YESHIVAT HAR ETZION

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**"My Children have Defeated Me"**

**Fundamental questions in the study of the Oral Law**

**Rav Amnon Bazak**

**Shiur #64: Epilogue (1)
“My children have defeated Me”**

**I. The Torah is Not in Heaven**

The central thread that joins together all the topics we have discussed in the previous chapters is the human role assigned to halakhic leaders across the generations in expanding the Torah and developing it. We noted that the prophets already gave expression to the need to add *mitzvot* and laws in order to deal with changing realities – from expanding the prohibitions of Shabbat to establishing the holiday of Purim and the fast days. We saw that while the foundation of the Oral Law is from Sinai, a large part of it is theoretical analysis conducted by the Sages through their own intellect and understanding, with the help of various rules by which the Torah may be expounded. We pointed to the Sages’ authority to change *halakha* in a variety of ways: through midrashic expositions, which sometimes differ greatly from the plain sense of a verse; through halakhic tools, such as the Sages’ authority to declare property ownerless, to passively uproot a positive commandment, to issue temporary rulings, and the like. Additional tools were available even after the period of *Chazal*, as reflected in areas of *halakha* such as the sale of *chametz*, the *heter iska*, changes in the status of women and in relations with non-Jews, and others. The power of the Sages also finds expression in the use of "*ukimtot*," which enabled the dynamism of *halakha* while maintaining the framework accepted by the people of Israel. This “power” stemmed from the Sages’ faith that their changes reflect the tendency of the Torah itself, and that the Torah's values find expression with the help of the understanding and intellect of the halakhic authorities.

The extraordinary halakhic power of the Sages is radically expressed in the famous story of the oven of Akhnai:[[1]](#footnote-1)

It was taught in a *baraita*: On that day, Rabbi Eliezer brought forward every imaginable argument, but they did not accept them.

He said to them: If the *halakha* agrees with me, let this carob tree prove it! Thereupon the carob tree was torn a hundred cubits out of its place; others say, four hundred cubits. They said to him: No proof can be brought from a carob tree.

Again he said to them: If the *halakha* agrees with me, let the stream of water prove it! Thereupon the stream of water flowed backwards. They said to him: No proof can be brought from a stream of water.

Again he said to them: If the *halakha* agrees with me, let the walls of the *beit midrash* prove it. Thereupon the walls inclined to fall. But Rabbi Yehoshua rebuked them, saying: When Torah scholars are engaged in a halakhic dispute, what have you to interfere? Hence they did not fall, in honor of Rabbi Yehoshua, nor did they resume the upright, in honor of Rabbi Eliezer; and they are still standing thus inclined.

Again he said to them: If the *halakha* agrees with me, let it be proved from heaven! Thereupon a Heavenly Voice issued forth: Why do you dispute with Rabbi Eliezer, seeing that in all matters the *halakha* agrees with him?! But Rabbi Yehoshua arose and exclaimed: "It is not in heaven" (*Devarim* 30:12).

What did he mean by this? Rabbi Yirmeya said: That the Torah had already been given at Mount Sinai; we pay no attention to a Heavenly Voice, because You have long since written in the Torah at Mount Sinai: "After the majority must one incline" (*Shemot* 23:2).

Rabbi Natan [later] met Eliyahu and asked him: What did the Holy One, blessed be He, do in that hour? He replied: He laughed [with joy], saying: My sons have defeated Me, My sons have defeated Me. (*Bava Metzia* 59b)

This story expresses the preference given to the position of the majority, even when it has been established that it contradicts the truth from the heavenly perspective.[[2]](#footnote-2) Rabbi Eliezer proved that he was right by way of various supernatural signs, but in the end, his position was not accepted because it was a sole dissenting opinion. The end of the story expresses the idea that this is the will of God himself, as it were: the Torah was entrusted to the Sages, and it is the human position that determines *halakha*, even when it is clear that it does not represent heavenly truth.[[3]](#footnote-3) This applies not only when the Sages strive to understand the halakhic truth in any given situation, but even when it is clear that the human truth of the majority of the Torah authorities of the generation contradicts the absolute truth of the will of God. As the Ran writes:

Everyone saw that Rabbi Eliezer was more in agreement with the truth than they were, and that his signs were all true and just, and that it was decided in heaven in accordance with his words. Even so, they acted in accordance with their conclusion, since their intellect was inclined towards [a ruling of] impurity. Even though they knew they had reached a conclusion that was opposite the truth, they did not want to declare the oven pure, and they would have been violating their religion had they purified it, since their intellect was inclined towards [a ruling of] impurity – for final determination was handed over to the Sages of the generations. (*Derashot Ha-Ran*, *derush* 3)[[4]](#footnote-4)

Rabbi Aryeh Leib HaKohen Heller[[5]](#footnote-5) added:

But the Holy One, blessed be He, chose us and gave us the Torah in accordance with the determination of human intellect, even if it does not accord with the truth. If so, one may introduce absolutely novel ideas, provided that they are true in accordance with the determination of the human intellect. (*Ketzot Ha-Choshen*, introduction)

These formulations represent in the clearest manner the power and authority of *Chazal* to operate in accordance with their best human judgment. If this is true even when *Chazal* seem to be standing against compelling evidence that expresses the will of God, all the more so is it true when they act on the assumption that *halakha* is supposed to change in the wake of a changing reality; this is also the will of He who gave the Torah.[[6]](#footnote-6)

Rabbi Yechezkel Feivel of Vilna[[7]](#footnote-7) added a novel interpretation of the phrase, "My children have defeated Me," *nitzchuni banai*:

And in my opinion, the word *nitzchuni* denotes existence and constancy, as in "*netzach sela*." That is to say: Since My children are on this level that they regarded as naught and vanity all the signs and miracles that contradicted a small principle of the roots of the Torah, I am confident that "*nitzchuni banai*," that is, that I will be their Father and God *le-netzach netzachim*, for ever and ever. (*Toldot Adam*, chap. 14)

This exposition of the word *nitzchuni*, as derived from the word *netzach*, "eternity," teaches us that our faith in each of the Torah's *mitzvot* strengthens the eternality of God.[[8]](#footnote-8) Based on this, it may be argued that handing over the responsibility for the Torah to man is what enabled the eternity of the Torah and made it a living Torah, relevant for all generations and times.

(Translated by David Strauss)

1. The halakhic discussion, which is not part of the story presented below, deals with the mishnaic law regarding a clay oven which "he cut up into rings, and then he put sand between each pair of rings; Rabbi Eliezer says: It is pure, but the Sages say: It is impure. This is the oven of Akhnai" (*Keilim* 5:10). Rashi there explains that the *Tannaim* disagree about an oven made of rings that were stuck together by way of sand. According to Rabbi Eliezer, it is not considered a clay utensil, and therefore it is not subject to impurity, like a utensil made of earth. According to the Sages, the oven is considered a clay utensil, since the rings themselves are made of clay, even though they are stuck together with sand. For other explanations of the dispute, see Rambam, commentary to the Mishna, ad loc.; Ritva, *Bava Metzia*, ad loc., s.v. *tenan hatam*; and others. We will not deal at length with an analysis of the meaning of this story, as it has already been discussed by many. Among others, see: Y. Engelard, "*Tanuro shel Akhnai* – *Peirushah shel Aggada*," *Shenaton ha-Mishpat ha-Ivri*, I, 5734, pp. 45-50; Sh. Rosenberg, *Lo ba-Shamayim Hi,* Alon Shvut 5778, pp. 81-133. [↑](#footnote-ref-1)
2. This tendency also emerges from other *midrashim*, among them: "Now, they were disputing in the Heavenly Academy as follows: If the bright spot preceded the white hair, he is impure; if the reverse, he is pure. If [the order is] in doubt – the Holy One, blessed be He, ruled that he is pure, while the entire Heavenly Academy maintained that he is impure. And they said: Who shall decide it? Rabba bar Nachmani; for he said, I am pre-eminent in the laws of leprosy and tents. A messenger was sent for him… As he was dying, he exclaimed: Pure, pure! A Heavenly Voice cried out: Happy are you, O Rabba bar Nachmani, whose body is pure and whose soul departed in purity! A missive fell from heaven in Pumbedita, [upon which was written]: Rabba bar Nachmani has been summoned by the Heavenly Academy" (*Bava Metzia* 86a). This *midrash* presents a dispute about leprosy between God and the rest of the Heavenly Academy, and the decision was reached to rule in accordance with the position of Rabba bar Nachmani, who defined himself as "pre-eminent in the laws of leprosy." [↑](#footnote-ref-2)
3. This understanding emerges from the plain meaning of the passage, but some disagree. Rabbi Nissim Gaon, in his commentary to *Berakhot* 19a, argues that there is no contradiction between absolute truth, on the part of God, and human truth. In his view, the proofs put forward by Rabbi Eliezer were not decisive, since the various phenomena could be explained in a natural manner; even the Heavenly Voice did not prove that the *halakha* was in accordance with Rabbi Eliezer in this specific case. It is reasonable to assume that Rabbi Nissim Gaon was forced to interpret the story in this way because he was not prepared to accept the possibility of deciding *halakha* in explicit opposition to God's will, and therefore, there is no alternative but to explain that the story there does not come to present God's will. This also follows from the words of the *Tosafot*, ad loc. (s.v. *lo ba-shamayim*): "Here the Heavenly Voice issued only to preserve the honor of Rabbi Eliezer, who said: Let it be proved from heaven." According to them as well, the Heavenly Voice did not really establish that this was the law. [↑](#footnote-ref-3)
4. See also *Sefer Ha-Chinukh*, mitzva no. 496. The Ramban as well wrote in similar manner in his strictures to the Rambam's *Sefer Ha-Mitzvot*, 1: "And the blessed One decided the matter, that we should listen to the Great Court in everything they say, whether they received the explanation by tradition or whether they said what they said based on the meaning of the Torah and its intention according to their understanding. For He commanded and gave us the Torah based on their understanding… For this is the mitzvafor us from the Lord of the Torah, so that a disputant does not say: How shall I permit this for myself, when I know with certainty that they are in error, for we say to him: This is what you are commanded." [↑](#footnote-ref-4)
5. 1745-1812, Galicia-Ukraine. [↑](#footnote-ref-5)
6. As was noted by Rabbi E. Berkowitz, *Ha-Halakha – Kochah ve-Tafkidah*, Jerusalem 5741, pp. 215-216: "When Rabbi Yehoshua stood up and silenced the Heavenly Voice, saying: 'It is not in heaven,' he essentially gave expression to the idea that, since the purpose of the Torah is to be fulfilled in human life, and it is impossible to go up to heaven from time to time and ask the Heavenly Court to express its opinion, there is no escape from a human mechanism and arrangement to determine *halakha* according to the rules in the Torah and in accordance with the Sages' best understanding of the matter under discussion… This authority that the Torah assigns to man must be living, contemporary, and present in the generation for which it explains the words of God. It must stand on the foundations of the tradition received from previous generations. But in order to apply the Torah's demands to the living generation, they must have a deep understanding of the living conditions and the needs of the generation. It is precisely from the encounter between the eternal command and the changing conditions of human life that the living words of God arise for that time and that place." [↑](#footnote-ref-6)
7. 1755-1863, Hungary-Safed. [↑](#footnote-ref-7)
8. The Maharatz Chajes (*Bava Metzia* 59b, s.v. *gemara nitzchuni*) as well understands the word *nitzchuni* as derived from *netzach*, eternity. He, however, sees in this an expression of the eternity of the Torah and its unchanging nature. [↑](#footnote-ref-8)