכל אדם אמ' ר' טרפון<br>אקפח את בני אם לא הלכה בידי<br>מרבן יוחנן בן זכיי שאמ' לי מותר<br>אתה לקבל תרומה בשאר ימות<br>השנה מכל אדם עכשיו בריות<br>מרננות אחרי גוזר אני עלי שאיני<br>מקבל תרומה בשאר ימות השנה<br>מכל אדם אלא אם כן יאמר לי יש<br>לי בתוכה רביעית קודש | [pressing or olive-crushing season] from<br>everyone [without regard to the status of the<br>donor as an <i>chaver</i> ]!" <p>R. Tarfon said, "May I bury my sons, if I do<br/> not have a law in my hands from Rabban<br/> Yohanan b. Zakkai, who told me, 'You are<br/> permitted to receive food in the status of<br/> heave-offering on the other days of the year<br/> [besides the harvest-seasons] from any one<br/> [not merely an associate].' But now that<br/> people are complaining against me, I decree<br/> for myself that I shall not accept food in the<br/> status of heave-offering on the other days of<br/> the year [besides the harvest-seasons] from<br/> any one at all, unless he will state to me, 'I<br/> have set apart in this jug of wine a quarter-<i>log</i><br/> which has the status of holy things.'"</p> |
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This amazing text from tHagigah reflects many key socio-economic factors occurring during the second century after the fall of the Temple. Throughout the Mishnah, Rabbi Tarfon has been portrayed as having very clear biases towards the priestly class in his rulings. In this *baraita*, Tarfon's extravagant use of his priestly prerogatives are being specifically singled out. The old man whom he encounters is essentially claiming that Tarfon is too liberal in accepting the offerings set aside for the priests. Rabbi Tarfon, in an effort to still help his brethren, does not change his opinion on the ruling of allowing priests to accept voluntary offerings, but he does declare that he, personally, will not accept an offerings outside of the prescribed obligatory times.

It is also interesting to note that Rabbi Tarfon encounters a man along his way and begins to have a religious dialogue with him. This is just one of many examples throughout the vast range of literature from the second century where a dialogue is framed around a

supposed meeting of two strangers on the road. Perhaps this is another piece of evidence to show that Justin Martyr's *Dialogue* and the supposed meeting of Justin Martyr and Trypho is not meant to be reality by any means but merely a common literary device of the age.

## Helping the Disadvantaged

### tMegillah 2:8

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| <p>אמ' ר' יהודה קטן הייתי<br/>וקריתיה לפני ר' טרפון בלוד<br/>וקבלני אמ' ר' קטן הייתי<br/>וקריתיה לפני ר' יהודה באושה<br/>והיו שם זקנים ולא אמר אחד<br/>מהן דבר אמרו לו אין מביאין<br/>ראיה מן המתיר מיכן ואילך<br/>הונהגו קטנים שיהו קורין<br/>אותה לרבים</p> | <p>R. Yehudah said, "I was a minor, and I read it [Megillat Esther] before R. Tarfon in Lod, and he accepted me."</p> <p>Rabbi said, "I was a minor, and I read it before R. Judah in Usha, and there were elders, and not a single one of them said a thing."</p> <p>They said to him, "They cannot bring evidence of the law from the position of the one who permits [the matter to be done]."</p> <p>Nevertheless, from that point onward they adopted the custom that a minor may read the Scroll of Esther in public.</p> |
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The context on this text from tMegillah is, of course, in relation to the laws regarding the reading of Megillat Esther, the Scroll of Esther. After discussing various questions of where, when and how the Megillah can be read, this text brings up the obvious question of whether it can be read by minors unlike the Torah.

Rabbi Yehuda, a student of Rabbi Tarfon, claims that Rabbi Tarfon allowed him to read Megillat Esther when he was a minor. Rabbi also comments that he too was allowed to read the scrolls when he was a minor. Although the sages do not allow evidence for proving

this law from the position of one who already permits it, they still choose to allow minors to read the scroll. This text shows Tarfon's trend towards leniency.

**tKetubot 5:1**

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| <p>הבגר בתביעה נותנין לה שנים<br/> עשר חדש אם היתה קטנה בין<br/> היא בין אביה יכולין לעכב ר'<br/> טרפון או' נותנין לה הכל תרומה<br/> במי דברים אמורי' מן האירוסין<br/> אבל מן הנשואין מודה ר' טרפון<br/> שנותנין לה מחצה חולין ומחצה<br/> תרומה במי דברים אמורים בבת<br/> כהן לכהן אבל בת ישראל לכהן<br/> הכל מודים שמעלין לה כל<br/> מזונותיה מן החולין ר' יהודה בן<br/> בתירה או' שתי ידות תרומה ואחת<br/> חולין ר' יהוד' אומ' מוכרת את<br/> התרומה ולוקחת בדמיה חולין<br/> רבן שמעון בן גמליאל או' כל<br/> מקום שהוזכרו שם תרומה נותן<br/> כפול חולין זו משנה ראשונה<br/> רבתינו אמרו אין האשה בת<br/> ישראל אוכלת בתרומה עד<br/> שתכנס לחופה והיבמה עד<br/> שתיבעל אם מתה בעלה יורשה<br/> אמ' ר' מנחם בן נפח משם ר'</p> | <p>Reaching maturity is equivalent to a demand [on the part of the prospective husband that the engaged prepare herself for marriage]. [And] they give her twelve months in which to prepare for marriage. If she was a minor, either she or her father can dissent. R. Tarfon says, "They give her all her food as heave-offering." Under what circumstances? At the stage of engagement. But at the stage of marriage, R. Tarfon concedes that they give her half in unconsecrated food and half in heave-offering.</p> <p>Under what circumstances?</p> <p>In the case of the priest-girl married to a priest. But in the case of an Israelite girl married to a priest, all concur that they give her all her food from unconsecrated produce. R. Judah b. Betera says, "Two-thirds heave-offering, and one-third unconsecrated food."</p> <p>R. Yehuda says, "She sells the heave-offering [to priests] and purchases unconsecrated food with the proceeds."</p> <p>Rabban Simeon b. Gamaliel says, "In any situation in which heave-offering is mentioned, one gives [in heave-offering] twice the amount of unconsecrated produce."</p> <p>This is the first Mishnah. Our sages said, "The Israelite girl does not eat heave-offering until she enters the marriage-canopy, and the levirate sister-in-law until she actually has sexual relations. If she dies, her husband inherits her."</p> <p>Said R. Menachem b. Nappach, in the name</p> |
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| <p> ליעזר הקפר מעשה בר' טרפון<br/> שקידש שלש מאות נשים<br/> להאכילן בתרומה שהיו שני<br/> בצרות וכבר שלח יוחנן בן בגבג<br/> אצל ר' יהודה בן בתירה לנציבין<br/> אמ' לו שמעתי עליך שאתה או'<br/> ארוסה בת ישראל המאורסת<br/> לכהן אוכלת בתרומה שלח לו<br/> ואמ' לו מוחזק הייתי בכך שאתה<br/> בקי בחדרי תורה לדון קל וחומר<br/> אי אתה יודע ומה שפחה כנענית<br/> שאין ביאתה קונה אותה לאכול<br/> בתרומה כסף קונה אותה<br/> להאכילה בתרומה בת ישר'<br/> שהביאה קונה אותה להאכילה<br/> בתרומה דין הוא שיהא כסף קונה<br/> אותה להאכיל' בתרומה אבל מה<br/> אעשה שהרי אמרו חכמים אין<br/> ארוסה בת ישראל אוכלת בתרומ'<br/> עד שתכנס לחופה אם מתה בעלה<br/> יורשה </p> | <p> of R. Eliezer Haqqappar, "It once happened that R. Tarfon got engaged to three hundred girls to permit them to eat heave-offering, for the years were years of famine."<br/><br/> And already did Yohanah b. Bagbag send to R. Judah b. Betera in Nisibis, saying to him, "I heard about you that you rule, 'An Israelite girl engaged to a priest eats heave-offering.'"<br/><br/> He sent back and said to him, "I was sure that you are an expert in the inner chambers of the law. But you don't even know how to construct an argument <i>a fortiori</i>! Now if in the case of a Canaanite slave-girl, sexual relations do not constitute an act of acquisition so that she may eat heave-offering, but a money-payment does constitute an act of acquisition so that she may eat heave-offering, an Israelite girl, for whom the act of sexual relations constitutes an act of acquisition so that she may eat heave-offering - logically the transfer of a money-payment should [also] constitute an act of acquisition sufficient for her to eat heave-offering! But what shall I do! For lo, sages have said, 'An Israelite girl who is engaged does not eat heave-offering until she enters the marriage-canopy. If she marries, her husband [nonetheless] inherits her estate.'"<br/><br/> </p> |
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This *baraita* from tKetubot parallels in many ways mKetubot 5:2. It begins much the same way by dealing with the issue of a woman who is engaged to a priest for longer than twelve months. The central issue is whether the priest needs to support her with *hullin* or

*terumah*. This text was chosen though because of a very important *ma`aseh* that is included in the Tosefta version and not the Mishnah. Rabbi Menachem b. Nappach says in the name of R. Eliezer Haqqappar that Rabbi Tarfon was once engaged to three hundred women during a period of famine. Because Tarfon is a priest, the women would be allowed to eat *terumah* and have at least some source of sustenance.

This story exemplifies that the fact that Rabbi Tarfon does not just care for the needy in his legal rulings but he is a hands-on benefactor towards the less fortunate. Although Tarfon would not be actually feeding these women himself, he is exploiting a legal loophole in order that publically donated food could go to feed the less fortunate and not just the priestly class. This story goes against Tarfon's nature to be especially supportive of the priestly class. By feeding these women with *terumah* he is essentially taking food away from other priests. Presumably these women were worse off than most priests and as if the case with most of Rabbi Tarfon's ruling, the disadvantaged come first (see mKetubot 9:2-3).

#### tBechorot 5:7

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| אמר ר' יהודה מעשה בא לפני ר' טרפון ואמר כמותו ירבו כוהנים גדולים בישראל אמר לו ר' יוסי כך אמר כמותו יתמעטו נתינים ממזרין בישראל | <p>R. Yehuda said, "A case came before R. Tarfon [of a priest with twenty-four]. And he said, 'Such as he increases high priests in Israel.'"</p> <p>R. Yose said to him, "Thus he [Tarfon] said, 'May such as he diminish, [as] <i>netinin</i> and <i>mamzerin</i> in Israel.'"</p> |
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This first text from tBechorot shows Rabbi Tarfon in two lights. First he is portrayed by Rabbi Judah as a liberal-minded rabbi and priest seeking to help out the disadvantaged in

society. According to Judah, a case came before Rabbi Tarfon of whether a priest with twenty-four digits, two extra toes or fingers, can still be high priest. Rabbi Tarfon wittily rules that just as the priest has an increased amount of digits, so too he increases the status of high priests in Israel.

Rabbi Yose, however, claims that Tarfon compared the abnormal priest with a *nettin* or a *mamzer*. Yose claims that Tarfon said that just as these sub-classes of society diminish the status of all the Israelite people, so too would the abnormal priest diminish the status of all priests. Rabbi Tarfon's actual ruling is in dispute here between these two sages. Rabbi Yehuda is the student of Tarfon and therefore his argument may be more plausible. It also seems to fit with a common theme in Tarfon's rulings.

#### tBechorot 6:14

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| <p>נתן האב חמש סלעים לחמשה<br/>כהנים בנו פדוי נתנן לו זו אחר זו<br/>זו אחר זו בנו פדוי נתנן לו חזר<br/>ונטלן הימנו בנו פדוי כך היה ר'<br/>טרפון עושה נוטלן הימנו וחוזר<br/>ונותנו לו</p> | <p>[If] the father gave five <i>sela</i>'s to five priests, his son is redeemed. [If] he gave them to him [one priest] one after another, his son is redeemed. [If] he [the father] gave them to him [the priest] and went and took them back, his son is redeemed.</p> <p>Thus did R. Tarfon perform the act: He took them from him [the father] and went and gave them back to him.</p> |
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In this second text from tBechorot, the issue of *pidyon haben*, redemption of the first born, is being discussed. The chapter of tBechorot (firstlings) discusses, in general, how all first fruits, first born animals and first born sons belong to God.

When the Israelites were slaves in Egypt, God took the life of every first-born Egyptian and spared the first-born of every Israelite. As a commemoration of this event, God

said, “The first issue of every womb among the Israelites is Mine.” (Exodus 13:2). Thus, first-born sons were sanctified and obligated to serve in the Temple. When the Israelites, but not the Levites, sinned with the Golden Calf, God told Moses that He would take Levites in place of first-born. Thus, Levites became obligated to assist the priests and serve in the Temple. Nevertheless, first-born sons were still considered to be sanctified and still needed to be redeemed. According to the Bible, “You shall have the first-born of man redeemed.... Take as their redemption price, from the age of one month up, the money equivalent of five shekels...” (Numbers, 18:15-16).

In order to perform the *pidyon haben* ceremony a father needs to give a priests five *sela*'s, but may take them back. The priest is not required to give back the money, however Rabbi Tarfon is used here as an exemplar of generosity who would return the redemption money. This is another example of Rabbi Tarfon's altruistic nature.

## Literalism

### tGittin 7:1

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| <p>המגרש את אשתו ואמ' לה הרי<br/>את מותרת לכל אדם אלא לפלני<br/>ר' ליעזר מתירה לינשא לכל אדם<br/>חוץ מאותו האיש מודה ר' ליעזר<br/>שאם נשאת לאחר ונתארמלה או<br/>נתגרשה שמותרת לינשא לזה<br/>שנאסרה עליו לאחר מיתתו של ר'<br/>ליעזר נכנסו ארבעה זקנים להשיב</p> | <p>He who divorces his wife and said to her, "You are permitted [to marry] any man except for so-and-so" - R. Eliezer permits her to marry any man except for that particular person. R. Eliezer concedes that if she married someone else and was widowed or divorced, that she is permitted to marry this person to whom she [originally] was forbidden.</p> <p>After the death of R. Eliezer, four elders came together to reply to his rulings: R. Tarfon, R. Yose the Galilean, R. Eleazar b. Azariah, and R. Akiva.</p> |
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| <p>על דבריו ר' טרפון ור' יוסה<br/> הגלילי ור' לעזר בן עזריה ור'<br/> עקיבא אמ' ר' טרפון הלכה ונשאת<br/> לאחיו ומת בלא ולד היאך זו<br/> מתיבמת לו נמצא מתנה על מה<br/> שכת' בתורה תנאו בטל הא למדנו<br/> שאין זה כריתות</p> | <p>R. Tarfon said, "[If] she went and married his brother [that is, the brother of the man whom she was forbidden by the terms of the writ of divorce to marry], and he [the second husband] died childless, how is this woman going to enter into Levirate marriage with him [to whom she was forbidden by the terms of her writ of divorce]? It will turn out that he has made a stipulation contrary to what is written in the Torah, [and] his condition is null. Thus have we learned that this is not a cutting off [of the marital relationship as required by Deut. 24:1]."</p> |
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This text from tGittin relates to what extent a woman must follow a stipulation by her husband not to marry a certain person upon divorce or his death. Rabbi Eliezer allows the woman to marry any man except for the aforementioned forbidden man. However, he concedes that if she married someone else and was widowed or divorced, that she is then permitted to marry this person to whom she originally was forbidden.

Using an especially specific example, Rabbi Tarfon argues that there is a flaw in Eliezer's halakhic reasoning. In Tarfon's hypothetical situation a widow marries the brother of a man that was forbidden to her by her previous husband. The second husband dies childless and the woman is forced to go into levirate marriage with a man whom she was forbidden. Rabbi Tarfon has found a loophole in Eliezer's ruling and therefore sees the entire ruling as incorrect.

## Intentionality

tShabbat 13:5

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| <p>הגליונים וספרי מינין אין מצילין<br/> אותן מפני הדליקה אלא נשרפין<br/> במקומן הן והזכרותיהן ר' יוסה<br/> הגלילי אומ' בחול קודר את<br/> הזכרותיהן וגונזן ושורף את<br/> השאר אמ' ר' טרפון אקפח את<br/> בני שאם יבאו לידי שאשרפם ואת<br/> הזכרות שבהן שאפי' הרודף<br/> רודף אחרי נכנסתי לבית ע"ז ולא<br/> נכנסתי לבתיהן שעובדי ע"ז אין<br/> מכירין אותו וכופרין אותו והללו<br/> מכירין אותו וכופרין בו ועליהן<br/> אמ' הכתו' ואחר הדלת והמזוזה<br/> שמת זכרונך וגו' אמ' ר' ישמעאל<br/> מה אם להטיל שלום בין איש<br/> לאשתו אמ' המקום ספר שנכתב<br/> בקדושה ימחה על המים ספרי<br/> מינין שמטילין איבה בין ישראל<br/> לאביהם שבשמים על אחת כמה<br/> וכמה שימחו הן והזכרותיהן<br/> ועליהן אמ' הכתו' הלא משנאיך ה'<br/> אשנא וגו' תכלית שנאה שנאתים<br/> וגו' כשם שאין מצילין אותן מפני<br/> הדליקה כך אין מצילין אותן לא<br/> מן המפולת ולא מן המים ולא מכל<br/> דבר המאבד אותן</p> | <p>We do not save the books of the Evangelists and the books of the <i>minim</i> from a fire. But we are allowed to burn them where they are, they and the references to the Divine Name which are in them. R. Yose the Galilean says, "On ordinary days, one cuts out the references to the Divine Name which are in them and stores them away, and the rest burns."</p> <p>R. Tarfon said, "May I bury my sons, if such things come into my hands and I do not burn them, and even the references to the Divine Name which are in them. And if someone was running after me, I should go into a temple of idolatry, but I should not go into their houses [of worship]. For idolaters do not recognize the Divinity in denying him, but these recognize the Divinity and deny him. And about them Scripture states, 'Behind the door and the door post you have set up your symbol [for deserting Me, you have uncovered your bed] (Is. 57:8)."</p> <p>R. Ishmael said, "Now if to bring peace between a man and his wife, the Omnipresent declared that a scroll written in a state of sanctification should be blotted out by water, the books of the <i>minim</i>, which bring enmity between Israel and their Father who is in heaven, all the more so should be blotted out, they and the references to the Divine Name in them. And concerning them has Scripture stated, 'Do I not hate them that hate thee, O Lord? And do I not loathe them that rise up against thee? I hate them with perfect hatred, I count them my enemies (Ps. 139:21-22)."</p> |
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Besides the fact that this text falls into the category of intentionality it is also worth including and commenting on because of its connection with the Trypho-Tarfon debate. This *baraita* from tShabbat 13:5 is also repeated in the bShabbat 116a and used as a proof for Rabbi Tarfon's anti-Christian attitude. As I discussed in earlier in this thesis, the main problem with this argument is the translation of *minim* as Christian.

This text also shows Rabbi Tarfon's emphasis on intentionality. Tarfon says that he would burn any heretical book even if it contained the name of God in it. For Rabbi Tarfon, it is not the physical name of God that is sacred, but the name of God in its proper context. If the name was used without the proper intent, it may be destroyed.

In the second section of Rabbi Tarfon's statement he says that he would rather enter a pagan house of worship than a heathen house of worship. Again, this is an issue of intentionality as Rabbi Tarfon sees pagans in a better light than *minim*. This is because pagans do not intend to profane God, they just do not know any better. However, *minim* know the true nature of God but according to Tarfon intentionally reject Him.

## Relationship with Rabbi Akiva

### tYevamot 14:10

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| <p>אין בודקין לעידי נשים בדרישה<br/>ובחקירה ר' טרפון ור' עקיבא<br/>אומ' בודקין לעידי נשים בדרישה<br/>ובחקירה מעשה באחד שבא לפני<br/>ר' טרפון להעד לאשה שתנשא<br/>אמ' לו בני היאך אתה יודע לאשה</p> | <p>They do not cross-examine witnesses in matters concerning wives' [remarrying]. R. Tarfon and R. Akiva say, "They do cross-examine witnesses in matters concerning wives."</p> <p>It once happened that a certain party came before R. Tarfon to give testimony concerning a woman [that her husband had died so] she could remarry. He said to him,</p> |
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| <p>זו עדות אמ' לו ר' עמנו היה<br/> בשיירה ונפל עלינו גייס ונתלה<br/> הוא בייחור של תאנה ופשחו<br/> והחזיר את הגייס לאחוריו אמרתי<br/> לו משבחך אני ארי אמ' לי יפה<br/> אמרת כיונתה לשמי כך אני נקרא<br/> בעירי יוחנן בן יונתן אריא דמכפר<br/> שחרא אמ' לו יפה אמרת בני<br/> יונתן בן יוחנן אריא דמכפר<br/> שחרא אמ' לו לאו ר' אלא יוחנן<br/> בן יונתן אריא דמכפר שחרא אמ'<br/> לו והלא כך אמרת יונתן בן יוחנן<br/> דמכפר שחרא אריא אמ' לו אלא<br/> יוחנן בן יונתן דמכפר שחרא בדק<br/> ר' טרפון לעדותו שלשה פעמים<br/> ונמצאת מכוונת והשיא את האשה<br/> על פיו מיכן והלך הונהגו שיהו<br/> בודקין לעידי נשים בדרישה<br/> ובחקירה אמ' להן ר' עקיבא<br/> לכשתהא פונדקית תהא נאמנת</p> | <p>"My son, how do you know the testimony for this woman?"</p> <p>He said to him, "Rabbi, he was with us on a caravan, and a robber-band fell on us, and he grabbed the branch of a fig-tree and tore it off and drove the gang away. And I said to him, 'I congratulate you, Lion!' He said to me, 'Well have you said! You guessed my name. That's just what I'm called in my village, Yohanan b. Yonatan, the lion of the town of Shahara.'"</p> <p>He [Tarfon] said to him, "Well said, my son: Yonatan b. Yohanan, the lion of the town of Shabara."</p> <p>He said to him, "No, Rabbi. It was Yohanan b. Yonatan, the lion of the town of Shahara."</p> <p>He said to him, "But did you not just say, Yonatan b. Yobanan, of the town of Shahara, a lion?"</p> <p>He said to him, "But his name was Yobanan b. Yonatan of the town of Shabara."</p> <p>So R. Tarfon cross-examined him three times, and each time his testimony came out just as before. And he permitted the wife to remarry on the strength of his testimony. From that time forth they became accustomed to cross-examine witnesses in matters concerning women.</p> <p>R. Akiva said to them, "When she will be an inn-keeper-woman, she will be believed too."</p> |
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This *baraita* from tYevamot deals with the issue of cross examining witnesses in cases cornering wives. First some context is necessary. When the *baraita* mentions, "cases concerning wives," it is referring to cases where a husband has died or gone missing and

there is not conclusive evidence to his whereabouts. Thus, the woman is left as an *`agunah*, a chained woman. She is unable to remarry until there is adequate proof of her husband's death.

According to the sages, one may not cross examine witnesses in cases concerning wives. This lenient ruling allows a witness to state that a husband has died with no further questioning. The sages' ruling is most beneficial to potential *`agunot*.

Rabbis Tarfon and Akiva, in another rare case of agreement, disagree with the sages and permit cross examination of witnesses. The proof for this argument comes in the form of a *ma'aseh* in which Tarfon cross examined a certain man about the death of a woman's husband.

The next few lines of text are a series of farcical comments meant to convey that the witness may have been making his story up as he went along. However, after three cross-examinations by Rabbi Tarfon the ridiculous, convoluted stories were the same each time and thus they allowed cross examining witnesses.

By allowing cross-examinations of witnesses in cases concerning women whose husbands have died, Rabbis Tarfon and Akiva are more stringent than the sages. This ruling seeks to get to the truth of the matter regarding a husband's death in order to prevent any women from committing a sin by unintentionally entering into an adulterous marriage. This is very similar to the case in *mYevamot* 15:6-7 which dealt with testimonies from co-wives.

#### **tBaba Kama 5:12**

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| נפל לבור והבאיש את מימיו חייב | "[If] it [an ox] fell into his [a householder's] well and polluted its water, he must pay damages. If his father or son were therein |
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| <p>בכופר דברי ר' טרפון ר' עקיבא<br/> פוטרי מן הכופר היה בו עבד או<br/> אמה נותן שלשים סלע דברי ר'<br/> טרפון ור' עקיבא פוטרי משלשים<br/> סלע</p> | <p>[the owner of the ox] is liable for a ransom," the words of R. Tarfon.</p> <p>R. Akiva declares him exempt from ransom.</p> <p>"[If] there was a boy-slave or a girl-slave in [the pit, and they were killed,] he must pay thirty <i>sela`s</i>," the words of R. Tarfon.</p> <p>But R. Akiva declares him exempt for the thirty <i>sela`s</i>.</p> |
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In this text, Rabbis Tarfon and Akiva begin by disagreeing about the damages that one pays when an ox falls into a well. Rabbi Tarfon maintains that if an ox falls into a well and pollutes the well, the ox owner must pay a fee to the owner of the well. Rabbi Akiva, however, exempts the ox owner from paying any restitution. Tarfon is more lenient to the well owner and Akiva is more lenient towards the ox owner. The issue is to what degree one is responsible for an animal.

In the second case Rabbi Tarfon maintains that if there were a slave in the pit or well when the ox fell in and the slave was killed by the ox, the owner of the ox must pay 30 *sela`s* to the well-owner. Rabbi Akiva exempts the ox owner from any payments. Tarfon's ruling is in accordance with Exodus 21:32 which states that, "If the bull gores a male or female slave, the owner must pay thirty shekels of silver to the master of the slave..." Once again Tarfon is more lenient towards the well owner while Akiva is more lenient towards the ox owner. Again the issue is to what degree one is responsible for the ox which fell into the well in the first place.

The issue seems to be about whether the owner of the ox could have prevented this from happening in any way. Was the animal a habitual well jumper? If the animal was

prone to jumping in wells and had done so three times before there would be more of a case for Tarfon's opinion. However, this information is not mentioned in the *baraita*.

**tZevachim 1:8**

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| <p>דרש ר' עקיבא מנין לקבלת דם<br/>שלא תהא אלא בכהן תמים ובכלי<br/>שרת תל' לומ' והקריבו בני אהרן<br/>את הדם אליו יכול זו זריקה<br/>כשהוא אומ' וזרקו זו זריקה<br/>האמורה הא אינו אומ' כן והקריבו<br/>אלא זו קבלה מקיש קבלה לזריקה<br/>מה זריקה בכהן תמים ובכלי שרת<br/>אף בהולכה קבלה בכהן תמים<br/>ובכלי שרת ולהלן הוא אומ'<br/>ומשחת אותם לכהנו לו מה כהן<br/>האמור להלן כהן תמים וכלי שרת<br/>אף כהן האמור כאן כהן תמים<br/>וכלי שרת אמ' לו ר' טרפון עקיבא<br/>עד מתי אתה מגבב ומביא עלי<br/>אקפח את בניי אם לא הפרש<br/>שמעתי בין קבלה לזריקה ואתה<br/>השויתת קבלה לזריקה אמ' לו<br/>תורשיני לומ' לפניך מה שלמדתי<br/>אמ' לו אמור אמ' לו קבלה לא<br/>עשה בה מחשבה כמעשה זריקה<br/>עשה בה מחשבה כמעשה המקבל</p> | <p>R. Akiva expounded, "How do we know that the receiving of the blood should only be done by an unblemished priest in a vestment used for the service? Scripture says, 'And the sons of Aaron shall present the blood [and toss the blood round about] against the altar.' (Lev. 1:5). Might one think that this refers to tossing the blood? When it says, 'And they shall toss it,' this clearly refers to tossing the blood. Accordingly, 'And [they] shall present,' refers only to receiving the blood. [Scripture] therefore joins receiving to tossing. Just as tossing must be done by an unblemished priest and with a vestment used for the service so are conveying the blood [and] receiving the blood [to be done] by an unblemished priest in a vestment used for the service. And elsewhere, it says, 'And you shall anoint them to serve as priest to him.' (Ex. 40:15) Just as priest stated elsewhere refers to an unblemished priest in a vestment used for the service, so priest stated here refers to an unblemished priest in a vestment used for the service."</p> <p>R. Tarfon said to him, "Akiva, how long are you going to rake and bring against me [senseless rubbish]? May I bury my sons if I have not heard a distinction between receiving the blood and tossing it on the altar. But you treat as equivalent receiving the blood and tossing it on the altar!"</p> <p>He said to him, "Will you permit me to state before you what you have taught me?"</p> <p>He said to him, "State it."</p> |
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| <p>בחוץ כשר והזורק בחוץ פסול<br/> קיבלוהו פסלין אין חייבין עליו<br/> זרקוהו פסוליין חייבין עליו אמ' לו<br/> העבודה שלא היטיתה ימין ושמאל<br/> אני שמעתי ולא היה לי לפרש<br/> ואתה דורש ומסכים להלכה הא<br/> כל הפורש ממך כפורש מחייו</p> | <p>He said to him, "In respect to receiving the blood, the law has not treated intention as tantamount to action. But in respect to sprinkling the blood on the altar, the law has treated intention as tantamount to action. He who receives the blood outside [the courtyard] is free [of liability to extirpation]. But he who sprinkles the blood [with the intention of doing so] outside [the courtyard] is liable [for extirpation]. [If an] unfit [person] received it, he is not liable on its account, but [if an] unfit [person] tossed it, he is liable on its account."</p> <p>He said to him, "By the Temple service! You have not strayed either right or left. I heard [the rule] but was unable to explain it, and you expound it and bring into conformity to the law [both aspects of the rule]. Lo, whoever leaves from you is as if he leaves life."</p> |
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This *baraita* once again shows Rabbi Tarfon's initial anger and utter defiance of Rabbi Akiva but later in the *baraita* we see that he eventually acquiesces. In this text, Akiva argues through a comparison of words that the receiving of the blood during a sacrifice must be done by an unblemished priest in a vestment. Tossing and receiving blood are joined together by Scripture in Leviticus 1:5 and just as tossing must be done by an unblemished priest, so too receiving must be done by an unblemished priest.

Rabbi Tarfon then responds by seeing this as a personal attack in a way. He again declares his famous line about burying his sons if this law is not wrong. Tarfon sees a clear distinction between the tossing and receiving of blood during the sacrifice and is offended by their confluence. Tarfon then allows Akiva to further explain his point.



Akiva then uses an argument of logic to prove to Tarfon that receiving and tossing are able to be equated. At the end of the text, Tarfon once again realizes the error of his ways and confirms Akiva's ruling.

**tMikva'ot 1:17**

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| <p>אמר ר' שמעון מעשה בינורס של<br/>דיסקוס ביבנה שנמדדה ונמצאת<br/>חסרה והיה ר' טרפון מטהר ור'<br/>עקיבא מטמא אמר ר' טרפון<br/>הואיל ומקוה בחזקת טהרה הוא<br/>עומד לעולם זו בטהרתו עד שיודע<br/>שנטמא אמר ר' עקיבא הואיל<br/>ומקוה זה בחזקת טומאה הוא<br/>עומד לעולם הוא בטומאתו עד<br/>שיודע לך שטהר</p> | <p>Said R. Simeon, "It once happened that the water-reservoir of Disqus in Yavneh was measured and found lacking. And R. Tarfon declared it ritually pure and R. Akiva ritually impure.</p> <p>R. Tarfon said, 'Since this immersion-pool is in the assumption of being ritually pure, it remains perpetually in this presumption of ritual purity until it will be known for sure that it has been made ritually impure.'</p> <p>R. Akiva said, 'Since this immersion-pool is in the assumption of being ritually impure, it perpetually remains in the presumption of ritual impurity until it will be known for sure that it is ritually pure.'</p> |
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In the above *baraita*, Rabbi Simeon tells a *ma'aseh* of when Rabbis Tarfon and Akiva argued over the ritual purity of a certain ritual bath. In keeping with the prevailing trend, Tarfon is once again more lenient than Akiva. Tarfon assumes the pool is ritually pure and since there is no evidence to the contrary, he declares it so. Akiva assumes the pool is ritually impure. Since there is no evidence to the contrary, he declares it so. There is no evidence to prove either correct and both rabbis are just making assumptions. As is often the case (see mBaba Metzi'a" 2:7) Akiva is erring on the side of proper observance while Tarfon is being more practical.

tMikva'ot 1:18

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| <p>אמר ר' טרפון למה זה דומה למי<br/>שהוא עומד ומקריב על גבי מזבח<br/>ונודע שהוא בן גרושה או בן<br/>חלוצה שעבודתו כשרה אמר ר'<br/>עקיבא למה זה דומה למי שהיה<br/>עומד ומקריב על גבי מזבח ונודע<br/>שהוא בעל מום שעבודתו פסולה</p> | <p>R. Tarfon said, 'To what is the matter [of the <i>mikveh's</i> purity] to be likened? To one who was standing and offering [a sacrifice] at the altar, and it became known that he is a son of a divorcee or the son of a <i>halutzah</i> - for his service is valid.'</p> <p>R. Akiva said, 'To what is the matter to be likened? To one who was standing and offering [a sacrifice] at the altar, and it became known that he is disqualified by reason of a blemish - for his service is invalid.'</p> |
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tMikva'ot 1:19

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| <p>אמר ר' טרפון אתה מקישו לבעל<br/>מום ואני מקישו לבן גרושה<br/>וחלוצה נראה למי דומה אם דומה<br/>לבעל מום נלמדו מבעל מום אם<br/>דומה לבן גרושה נלמדו מבן<br/>גרושה או מבן חלוצה ר' עקיבא<br/>אומר מקוה פסולו בגופו ואל<br/>יוכיח בן גרושה ובן חלוצה<br/>שפסולו באחרים מקוה פסולו<br/>ביחיד ובעל מום פסולו ביחיד ואל<br/>יוכיח בן גרושה ובן חלוצה<br/>שפסולו מחירו בבית דין נמנו<br/>עליו וטמאוהו אמר לו ר' טרפון<br/>עקיבא כל הפורש ממך כפורש</p> | <p>R. Tarfon said to him, 'You draw an analogy to one who is blemished. I draw an analogy to the son of a divorcee or to the son of a <i>halutzah</i>. Let us now see to what the matter is appropriately likened. If it is analogous to a blemished priest, let us learn the law from the case of the blemished priest. If it is analogous to the son of a divorcee or to the son of a <i>halutzah</i>, let us learn the law from the case of the son of the divorcee or the son of a <i>halutzah</i>.'</p> <p>R. Akiva says, 'The unfitness affecting an immersion-pool affects the immersion-pool itself, and the unfit aspect of the blemished priest affects the blemished priest himself. But let not the case of the son of a divorcee or the son of a <i>halutzah</i> prove the matter, for his matter of unfitness depends upon others. A ritual pool's unfitness [depends] only on itself, and the unfitness of a blemished priest [depends] only on himself, but let not the son of a divorcee or the son of a <i>halutzah</i> prove</p> |
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|  | <p>מחייב the matter, for his unfitness depends upon ancestry.'</p> <p>They took a vote concerning the case and declared it ritually impure.</p> <p>R. Tarfon said to R. Akiva, 'Whoever leaves from you is as if he leaves life.'</p> |
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The previous two *baraitot* are a continuation of tMikva'ot 1:17 in which Tarfon and Akiva are debating the ritually purity of a certain *mikveh*. The two both bring different arguments regarding what constitutes a good analogy. Tarfon compares the case to a priest who was offering a sacrifice and it emerged that he was invalid due to ancestry. Just as this priest's sacrifice is still valid, so too the pool is ritually pure.

Akiva compares the case to a priest who was offering a sacrifice and it emerged that he had a disqualifying blemish. Just as this priest's sacrifice is no longer valid, so too the pool is ritually unfit.

In the final *baraita* Rabbis Tarfon and Akiva argue over which comparison is more fitting to the case of the purity of a *mikveh*. Tarfon does not seem to present a very coherent or convincing argument, merely restating the two comparisons that were made in the previous *baraita*. Akiva, however, presents the arguments that just as the ritually purity of a priest relies solely on himself, so too the ritually purity of the *mikveh* depends only on itself. Therefore the comparison with the blemished priest is more appropriate than the comparison with a priest of disqualifying ancestry.

The sages agree with Akiva and it seems once again that Tarfon acquiesces to Akiva. He adamantly declares that Akiva is correct and basically says, "If you don't follow Akiva, you die!" The image of Tarfon as merely a foil for Akiva is fitting with Gereboff's claim

that many of the Tarfon texts were redacted by a pro-Akivan camp with the intention of supporting the Akiban halachah.

**tMakshirin 2:14**

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| <p>המודד את הבור בין לעומקו בין לרוחבו אינו בכי יותן אמר לו ר' טרפון מה לי כשמדדו לעומקו מה לי כשמדדו לרוחבו אמר לו כשמודדו לעומקו רוצה למשקה שברושם כשמדדו לרוחבו אינו רוצה במשקה שברושם אמר לו אם כן יהא משקה שברושם טמא למשקה שברושם טהור אמר לו אי אתה מודה שהממלא בחבית והמים העולין אחריה בחבל שהוא מכונן על צוארה ובחבל של צורכה שהן בכי יותן שאין המים נופלין לתוכה עד שיגעו לאחוריה אם כן אי אפשר למשקה שברושם עד שיהא למטה מן הרושם חזר ר' טרפון להיות שונה כדברי ר' עקיבא</p> | <p>He who measures the cistern, whether [to find out] its depth or [to find out] its breadth - [water which comes up on the measuring rod] it is under the law, 'if water be put,' R. Tarfon said to him, "What difference does it make to me whether he measured it to find out its depth or whether he measured it to find out its breadth?"</p> <p>He said to him, "When he measured it to find out its depth, he wants the liquid which is on the mark [of the measuring rod]. When he measured it to find out its breadth, he does not want the liquid which is on the mark [of the measuring rod]."</p> <p>He said to him, "If so, let the liquid on the mark [of the measuring rod] be ritually impure. [Let the liquid on the measuring rod] below the mark be ritually pure."</p> <p>He said to him, "Do you not agree that: he who draws water in a jug - the water which goes up [on its outer parts] and on the rope that is bound about its neck and on the rope which is needed for using the bucket - that the liquid is subject to the law, 'if water be put?' For it is not possible for the water to pour into it until it touches its outer parts. If so, it is not possible for the liquid [to be] on the mark until it will be below the mark [of the measuring rod]."</p> <p>R. Tarfon reverted to teach in accord with the opinion of R. Akiva</p> |
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The above text from tMakshirin seems to be an elaboration of mMakshirin 5:4 mentioned earlier in this thesis. However, it is worth including in this section on the relationship between Rabbis Akiva and Tarfon portrayed in the Tosefta because unlike in the Mishnah, in this instance Tarfon acquiesces to Akiva. The text from mMakshirin begins the same way with Rabbis Tarfon and Akiva disagreeing about whether measuring a cistern by its breadth affects the ritually purity of the measuring stick.

According to Tarfon it does not matter whether a cistern is measured by its breadth or depth, both cause the stick to become impure because of the laws of *b'chi yutan*, if water be put. Rabbi Akiva is more lenient and only cisterns measured by their depth cause the stick to become impure. Akiva is essentially saying that when measuring a cistern by its breadth, there is no need to put the stick in water and the issue of *b'chi yutan* does not apply. Tarfon then challenges Akiva by saying that if the issue is about whether the stick will touch the water, then only the section of the measuring stick that touches the water when measuring by depth should be considered impure. Rabbi Akiva counters by stating that the case of the measuring stick is similar to the case of a jug and a rope that is dipped into a cistern or well to obtain water, the whole unit is subject to *b'chi yutan*. This *baraita* ends like most others in this section with Akiva successfully convincing Tarfon and Tarfon acquiescing to Akiva's halakhic ruling.

## Miscellaneous

### tDemai 5:22

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| א' ר' שמע' שזורי מעשה | R. Simeon of Shezur said, "It once happened that untithed produce became mixed with my |
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| <p>שנתערבו לי פירות טבליים ובאתי<br/>ושאלתי את ר' טרפון ואמ' לי צא<br/>וקח לך פירות מן השוק ועשר<br/>עליהן ר' אליעזר אומ' בשל כותים<br/>כשם שעשו פירות ישראל דמאי<br/>אחר רובן אין מעשרין מזה על זה<br/>כך מעשרין פירות כותי דמאי ואין<br/>מעשרין מזה על זה</p> | <p>[tithed] produce. I came and asked R. Tarfon, and he said to me, 'Go purchase produce from the market, and separate [tithes from it, i.e., from the newly-purchased produce] for the other.'"</p> <p>R. Eliezer says, "With regard to [produce] of Samaritans - just as they declared Israelite produce to be <i>demai</i> following the status of the majority, [therefore] they do not separate tithes from one item for the other, so the tithe the Samaritan produce is <i>demai</i> and they do not separate tithes from one item for the other."</p> |
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In this text Rabbi Simeon of Shezur presents a *ma'aseh* in which Rabbi Tarfon rules on what is to be done with untithed produce that became mixed with tithed produce. Tarfon rules that Simeon should buy new produce from the market and separate a tithe from the new produce. Rabbi Tarfon's ruling in allowing the purchase of new produce for the use of tithing on behalf of inadvertently mixed produce is quite lenient. This is true especially when compared with tDemai 5:12 where a person is only allowed to substitute the tithe with other produce that is already owned.

The second section of this *baraita* is an unrelated independent, free standing unit. In this section, Rabbi Eliezer rules that all Samaritan produce should be viewed as *demai*. *Demai* is any type of doubtfully tithed produce.

#### tKila'im 3:16

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| <p>החצב ר' ישמעאל אומ' כלאים<br/>וחכמים אומ' אין כלאים כשות ר'</p> | <p>Squill - R. Ishmael says, "It is [considered] diverse-kinds [in the vineyard]."</p> <p>And the sages say, "It is not [considered]</p> |
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| <p>טרפון אומ' אין כלאים וחכמים<br/> אומ' כלאים אמ' ר' טרפון אם<br/> כלאים בכרם תהא כלאים בזרעים<br/> ואם אין כלאים בזרעים לא תהא<br/> כלאים בכרם</p> | <p>diverse-kinds [in the vineyard]."</p> <p>Dodder - R. Tarfon says, "It is not [considered] diverse-kinds [in the vineyard]."</p> <p>And sages say, "It is [considered] diverse-kinds [in the vineyard]."</p> <p>R. Tarfon said, "If [it is considered] diverse-kinds in the vineyard let [it be considered] diverse-kinds [when planted] with regards to seeds. And if it is not [considered] diverse-kinds [when planted with] seeds, therefore let it not be [considered] diverse-kinds in the vineyard."</p> |
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In this text, the various rabbis are discussing which plants are considered *kila'im*, diverse kinds. The *baraita* begins with a disagreement between Rabbi Ishmael and the sages over whether squill that grows in a vineyard is considered *kila'im*.

Rabbi Tarfon then rules that dodder is not *kila'im* in a vineyard. This could be because dodder, also called *cuscuta*, looks like a tree. It is a vine that wraps itself around a tree and then its roots die and it lives parasitically off the tree. The sages say it is a vine and, thus like all other vines, is considered diverse kinds in the vineyard. Tarfon, however, is more concerned with its appearance than about its botanical classification.

Rabbi Tarfon then makes an analogous argument saying that if dodder seeds are not considered *kila'im* in relation to other seeds then the fully grown dodder should also not be *kila'im* in relation to a vineyard. According to tKilayim 1:11, dodder is a vegetable, and therefore would not be considered *kila'im* among seeds, *zera'im* (i.e. wheat), which are also vegetables. Therefore, Tarfon asks how fully grown dodder, which is a vine, can be *kila'im* in relation to a vineyard which obviously is filled with other vines.

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| <p>מאימתי מותר אדן ליקח הלוף<br/> 'במוצאי שביעית מכל מקום ר<br/> יהודה ר' מיד אמ' יהודה או<br/> מעשה והיינו בעין כושי והיינו<br/> אוכלין לוף במוצאי החג של<br/> 'לו ר' טרפון אמ' שביעית על פי ר<br/> יוסה משם ראייה עמכם הייתי<br/> ומוצאי פסח היה</p> | <p>When is one permitted to buy arum in the year following the seventh year under any circumstances [i.e., even if the seller is suspected of not observing the laws of the seventh year]?</p> <p>R. Yehuda says, "Immediately."</p> <p>R. Yehuda says, "It once happened that we were in Ein Kusi and we ate arum at the conclusion of the Festival [of Sukkot] in the year following the seventh year, on the authority of R. Tarfon."</p> <p>R. Yose said to him, "Is that the evidence [for your ruling]? I was with you, and it happened after Passover!"</p> |
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In this text from tShevi'ite, the sages ask when one is allowed to buy arum, a type of plant, after a sabbatical year. The sages clearly have in mind the issue of whether the arum is being bought from a farmer who did not keep the laws of the sabbatical year properly and grew the arum when it was forbidden, thus making the plant forbidden.

Rabbi Yehuda, the student of Rabbi Tarfon, is extremely lenient in allowing someone to buy arum immediately. For Yehuda the issue here seems to be that there is no conclusive evidence to prove that the arum came from a violator of the sabbatical year. Yehuda proves his point by referring to a *ma'aseh* in which his teacher Rabbi Tarfon allowed them to eat arum on Sukkot, only a few weeks into the new year after a sabbatical year. Presumably, a few weeks is not enough time to grow arum from seed and thus the arum could have easily



been grown during the sabbatical year. However, the arum could have also come from outside of Israel and thus not be liable to the laws of *shevi'ite*. The uncertainty here is enough for Tarfon and Yehuda to be lenient on this matter.

Rabbi Yose disagrees with Yehuda claiming that his *ma'aseh* is incorrect. Yose claims the supposed incident in which Tarfon allowed arum happened during Passover. This would make Yehuda's argument null and void as Passover falls well after the New Year and there would be plenty of time to grow arum by then. As in tBerachot 5:7, Yehuda and Yose make two different claims about the *ma'aseh* involving Rabbi Tarfon. Although it is unclear whose account is correct, Yehuda is Tarfon's student and often quotes him.

#### tHagigah 2:13

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| <p>עצרת שחל להיות בשיני או<br/>בחמשי או בששי או באחד מכל<br/>ימי השבת בית שמיי או' יום טבוח<br/>ביום של אחריה בית הלל אומ'<br/>אין לה יום טבוח ומעשה שמת<br/>אלכסא בלוד ובאו אנשי העיר<br/>להספידו אמ' להם ר' טרפון צאו<br/>אין מספידין ביום טוב</p> | <p>Pentecost which coincided with a Monday or a Thursday or Friday, or on any day of the week - the House of Shammai say, "The day of slaughter [for the offering] is on the next day."</p> <p>And the House of Hillel say, "There is no [such thing as a] day of slaughter [but burnt-offerings brought as appearance-offerings are offered up on the festival day itself, except when Pentecost coincides with the Sabbath]."</p> <p>It once happened that Alexa died in Lod, and the townsfolk gathered to make lament for him [on the day of slaughter]. R. Tarfon said to them, "Go away. People do not make a lamentation on a festival day."</p> |
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This *baraita* from tHagigah presents an argument between Beit Hillel and Beit Shammai about whether one can make a freewill offering on Pentecost. Presumably,

pilgrims coming to Jerusalem for the festival would bring with them freewill offering to sacrifice at the Temple. Beit Shammai rules that because its *yom tov*, one would have to wait until the next day to offer the sacrifice. However Beit Hillel says that there is no problem with offering on the festival unless it is Shabbat. A *ma`aseh* is then added at the end of the *baraita*. One would expect this *ma`aseh* from Rabbi Tarfon to support either Beit Hillel or Beit Shammai. However, the *ma`aseh*, in which Rabbi Tarfon rules against allowing lamentations on a *yom tov*, is completely unrelated to the rest of the text except for the reference to “the day of sacrifice.”

**tNiddah 2:8**

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| <p>כל היד המרבה לבדוק בנשים הרי<br/> משובחת ובאנשים תקצץ ר'<br/> טרפון אומר תקצץ על טיבורו<br/> אמר לו הרי כריסו נתפתחת אמר<br/> להם אף אני לא נתכוונתי אלא<br/> לכך משלו משל למה הדבר דומה<br/> לנותן אצבע בעין כל זמן שהוא<br/> דוחק הרבה מוציא דמעה במה<br/> דברים אמורים בשכבת זרע אבל<br/> לזיבה כל היד המרבה לבדוק הרי<br/> זו משובחת</p> | <p>Any hand which makes many examinations - in the case of women is to be praised; in the case of men is to be cut off.</p> <p>And R. Tarfon says, "It should be, cut off [while lying] on his umbilicus [perhaps a euphemism for his genitalia]."</p> <p>They said to him, "Lo, his belly will be split open."</p> <p>He said to them, "Indeed, I intended exactly that."</p> <p>They drew a parable: To what is the matter compared? To one who puts his finger in his eye, for all the time that he exerts pressure, he brings forth an abundance of tears. Under what circumstances? With reference to seminal emission, but if it is with reference to flux - Any hand which makes many examinations, lo, it is to be praised.</p> |
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This above *baraita* is set in the context of *niddah*, the laws regarding menstruation. According to the sages, a woman is to be praised if she makes examinations to find out about her menstrual cycle and thus whether she is permitted to her husband. However, a man who makes many examinations in his genital region is to be punished because he is presumably doing this to masturbate. This is made clear at the end of the text when compared with one who sticks his finger in his eye all the time causing tears to come out. Rabbi Tarfon is quite a stringent character in relation to issues of masturbation. In most cases Tarfon has been quite a lenient character; however, in terms of male masturbation he seems overly violent and strict.

The sages rule that his hand should be cut off. If this is not seem bad enough, Tarfon rules that the hand should be cut off while it is on the man's stomach, essentially splitting open the man's stomach as well. If "stomach" is a euphemism for genitalia, the consequences are not much better.

What can be said about Rabbi Tarfon from these *beraitot*? He is lenient in many areas including allowing testimony in cases of *'agunot* and allowing minors to read from Megillat Esther. However, he is stringent in other areas including the laws regarding *yom tov* and masturbation. He is a literalist on some issues but also focused on intentionality in other areas such as relating to *minim*. He seems easily angered, especially when debating with Akiva, but also very easily convinced and placated. He very much seems to be used as a foil by various sages to prove their point. Tarfon is used by Akiva as a "set-up" man. Rabbis Yose and Yehuda both try to use Tarfon to prove their contradictory arguments. Finally, Tarfon is portrayed as a wealthy priest and a member of the elite of society. However, he is

portrayed as being very aware of his own status and power and chooses to use his position for the good of others.

## **Comparing the Mishnah and Tosefta**

In this penultimate chapter, I will compare and contrast the portrayal of Rabbi Tarfon in the Mishnah and Tosefta. By looking at the depiction of him in these two works, we will get a full sense of Tarfon's character.

The question of whether the Mishnah and Tosefta present the same image of Rabbi Tarfon is also crucial in determining whether we can create a biography for Tarfon. As mentioned earlier, Jacob Neusner asserts that works like the Mishnah and Tosefta represent each respective redactor's views. His student, Joel Gereboef, also asserts that no factual statements can be made about Rabbi Tarfon, the historical person, since any comments attributed to him in the Mishnah and Tosefta were placed there by the redactors. I disagree with this minimalist approach and, through this chapter, will show that the image of Tarfon in the Mishnah and Tosefta are actually quite similar with few exceptions.

Besides trying to determine whether the character of Tarfon is historical, the final analysis of Tarfon in this chapter will be used as a personality profile for the final chapter in which Trypho and Tarfon are compared and contrasted.

### **Mishnah**

The forty-eight mishnahs analyzed present a very clear image of Rabbi Tarfon. As mentioned in earlier, the majority of Tarfon's mishnahs occur in the Orders of Kodoshim, Nashim and Tohorot. This seems logical as these orders deal mostly with issues of ritual purity, something that Tarfon as a priest is especially interested in. I have divided the mishnahs in which he is mentioned into five distinct categories: fourteen mishnahs are

related to Tarfon's priestly bias, ten mishnahs are related to helping the disadvantaged, three mishnahs are related to his literal interpretations, four mishnahs are concerned with his focus on intention, and eight mishnahs deal with Tarfon's relationship with Akiva. The final nine mishnahs do not fit into any of the above categories. From this breakdown it is evident that Rabbi Tarfon is mostly associated with issues relating to the priesthood, is lenient in matters regarding helping the disadvantaged, and is most commonly paired in his disagreements with Rabbi Akiva.

The largest section of mishnahs are those in which Rabbi Tarfon shows a bias towards the priestly class. Although, there are occasions when he deviates from this trend such as in mBechorot 2:9 or mMaserot 3:9, his nepotistic relationship towards priests is fairly blatant. The majority of these rulings deal with the issue of priestly income through various offerings. A prime example of this is in mTerumot 9:2, when Tarfon only allows poor priests to glean from a field planted with *terumot*. In most cases, he is lenient towards the priests allocating them as much income as halachah will allow such as in mTerumot 4:5. One might make the argument that Tarfon is merely looking out for a class that no longer has any income in a post-Temple society, but it appears that during the second century there were poor priests and rich priests just like there were poor and rich Israelites. Therefore, Rabbi Tarfon's rulings do not seem particularly altruistic and seem merely just to favor his own class.

Although he is in the upper class of society and favors his group, Rabbi Tarfon nevertheless quite philanthropic. With a few exceptions such as his misogynistic ruling in mKetubot 7:6, Rabbi Tarfon fights for the rights of the classically disenfranchised groups of late antiquity. Tarfon's trend toward leniency in many halachic areas often results in making

sure the disadvantaged are supported financially. This is exemplified in mKetubot 9:2-3 where Tarfon rules that any extra inheritance should always be given to the most disadvantaged inheritor. However, we see that he also takes on issues of status in mKiddushin 3:13, capital punishment in mMakot 1:10 and women's rights. Although by no means a true humanitarian by today's standards, Tarfon is tremendously aware of the disadvantaged considering his powerful position in society.

According to the Mishnah, Rabbi Tarfon is also a literalist. In an effort to best follow the letter of the law, Tarfon recites prayers in a manner that is meant to reflect the literal nature of the commandment being observed. In both mBerachot 6:8 and mBerachot 1:3, Rabbi Tarfon authors blessings that are hyperliteral and relevant only to the exact case mentioned.

Tarfon's focus on the literal is also essentially intertwined with his focus on intention. On one hand he seeks to make rulings based on *keva`* and the exact circumstance. Nevertheless, and often at the same time, his rulings attempt to appropriately deal with the *kavana* of a matter.

In relation to planting *kil'ayim* (mKil'ayim 5:8) and making vows (mNazir 5:5 and mNedarim 6:6), Tarfon rules on the side of intention. However, in relation to *`eruv techumin*, he rules against intention when he chooses to honor the Sabbath instead. This discrepancy may not be so much a statement of Rabbi Tarfon's feeling towards the *kavana* related to *`eruv techumin* but rather his giving primacy to *`oneg Shabbat*. These seem all the more clear when in mShabbat 2:2 he rules that a Shabbat lamp may only use olive oil, which gives the best light of all oils listed in chapter two of mShabbat.

The final classifiable unit of Rabbi Tarfon's mishnahs all deal with his relationship to Rabbi Akiva. They range in topics including matters of purity, engagements and financial matters. In most of the cases, Tarfon and Akiva disagree in respect to the halachah. It is not clear in most cases, however, who the halachah follows. There are also cases such as mSukkah 3:5 where Akiva and Tarfon are not even discussing the same issue but have been redacted together. There are also cases such as mBechorot 4:4 where Akiva actually defends Tarfon.

The final chapter of mishnahs do not contain any common themes but still reveal much about the character of Rabbi Tarfon. MBaba Metzi'a 4:3 shows us that Tarfon is a respected community leader who is in touch with the common person. Numerous mishnahs show that he is also especially concerned with issue of ritual purity. He also can be very emphatic in his rulings as seen in Ta'anit 3:9. He also believes in the concept of what will happen in the future effects the state of something now as revealed in mKeilim 11:7.

Overall, the Mishnah depicts Rabbi Tarfon as a complicated man. He can be very lenient in some areas such as priestly benefits but also extremely strict in other areas such as *keilim*. He both agrees with Rabbi Akiva and differs with him. He is presented as cool and collected in some mishnahs and as extremely angry and short tempered in others. On one hand he is interested in the intention behind various laws while on the other hand he is focused too much on specifics and literal meanings. The nature of Rabbi Tarfon cannot be fully known, however, until we examine the Tosefta.



## Tosefta

The eighteen *baraitot* chosen from the Tosefta present a very similar picture of Rabbi Tarfon as we find in the Mishnah. The Tosefta texts have a similar breakdown to those in the orders of the Mishnah in which we find the largest concentration of Tarfon's statements. Again, the majority of his texts fall into the three orders of Nashim, Kodoshim and Tohorot. The only major different is that Tosefta contains only three *baraitot* in Nezikim and contains the huge amount of fifteen texts in Tohorot, almost double the amount in the Mishnah. The same five key categorizations that I made for the Mishnah section also seem to fit the *baraitot* of the Tosefta. The *baraitot* of Rabbi Tarfon found in the Tosefta break down as follows: one *baraita* on priestly matters, four *baraitot* dealing with helping the disadvantaged, two *baraitot* about his literal interpretations, and one *baraita* centered on the idea of intentionality. All of the *baraitot* in these areas support the view that the Mishnah and Tosefta present an analogous view of Rabbi Tarfon. The final category, in which there are six *baraitot* about Rabbi Tarfon's relationship with Rabbi Akiva, provides a somewhat different picture of Tarfon than the Mishnah does. In a manner similar to the Mishnah, we find four *baraitot* that do not fall under any of the previous categories but still speak to the temperament of Rabbi Tarfon.

Rabbi Tarfon's priestly bias is clearly shown in the Tosefta in tHagigah 3:33. In this text he encounters an old man who claims that Tarfon is too liberal in accepting the offerings set aside for the priests. Rabbi Tarfon, in an effort to still help his brethren, does not change his opinion on the ruling of allowing priests to accept voluntary offerings, but he does declare that he, personally, will not accept an offerings outside of the prescribed obligatory times. The Tarfon of the Mishnah and the Tarfon of the Tosefta both are depicted as having a bias

towards priest. However, Tarfon is also shown to be more altruistic in his priestly biases in the Tosefta than in the Mishnah.

In the Tosefta, Rabbi Tarfon's tendency toward helping the disadvantaged is also very apparent. As in the Mishnah, Tarfon often rules leniently towards those who are disenfranchised. However, in the Tosefta, Rabbi Tarfon's altruism goes further than just words. While he often rules in favor of the disadvantaged in the Mishnah, in the Tosefta he is depicted as personally acting to help the underprivileged in society beyond his role as a lawmaker. This is evident in both tKetubot 5:1 where he is said to have gotten engaged to 300 girls in a time of famine so that they could also eat from the *terumah*. There is further evidence of his humanitarian concerns in tBechorot 6:14 where it is said that he would customarily give back the five *sela's* from *pidyon haben* even though he was not obligated to do so.

Again in keeping with the Mishnah's presentation of Rabbi Tarfon, the Tosefta depicts him as a literalist but also occasionally interested in intention. In tGittin 7:1, Tarfon focuses on unlikely specific cases rather than on the general law. However, in tShabbat 13:5 he is much more interested in the intention behind writing the Divine name rather than the actual name itself.

The final four *baraitot* in the miscellany section also tells us about Rabbi Tarfon. In these texts, Tarfon is depicted as lenient in relation to *shemitta* and mixed-tithed produce but stringent in regards to masturbation and making lamentation on *yom tov*.

The only section of the Mishnah and Tosefta that drastically differ is in relation to Rabbi Tarfon's relationship with Rabbi Akiva. In the Mishnah, with the exception of mSukkah 3:5 and mBechorot 4:4, Tarfon was almost always at odds with Akiva and the

*machlokot* were rarely resolved. To a degree the Tosefta follows a similar pattern. With the exception of tYevamot 14:10 where the two agree and tBaba Kama 5:12 where they dispute but no ruling is made in the end, Tarfon is a much different character in the Tosefta in relation to Akiva. The other four *baraitot* all depict Rabbi Tarfon first disagreeing and becoming angry with Akiva but eventually being convinced by Akiva and finally accepting and championing Akiva's view.

This depiction of Rabbi Tarfon in the Tosefta appears to be much more in line with Joel Gereboff's argument that Tarfon is merely a foil used by the pro-Akivan redactor. This is clear as the law never sides with him. He often seems angry and erratic and while cool and collected Akiva never returns Tarfon's insults. And in the end he often concurs with Akiva.

Gereboff is not completely correct in relation to the Tarfon-Akiva relationship as Tarfon's regular acquiescence only exists in the Tosefta. On the whole, the Mishnah and Tosefta agree with one another except for this issue. The question still persists, "Can we make any factual statements about a historical Rabbi Tarfon even with this disparity?"

I believe that we can. It seems clear that the redactor of the Tosefta definitely placed Tarfon in a subservient role to Akiva. However, the rest of the Tosefta and Mishnah seem to agree in respect to Tarfon's leniencies and stringencies, his priestly bias, his care for the underprivileged his mixed literal and intentional approach to halachah, and his focus on ritual purity. Although the character of Tarfon may have been used by redactors for their own purposes, all of these similarities imply that there did exist a historical Rabbi Tarfon and we can make some factual statements about his ideas and views.

## Comparing Trypho and Tarfon

This final chapter will seek to compare and contrast the character of Trypho the Jew that was defined in chapter three with the character of Rabbi Tarfon that was defined in the previous chapter. By analyzing their areas of interest and other character traits that come out of the text, I will come to some conclusions about whether Trypho the Jew could in fact be Rabbi Tarfon.

There are four possible answers to the question of whether Rabbi Tarfon and Trypho the Jew are the same person. The maximalist approach would say that Justin Martyr did actually meet Rabbi Tarfon on the road and they had a conversation that is accurately recounted in the *Dialogue*. One could also claim that the *Dialogue* reflects a historic meeting between Justin and some unknown Jew by the name of Trypho. Another approach would be to say that the *Dialogue* does not and or was not meant to convey a historical meeting but Justin did in fact mean to portray Rabbi Tarfon in the fictional Trypho the Jew. The final minimalist approach says that the *Dialogue* is a fictional rhetorical device neither meant to portray a historical situation or the historical Rabbi Tarfon in any way.

To answer the question we must ask the question of whether the *Dialogue* was ever meant to actually reflect history. The dialogue as a literary form dates back thousands of years. Justin as a self-described student of philosophy would have been more than familiar with the philosophical devices found in classical Greek literature, in particular in the ancient art of rhetoric.

According to chapter one of the *Dialogue* Justin was a student of Platonic philosophy and thus would have known *Plato's Dialogue* well. *Plato's Dialogue* is known for being a further simplified form of the dialogue form that is reduced to pure argumentative

conversation, while leaving intact the amusing element of character development. Justin's *Dialogue* is also clearly modeled after this style. Fictional dialogues were also frequently used by other early Christian writers, such as Origen, Boethius and Augustine.

There are also many proofs from within the *Dialogue* itself that lead one to believe it is a fictional account. Trypho the Jew speaks very little throughout the *Dialogue* and when he does he seems to be used merely as a foil to Justin. Much like Gereboff's claim that Rabbi Tarfon is a redactor's tool to support the arguments of Rabbi Akiva, it seems that Trypho serves the same purpose for Justin. When he does speak, Trypho is interested in three main topics, biblical interpretation, ritual law and messianism. These topics are coincidentally the main areas of dispute between Jews and Christians of the second century CE. The *Dialogue* is set in the context of two men meeting on the road. This is a common setting, seen in various different works throughout late antiquity including tHagigah 3:33. Finally, the *Dialogue* is not a disputation, with a winner and loser. The *Dialogue* is rather open and inviting to Jews, more proof that it was a formulation by Justin to promote conversion to Christianity among Jews.

If the *Dialogue* is not a historical account, then we must ask the question of whether the character of Trypho was meant by Justin to be a portrayal of Rabbi Tarfon. To answer this question we must look at first whether Justin could have known about Rabbi Tarfon. Justin lived c. 100 CE – 165 CE. As discussed in chapter three, it appears that the *Dialogue* was written near the end of Justin's life around 161 CE. Rabbi Tarfon lived sometime between the late first century and early second century CE. Various *mishnayyot* and *baraitot* suggest that Tarfon was well known. In tHagigah 3:33, a random old man seems to be well aware of Rabbi Tarfon and his rulings. And in mBaba Metzi'a 4:3, Tarfon is clearly

depicted as a respected civic leader. Although much of the tannaitic material may not have been compiled until after Justin Martyr's death, it is completely plausible that Justin would have been familiar with the teaching and rulings attributed to Rabbi Tarfon. With this in mind, I will now review the character of both men in order to determine if there is any connection between Rabbi Tarfon and Trypho the Jew.

First, it is worth reiterating that the name Trypho or Tryphon was not all that uncommon in late antiquity. Any argument based purely on this linguistic similarity is unfounded. Arguments must be based on the evidence from these both the *Dialogue* and the tannaitic works of Rabbi Tarfon.

In the *Dialogue* Trypho speaks little and thus there is not a lot of material to work with. What material we do have, however, can provide for us a clear depiction of Trypho the Jew. As we see from chapter 67, Trypho is very concerned with correct biblical interpretation. However, Trypho himself appears ignorant in respect to certain *d'oraita* laws including those about *brit milah* mentioned in chapter 10 of the *Dialogue*. Although Trypho seems quite knowledgeable in regards to the Hebrew Bible and Gospels, he does not seem to be very familiar with any concepts associated with Rabbinic Judaism such as prayer, *halakhah* or the whole concept of the oral Torah. Trypho's areas of interest are circumcision (chapter 10), Sabbath observance (chapter 27), ritual purity in relation to *mikveh* (chapter 46), the rebuilding of Jerusalem (chapter 80), and the messiah (chapters 47, 67, and 87). Trypho is also often portrayed by Justin to be short-tempered disputant (chapters 17, 25 and 79). However, Trypho appears to be the most moderate among his companions as the rest of them do not wish to even engage in dialogue. Finally, an overall trend throughout the *Dialogue* shows Trypho interested in practicality over intentionality. He is more concerned with

observing the laws as they are stated in the Torah than the classical Christian concept of “circumcision of the heart,” where the practice of the *mitzvot* is unimportant compared with belief in Christ.

As evidenced from the previous chapter, Rabbi Tarfon is a much different character than Trypho the Jew. Rabbi Tarfon is also very interested in correct biblical interpretation. However, unlike Trypho, he uses his encyclopedic knowledge of Scripture and Jewish law to try to expand upon the *d’oraita* as illustrated in mBaba Kama 2:5. Rabbi Tarfon also appears opposed to studying any other religious texts besides his own as seen in his famous remarks about burning heretical texts in tShabbat 13:5. Similar to Trypho, Tarfon is interested in matters of ritual purity, *mikva’ot* and Sabbath observance. Rabbi Tarfon is also especially interested in the fate of the priestly class and in helping the disadvantaged. Tarfon focuses on issues of *keva* and *kavana* but unlike Trypho does not rule solely in favor of *keva*. In relation to Rabbi Akiva, the Tosefta texts make Rabbi Tarfon appear as a foil much like Trypho to Tarfon. However, the relationship does not exist in the Mishnah. Finally, Rabbi Tarfon, like Trypho, is portrayed as easily angered and placated in many accounts.

Any claim that Justin Martyr’s Trypho the Jew and Rabbi Tarfon are the same person is merely speculative. It seems that Eusebius, at a time when historical scholarship was not what it is today, made this claim and ever since it has incorrectly been passed down through the generations. Although, there are some similarities between the two characters, they are all very general and coincidental. Trypho the Jew and Rabbi Tarfon are both fascinating characters in their own right and any attempt to conflate the two serves only to diminish their respective importance.

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