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AN  
INTELLECTUAL  
HISTORY OF  
THE BAVLI

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the  
Mind  
of the  
Talmud

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DAVID  
KRAEMER

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# **The Mind of the Talmud**

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# THE MIND OF THE TALMUD

*An Intellectual History  
of the Bavli*

DAVID KRAEMER

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To Susan, who, through her insistence  
that scholarship have meaning,  
taught me to write this book

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# Preface

THE LINE OF INQUIRY from which this work emerges began with my doctoral dissertation, written at the Jewish Theological Seminary under the guidance of Prof. David Halivni. At that time I catalogued the forms of preserved amoraic traditions in the Babylonian Talmud, primarily in order to ascertain whether, and to what extent, the sages of the Talmud (the amoraim) preserved argumentation. It was Halivni's thesis then, as now, that the amoraim were not generally concerned with argumentation, and that the wealth of argumentation found in the Talmud is preserved as a consequence of the interest in such material that developed among the authors of the later, unattributed Talmud text. My conclusions showed that amoraic publication was primarily apodictic and brief, but that middle amoraic generations appeared to show at least a nascent interest in argumentation. Accordingly, I supported Halivni's views generally, albeit with some important reservations.

There were, I have come to recognize, two serious flaws in my earlier work. First, at that time I did not account for the methodological critiques and refinements suggested in the work of Jacob Neusner. As will become apparent, I have attempted to confront these issues directly in the chapters that follow. More important, and going beyond the redactional ramifications, in my earlier work I did not inquire into the meanings of amoraic and Talmudic literary style. This is the primary focus of the present work.

The conclusions of my earliest investigation, though somewhat supplemented, are found in the sections of chapter 2 on the first, second, and third amoraic periods. The balance of this work is largely new. Naturally,



I have not, in the present context, repeated many of the details of my earlier research; for those details I direct the reader to my dissertation, "Stylistic Characteristics of Amoraic Literature." The latter is quite technical and is primarily of interest only to specialists in the field. In the present work I have sought to avoid such technicality as much as possible.

However, it has not always been possible to avoid technical discussions. I hope such discussions will be of interest to my colleagues in the field of rabbinics. But I have directed this book to other audiences as well, particularly to those interested in the history of religion and of ideas. Such readers might be unnecessarily frustrated by sections in which there is considerable textual analysis, but I advise them not to be intimidated by such obstacles; the synthetic analyses and conclusions are accessible without a technical understanding.

Accordingly, the reader should be aware of the following divisions in the text. Chapter 1 lays an essential foundation for all subsequent chapters. The second through fourth sections of chapter 2 are somewhat technical, and their analysis (contained in the last section of the same chapter) can be understood without undue concern for details. Similarly, since the "Evidence" section of chapter 3 primarily consists of textual analysis, the more general reader might be better served by turning directly to the conclusions of the same chapter. The first section of chapter 4 is likewise technical, but it is important for a proper understanding of the Talmudic form as a whole, so I would encourage the reader to try to steer a path through it. Finally, chapters 5–7 contain my most important contribution, so the reader who is interested in the theoretical implications of this work is directed to these chapters in particular.

For the reader with little or no experience in the field of Talmud and rabbinics, I have sought to avoid, as much as possible, the use of Hebrew or Aramaic terms. Naturally, such terms cannot be avoided entirely, but where it has been necessary to employ them I have made sure that at their first appearance they are accompanied by a translation or explanation. I have also included a glossary of such terms for ready reference. In addition, the reader may also find useful a table of Talmudic tractates and commonly used abbreviations.

The questions I have asked in this work originated in my exchanges with several parties. The formative influence is that of Prof. David Halivni, who directed my dissertation research and whose subsequent insights and challenges have been invaluable. I continue to be immensely grateful for his kind and thoughtful support. Second, I have learned a great deal from

the writings of Jacob Neusner, who frames arguments that I often find compelling and persuasive, and whose influence, reflected in many of the questions I have raised, will be evident to all. He is, without his personal avowal, my second teacher, and I look forward to his future critical comments. Last, and in many ways most important, I have learned much from the questions raised by many of my students, who have refused to permit a lazy presentation of facts and have always insisted that I address the question "what does it all mean?" I have also been prompted to ask this question by another source and in this connection I draw the reader's attention to the dedication of this book.

There are many other parties to whom I must express my gratitude. My colleague and dear friend Prof. Baruch Bokser read the first draft of the manuscript and suggested many essential improvements and corrections. Another colleague and old friend, Dr. Alvin Sandberg, also read the whole manuscript and suggested many improvements, both stylistic and substantive. Profs. Neil Gillman and Henry Morgenbesser read the last chapter and offered essential critical refinements. And, not least of all, an anonymous reader for Oxford University Press left many comments in the margins of my first draft manuscript that led to important improvements. Without the wisdom of these individuals this work would have been very different.

I thank Prof. Shamma Friedman for making available to me references in the Yerushalmi from his computer database. Due to the lack of a complete concordance to that work, I would not have been able to conduct comprehensive examinations of certain questions without his help. Thanks also to Prof. David Roskies, who suggested the title for this book. Finally, I must acknowledge my debt to Prof. Reuven Kimelman, whose analysis of the text at Eruvin 13b suggested to me several fruitful analytical possibilities. A number of my interpretations of that important text emerged from my reflections on his comments.

The editors and other staff members at Oxford University Press have maintained high editorial standards and provided professional support throughout this project. Carole Schwager did a meticulous job of copy-editing the manuscript. Henry Krawitz, who also assisted me with my earlier book, *The Jewish Family: Metaphor and Memory*, is especially to be thanked; he is a superb editor and a kind human being. I have been fortunate to work with him.

New York  
September 1989

D.K.

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# Contents

**Glossary, xiii**

**Abbreviations, xv**

**Introduction, 3**

**1. On Writing an Intellectual History of the Bavli, 9**

The Meaning of Literary Forms, 9

The Bavli: A Preliminary Description, 16

The Bavli's Sources: On the Reliability of Attributions, 20

**2. A History of Amoraic Literary Expression, 26**

The First Amoraic Period, 30

The Second Amoraic Period, 35

The Third Amoraic Period, 39

The Meaning of the Evidence, 41

**3. The Preservation of Amoraic Argumentation, 50**

The Evidence, 55

More Evidence and Conclusions, 63

Appendix A: The Data at a Glance, 72

Appendix B: The Data in Detail, 72

**4. The Bavli Considered as a Whole, 79**

- The Urgency for Argumentation, 79
- Building on Earlier Argumentation, 80
- Building on Brief Traditions, 84
- Fictional Argumentation, 87
- Argumentation for Its Own Sake, 90
- The Bavli and the Yerushalmi Distinguished, 93

**5. The Meaning of Argumentation, 99**

- A Philosophical Analysis: The Indeterminability of Truth, 99
- Historical Underpinnings, 112
- Theological Underpinnings, 120
- Appendix: The Erosion of Authority in the Bavli's Sources, 127

**6. The Bavli on "Truth," 139**

- The Separation of Truth and Practice, 139
- The Centering of Human Reason: Reason and Revelation, 146
- Human Reason on Its Own Terms: Learning Becomes Torah, 156

**7. The Bavli in Comparative Perspective, 171**

- Truth in the Classical Philosophical Tradition, 175
- Religious Traditions and Truth, 179
- Philosophy Meets Scripture, 183
- In Conclusion: Why the Bavli? 187

**Notes, 191****Bibliography, 207****General Index, 213****Index to Primary Rabbinic Sources, 217**

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# Glossary

- Amora** (pl. amoraim) The named sages whose opinions are recorded in the two talmuds; things that pertain to the period of the amoraim are called amoraic
- Baraita** (pl. baraitot) Traditions of purportedly tannaitic origin that were not, however, included in the Mishnah; baraitot are found in the two talmuds as well as in specific tannaitic collections, such as the *To-sefta* or the *Midrashei Halakha*
- Halakha** Rabbinic law
- Mekhilta** The Midrash Halakha to the book of Exodus
- Midrash Halakha** A tannaitic exegesis of the books Exodus, Leviticus, Numbers, and Deuteronomy
- Mishnah** The first document to emerge from early rabbinic Judaism, completed by about the year 200 C.E.; apparently (though not definitely) a legal code, arranged by topic, and divided into six “orders” (Heb. *sedarim*) and further into tractates (Heb. *masekhtot*)
- Seder** (pl. sedarim) A major topical division of the Mishnah
- Sifra** Midrash Halakha to the book of Leviticus
- Sifrei** Midrash Halakha to the books of Numbers and Deuteronomy
- Stam** (or *stamma*; pl. *stammaim*) Literally, “anonymous” or “unattributed”; used in this study with two meanings: (1) the unattributed compositional level of the Bavli text, or (2) the authors of the unattributed Bavli text
- Sugya** (pl. sugyot) A self-contained, sustained deliberation in the Talmud

**Tanna** (pl. *tannaim*) Used in this study primarily to mean (1) a rabbinic sage of the period of the Mishnah, with recognized superior authority within the rabbinic system, but also (2) an official repeater of rabbinic traditions; things that pertain to the period of the *tannaim* are called *tannaitic*

**Tosefta** A collection of *baraitot* that relate as a commentary to the Mishnah; traditions included in the *Tosefta* purport to be *tannaitic*, but the document is clearly redacted subsequent to the Mishnah

**Tractate** (Heb. *masekhet*) The basic topical division of the Mishnah and, consequently, of the *talmuds*

**Yerushalmi** The Talmud of the Land of Israel; also known as the Jerusalem or Palestinian Talmud

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# Abbreviations

<b>Arakh.</b>	Arakhin	<b>Men.</b>	Menahot
<b>A. Z.</b>	Avodah Zarah	<b>M. K.</b>	Mo'ed Katan
<b>b.</b>	Babylonian Talmud	<b>Naz.</b>	Nazir
<b>B. B.</b>	Baba Batra	<b>Ned.</b>	Nedarim
<b>Bekh.</b>	Bekhorot	<b>Neg.</b>	Negaim
<b>Ber.</b>	Berakhot	<b>Nid.</b>	Niddah
<b>Bez.</b>	Bezah	<b>Pes.</b>	Pesahim
<b>B. M.</b>	Baba Mezia	<b>R. H.</b>	Rosh Hashanah
<b>B. Q.</b>	Baba Qamma	<b>San.</b>	Sanhedrin
<b>Eruv.</b>	Eruvin	<b>Shab.</b>	Shabbat
<b>Git.</b>	Gittin	<b>Shev.</b>	Shevuot
<b>Hag.</b>	Hagigah	<b>Sot.</b>	Sotah
<b>Hor.</b>	Horayot	<b>Suk.</b>	Sukkah
<b>Hul.</b>	Hullin	<b>Taan.</b>	Taanit
<b>Ker.</b>	Keritot	<b>Tem.</b>	Temurah
<b>Ket.</b>	Ketubot	<b>y.</b>	Talmud Yerushalmi
<b>Kid.</b>	Kiddushin	<b>Yom.</b>	Yoma
<b>m.</b>	Mishnah	<b>Yev.</b>	Yevamot
<b>Mak.</b>	Makkot	<b>Zev.</b>	Zevahim
<b>Meg.</b>	Megillah		



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# The Mind of the Talmud

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# Introduction

THIS BOOK IS MEANT TO BE a particular kind of history of the Babylonian Talmud (the Bavli). It is, first, a literary history. It traces the development of the literary forms and conventions by which rabbinic sages in third- through sixth-century Sasanian Iran (which Jews still referred to as Babylonia) recorded their opinions and rulings. What motivates this examination is the assumption—spelled out at length in chapter 1—that literary conventions are reflections of ideological choices and that by tracing the history of literary developments we can say something of the history of ideas. This is also, therefore, intended as an intellectual history of the Jews who produced the Bavli. It will not, to be sure, be a comprehensive intellectual history; it will, instead, be a history of the ideologies that are embodied in the very form, structure, and methods of the single most comprehensive record to emerge from classical Babylonian Jewry.

Because this is an intellectual history, the analyses and explanations proposed will naturally exhibit a particular bias. But I do not mean to suggest, by this bias, that these explanations are the only ones that may reasonably account for the literary features that I describe and analyze. There are surely numerous influences—literary, social, political, religious, and intellectual—that affected the shape of this Talmud in its various historical stages, and these all must be considered in their proper place. Still, the Bavli is, in my opinion, primarily an intellectual opus of interest for its theoretical elaboration of the law of God and of the rabbis—in combination with many related issues that are not strictly legal—and, for this reason, the particular concerns of intellectual history are of

first-order import when discussing this document. This perspective may not be comprehensive, but it is, at the very least, one essential part of an explanation of why the traditions of the Babylonian rabbis took the forms that they did. It is the history of the ideologies of the literary forms recorded in the Bavli, therefore, that I will seek to highlight and clarify.

Of course, it is evident even from what I have already said that I believe that this sort of history can be written. I do, in fact, believe that in the pages of the Bavli we have access not only to the final document but also to the various stages that led to its creation. As many readers know, this is presently a disputed claim,<sup>1</sup> but I will defend it at length in the chapters that follow. Suffice it to say that I am confident that I can demonstrate that opinions attributed to amoraim (as the sages of the Bavli and Yerushalmi were called; sing. amora) accurately reflect the period of the sage to which they are attributed. This does not mean that we can know that a certain statement was made by that particular sage, or even that the precise content accurately represents a view that was current in the circle of that sage. We can, however, know, at the very least, that certain forms of expression were typical in certain generations, and, given additional data, we can even say that it is likely that the essence of a certain opinion was held in the circle of disciples of a particular sage. Since this work is a history of literary forms as ideological expressions, we do have access to the sort of information needed to write such a history.

This book joins a recent profusion of studies, both scholarly and popular, on the Bavli and other literary documents that emerged from rabbinic Judaism during its formative stages (first to sixth centuries).<sup>2</sup> Many of these studies have been directed to scholars with a unique interest in rabbinic texts, but others, most notably those of Jacob Neusner, have claimed that the Bavli (and other rabbinic works) should be of interest to the broader intellectual world as well. In my opinion, this view is a correct one, and I should like to articulate my own understanding of why this is the case.

The Bavli is, as I have said, the most comprehensive of all documents produced by rabbinic Jews in late antiquity. Having come to closure, most likely, some time in the sixth century,<sup>3</sup> its pages represent an enormous range of interests. It includes commentaries on the Mishnah and related texts, exegeses of scripture, and independent deliberations on legal and religious matters. Its discussions are both practical and theoretical, seeming to admit no limit to the topics it might pursue. Admittedly

a text of immense difficulty, it is also one which, by means of careful editorial planning and manipulation, is extremely seductive.

Being the most comprehensive record of the rabbinic community in Sasanian Iran, the Bavli offers unrivaled evidence as to the nature of that community. The Bavli embodies its thoughts and its emotions, its practices and its variety. Serving as a record of at least a segment of what was then the most ancient continually populated Jewish community on earth (having first come to that territory in the Babylonian exile of 586 B.C.E.), the Bavli is of unique interest as a source for the history of Judaism. It is, after all, the document through which a segment of that community chose to express itself at length, and it is through its pages, therefore, that we may gain access to the particular assumptions and ideologies of those who composed it. Moreover, it is a document of the exile—one which seeks to adapt a document of the land of Israel, the Mishnah, to foreign surroundings. In this respect, the Bavli offers insight into the development and survival of a religion away from its formative home. It is of interest, therefore, not merely to historians of Judaism but also to historians of religion in general.

The Bavli is of interest to historians of Judaism and religion in another way as well. The Bavli became the authoritative legal source for medieval Judaism. It was on the basis of its opinions that Judaism was defined from the Moslem conquest to the dawn of the modern age and, for some, even to the present day. Hence the Bavli is an essential source for the history of later Judaism, in obvious and sometimes not so obvious ways. For example, the history of the politics of the Bavli and its supporters in their competition with the partisans of the Yerushalmi for ascendancy in Judaism is a well-known chapter in the study of Judaism during the so-called Geonic period—the period of Islamic primacy in the territories where most Jews lived, between the seventh and eleventh centuries. Most have ascribed the triumph of the Bavli to primarily political factors that, by all accounts, were certainly significant. Few, on the other hand, have considered what in the nature of the Bavli itself may have played a role in its success.<sup>4</sup> Why was the Bavli's influence so pervasive? What in its form and method caused it to speak so directly to the hearts of rabbinic leaders in communities that were so scattered and so different? In the lessons that it taught, what was so "right" for Jews living so much later than the centuries during which it had been conceived?

The Bavli is of interest also beyond the study of Judaism and religion. As a legal document the Bavli is unique in the ancient world, for it claims to record not merely the law itself but, more important, the process by

which the law came to be formed. Although close reading of the text will reveal that the deliberations that presumably represent this process are in fact subsequent to the laws that they treat, these deliberations do represent someone's claim concerning the nature of the process. At the very least they demonstrate that the process was considered important, an assessment that is by no means universal in either the ancient or modern world. Moreover, if these deliberations were composed in relative chronological proximity to the conclusions that they accompany—and my view is that this is the case in a noteworthy minority of instances<sup>5</sup>—then they may in fact embody something of the reasoning by which certain opinions in the law came to be produced. Be that as it may, even the majority of cases that were composed only much later, to serve as speculative “recreations” of the formative process and of the reasoning that informed that process, represent an original chapter in the history of law. Only the authors of the Yerushalmi before had recognized the potential value and impact of the legal process and saw fit to record it, and the Yerushalmi's record parallels that of the Bavli in neither comprehensiveness nor elaborateness. The ideology of the law is here, in a unique and most explicit way, for all the world to see.

But I will argue that in significant respects the Bavli is not a legal document at all but a work of religious philosophy. What is outstanding about the deliberations that the Bavli records is that they so often avoid any conclusion; more often than not they prefer to support competing views rather than deciding in favor of one view or the other. What is the meaning of this preference? Why would a presumably legal document see fit to avoid decisions in the law? Furthermore, what characterizes the Bavli perhaps more than any other feature is the incessant questioning with which it approaches its subjects. “Everything” requires a reason. “Everything” is accompanied by justification or clarification. Everything, in fact, is the potential target of question or objection. How might such an approach be explained?

To begin with, this method represents a not so subtle challenge to authority. The authority of the text being analyzed—the Mishnah or scripture, for example—was not sufficient justification for a law. Often, other justifications were necessary. Questioning opened up alternatives that were not originally apparent. The search for the source of a given law often revealed rival opinions that subsequently became legitimate subjects for investigation. Furthermore, as suggested earlier, once alternatives were proposed, often no determination regarding the preferred alternative was made. The Mishnah had declared the law with a limited

number of options. Certainly, with a few rules of thumb (“the law follows the majority”) it could have been employed in practice. Not so in the case of the Bavli. The Bavli opened up options. It could allow for no immediate practical application at all.

What motivated such a posture? I will argue that the form of the Bavli embodies a recognition that truth, divine in origin, is on the human level indeterminable. For this reason, at least in part,<sup>6</sup> the Bavli considers alternative approaches to the truth but methodically seeks to avoid privileging one over another. The Bavli challenges authority because, in the end, it argues that we have no direct access to ultimate authority. We have only human approaches to truth and they are all, of necessity, merely relative.

In consideration of this thesis, the Bavli is a document of interest not only in the history of religion, but also in the history of ideas in general. As we will see in the final chapter, the premodern world—and the world of antiquity in particular—generally assumed that the truth, either religious or rationalistic, could be identified. The Bavli may be one of the earliest and certainly one of the most comprehensive documents in which this assumption is challenged.

This conclusion, to be defended at length in the chapters that follow, will be surprising (perhaps even “counterintuitive”) to many students of postclassical Judaism. In the medieval age, legal decisors and the communities that admitted their authority declared the law, on the basis of the Bavli, with great definitiveness. There is certainly little indication in the halakhic codes that they produced that “truth” is uncertain. On the contrary, these works appear to speak, for the most part, with absolute certainty.<sup>7</sup> And there is little doubt that the communities for which they were authoritative understood this to be the case. The law was observed, in its precise detail, because it was “God’s *true* law.” As divine command, interpreted and enunciated by authorities who had direct access to the “chain of tradition,” this law was as good and true as if spoken by God Godself.

But the reader should keep in mind that the chapters that follow are not concerned with the way the Bavli was understood and employed by later Jews. They related to the Bavli in their own ways, for their own reasons, but not because theirs was the best or most correct understanding of the source document in its own context. Rather, they shaped and reinterpreted the Bavli to fit their own circumstances much as the Bavli had shaped and reinterpreted earlier traditions to speak to the needs of its community. So the later understanding does not (necessarily) tell us much



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