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PUBLICIZING IN JUDAISM AS EVIDENT IN “CONTROVERSIES THAT
ARE IN THE NAME OF HEAVEN”

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Abstract: This article concerns Jewish publicizing of “every controversy that is in the name of heaven”, a phrase that opens the words of the mishna in Tractate Avot (5:17). As an example of a “controversy that is in the name of heaven”, the mishna brings the disputes of Hillel and Shammai. Their disputes were aimed at striving for the truth rather than for other purposes, and therefore “the end thereof is [destined] to result in something permanent”. Many interpretations have been suggested for this phrase as a whole, but very few focused on its latter part. The word *lehitkayem* (“to result in something permanent”) can be interpreted, among other things, as being publicized among future generations. The purpose of the article is to show the major significance attached in Judaism to publicizing a “controversy that is in the name of heaven”, a process first enacted in the time of Hillel and Shammai (beginning of the first century AD), among future generations. This refers to publicizing both sides of the divided opinions in a controversy, the majority opinion and the minority opinion. This, in contrast to previous periods when one halakha was determined that followed the majority opinion, and it was the only one passed on to future generations, while the minority opinion would be cancelled and forgotten.

Key words: Publicizing, controversy, heaven, Judaism.

1. Introduction

The mishna in Tractate Avot (5:17) notes that “Every controversy that is in the name of heaven, the end thereof is [destined] to result in something permanent; but one that is not in the name of heaven, the end thereof is not [destined] to result in something permanent. Which is the [kind of] controversy that is in the name of heaven? Such as was the controversy between Hillel and Shammai; and which is the [kind of] controversy that is not in the name of heaven? Such as was the controversy of Korah and all his congregation” (Epstein 1935c, 71). This mishna has two parts and mentions two types of dispute; the first is a dispute that is in the name of heaven, for which one example is brought, and the second is a dispute that is not in the name of heaven, for which one example is brought. In this article I shall focus on the first type, a “controversy that is in the name of heaven”.

2. The different interpretations of “Every controversy that is in the name of heaven, the end thereof is [destined] to result in something permanent”

The commentators on the Mishna interpreted the mishna in Tractate Avot mentioned above in various ways, based on the two examples brought in it. For instance, according to R. Ovadya Mibartenura (Italy, 1440-1515), a dispute that is in the name of heaven, [of which] the end thereof is [destined] to result in something permanent, means that “the people involved in that dispute attain permanence and are not forgotten, as in the disputes of Hillel and Shammai where neither the disciples of Beit Shammai nor the disciples of Beit Hillel were forgotten” (Mibartenura 1978, 224). Namely, the dissenting parties in the dispute, such as Hillel and Shammai or their disciples, Beit Hillel and Beit Shammai – attain permanence and are not forgotten. The meaning of “attain permanence and are not forgotten” is unclear, because this phrase arouses the following (early) objection, noted by R. Shlomo Adani (Yemen, 1567-1624): “The dispute of Shammai and Hillel as well did not attain permanence, as the halakha is in agreement with Beit Hillel and the words of Beit Shammai do not matter” (Adani 1978, 54). Namely, since only the words of Beit Hillel were accepted as the halakha then their words attained permanence but the words of Beit Shammai were not accepted as halakha and therefore their words did not attain permanence, so how can it be said that the words of Beit Shammai and of Beit Hillel “attained permanence and are not forgotten”? Perhaps, however, the intention of R. Ovadya Mibartenura followed the direction that we shall bring in the third section below.

R. Ovadya Mibartenura added another interpretation based on what he had “heard”, with regard to the word *sofah* (“the end thereof”) [is [destined] to result in something permanent, in the context of a controversy that is in the name of heaven], which means “its object and that which is sought in its matter. And a dispute that is in the name of heaven, the object and end sought as a result of that dispute is to reach the truth, and this becomes permanent... the truth is elucidated from the argument, as evident in the dispute of Hillel and Shammai – where the halakha is in agreement with Beit Hillel” (Mibartenura, 1978, 224). That is, a dispute that is in the name of heaven is one whose goal and final result is to strive for the truth, and striving for the truth can become permanent or be generated only by an argument or dispute, as in the case of the disputes of Shammai and Hillel, where only three years later was it determined that the halakha shall be in agreement with Beit Hillel, as mentioned in Tractate Eruvin (13b): “R. Abba stated in the name of Samuel: For three years there was a dispute between Beth Shammai and Beth Hillel, the former asserting, ‘The *halachah* is in agreement with our views’ and the latter contending, ‘The *halachah* is in agreement with our views’. Then a *bath kol* issued announcing, ‘[The utterances of] both are the words of the living God, but the *halachah* is in agreement with the rulings of Beth Hillel’. Since, however, ‘both are the words of the living God’ what was it that entitled Beth Hillel to have the *halachah* fixed in agreement with their rulings? – Because they were kindly and modest, they studied their own rulings and those of Beth Shammai (Berakhot 10b), and were even so [humble] as to mention the actions [‘words’, ‘things’] of Beth Shammai before theirs, (as may be seen from what we have learnt...)” (Epstein 1938b, 85-86). According to the additional interpretation, “a controversy that is in the name of heaven, the end thereof is [destined] to result in something permanent” means that the permanence of the dispute is manifested in striving for the truth, which is the consequence of disputes such as those of Shammai and Hillel.

Another earlier commentator, R. Simha (France, 1070-1105) also interprets the phrase “a controversy that is in the name of heaven” as follows: “to discern the truth of a matter or to reprove people for committing an offense” (Ben Shmuel 1978, 19 [37]). He does not clarify what is meant by “the end thereof is [destined] to result in something permanent”. But his words insinuate that someone who discerns the truth of a certain matter or who reproves people for committing an offense and does so in the name of heaven – his words are [destined] to result in something permanent, both in the matter in which he discerned the truth and for reproving people for the offenses they committed – his words will be heard by those people and the truth will be revealed and will result in something permanent in accordance with his words. R. Simha too relies on the example of Hillel and Shammai brought in the mishna and he explains his words: “Hillel and Shammai would act in the name of heaven when

clarifying a matter”, namely their dispute was aimed at clarifying a matter, discerning the truth of the matter.

R. Moshe ben Maimon (Spain, 1138-1204, “Maimonides”) explains this mishna as “the reward and the punishment [are that] one who dissents not for some lowly purpose but rather in search of the truth, his words are [destined] to result in something permanent and will not dwindle. And anyone who guides people to the good way God will reward him and prevent him from sinning. And one who misleads people will be punished by God, who will prevent him from repenting” (Ben Maimon 1965b, 302-303). In the printed version some of Maimonides’ words were omitted, and the following addition was made: “The reward and the punishment [are that] one who dissents not with the intention of contradicting his friend but rather in the wish to clarify the truth, his words are [destined] to result in something permanent and will not be obliterated, and anyone who straightens people, God may He be blessed will reward him by preventing him from sinning, and anyone who misleads people will be punished by God may He be blessed, by preventing him from repenting” (Ben Maimon 1978, [24]), but this was not Maimonides’ true intention (Ben Maimon 1965b, 302 n. 15). According to the commentary of Maimonides in the first variant, whereby one who dissents has no lowly purpose but rather dissents in order to reach the truth, then his words are [destined] to result in something permanent and will not be eliminated or rejected. And anyone who guides people (even if he is a party to the dispute) to the good way, God will reward him by preventing him from sinning. But anyone who misleads people (even if he is a party to the dispute) will be punished by God, as God will prevent him from repenting. According to the second variant that includes the addition to Maimonides in the print version, Maimonides’ interpretation is similar to that of Ben Shmuel mentioned above. According to Maimonides, anyone who disagrees with his peers not in order to contradict them but in order to inform them of the truth, then his words are [destined] to result in something permanent and will be accepted by their hearers and will not be rejected. And anyone who announces the truthful way so that people will take the straight path, the path of truth, will be rewarded by God by being prevented from sinning. But anyone who does not speak according to the path of truth but rather misleads people will be punished by God, who will prevent him from repenting. Maimonides relates to the reward and punishment meted out either to a party to a dispute who speaks truthfully and in this disagrees with the other party to the dispute, and for this the party who speaks the truth will be rewarded by God by being prevented from sinning, or to a party to a dispute who aims to mislead people and does not speak the way of truth to the other side in the dispute, and for this the misleading party will be punished by God who will prevent him from repenting. But as stated above, this was not Maimonides’ true intention (Ben Maimon 1965b, 302 n. 15).

R. Yona (Spain, 1210-1264) in his commentary attempts to clarify the meaning of the word *lehitkayem* (“result in something permanent”), and he interprets “will forever remain in a state of dispute. Today they will disagree on one thing, tomorrow on another, the dispute will be permanent and ongoing between them all their life, and not only that but they will enjoy longevity and more years of life” (Gerondi 1962, 28). Namely, “a controversy in the name of heaven, the end thereof is [destined] to result in something permanent” means that the disputed parties will always remain disagreed and they will disagree on different topics and will retain their disputes throughout their life, and in return they will enjoy a long life. His interpretation is based on the example of Hillel and Shammai mentioned in the mishna, whose disagreements were retained in most of their disputes (the researchers are disagreed on how many disputes there were between Beit Shammai and Beit Hillel). Some contend that there were three hundred and sixteen disputes (Weiss 1923, 179) and others that there were probably more (Lieberman 1968, 82). Notably, there are eighteen matters on which Beit Shammai and Beit Hillel differed and the halakha was determined as Beit Shammai, as noted in Tractate Shabbat (15a): “Rab Judah said in Samuel’s name: They enacted eighteen measures, and differed in eighteen measures. But it was taught: They were in agreement? – On that day they differed and [only] on the morrow were they in agreement” (Epstein 1938a, 60). Since at that time Beit Shammai encompassed more disciples than did Beit Hillel and they numbered more than them according to Rashi’s commentary (France, 1040-1105) (Yitzhaki 1960, 13b), and therefore the halakha was determined as Beit Shammai, and Beit Hillel changed their mind (Yitzhaki 1960, 15a) about the dispute with Beit Shammai and ultimately agreed with Beit Shammai (a list of the eighteen halakhas on which Beit Shammai and Beit Hillel differed and eventually Beit Hillel agreed with Beit Shammai can be found in the commentary of R. Hananel (Italy, 965-1055) in Tractate Shabbat 13b).

3. Refraining from publicizing disputes in the early periods and the reason

From the time of Anshei Knesset Hagedolah (mid-fifth century BC) until the time of Hillel and Shammai (beginning of the first century AD) no known disputes were passed down among the generations, aside from one first early dispute (Yitzhaki 1961, 16a) (Hallewy 1959, 154-157) from the time of the pairs, between Jose ben Jo’ezer and Joseph b. Johanan who differed on the question of performing the laying of hands on the heads of sacrifices offered on festivals (Fraenkel 2017, 39-64), as mentioned in Tractate Hagigah (16a): “Jose b. Jo’ezer says that [on a festival day] the laying on of hands [on the head of a sacrifice] may not be performed;

Joseph b. Johanan says that it may be performed" etc. (Epstein 1938d, 104-105).

Disputes were resolved by the Great Sanhedrin with its seventy one judges that was located in the Temple's Hall of Hewn Stones, as described in Tractate Sanhedrin (88b) in the name of R. Jose: "It has been taught: R. Jose said; Originally there were not many disputes in Israel, but one Beth din of seventy one members sat in the Hall of Hewn Stones, and two courts of twenty-three sat, one at the entrance of the Temple Mount and one at the door of the [Temple] Court, and other courts of twenty-three sat in all Jewish cities. If a matter of inquiry arose, the local Beth din was consulted. If they had a tradition [thereon] they stated it; if not, they went to the nearest Beth din. If they had a tradition thereon, they stated it, if not, they went to the Beth din situated at the entrance to the Temple Mount; if they had a tradition, they stated it; if not, they went to the one situated at the entrance of the Court, and he [who differed from his colleagues] declared, 'Thus have I expounded, and thus have my colleagues expounded; thus have I taught, and thus have they taught.' If they had a tradition thereon, they stated it, and if not, they all proceeded to the Hall of Hewn Stones, where they [i.e., the Great Sanhedrin] sat from the morning *tamid* until the evening *tamid*; on Sabbaths and festivals they sat within the *ḥel*. The question was then put before them: if they had a tradition thereon, they stated it; if not, they took a vote: if the majority voted 'unclean' they declared it so; if 'clean' they ruled even so" (Epstein 1935a, 585-586).

Hence, it appears that if a person needed to ask a certain question, he would appeal to the Beit din in his town for an answer. If they knew – they answered the inquirer. If they did not have an answer they would turn to the next legal instance, and if the latter was unable to answer the inquirer they would turn to the next instance until reaching the highest legal instance, the Great Sanhedrin.

Maimonides too summarizes the matter, although slightly differently: "When the Great Sanhedrin existed, there was no dispute in Israel, rather if there was any law regarding which one of Israel had any doubt, he would appeal to the Beth din in his town. If they knew they told him. If not, the inquirer together with this Beth din or its representative would go to Jerusalem and ask the Beit din on the Temple Mount. If they knew they told them, and if not, they would all come to the Beit din at the entrance to the *azara*. If they knew they told them, and if not, they would all come to the Hall of Hewn Stones to the Great Sanhedrin and ask. If the matter that was in doubt... was clear to the Great Sanhedrin, whether received via oral law or through an attribute utilized, they told them promptly. And if it was not clear to the Great Sanhedrin, they would debate it at that time and conduct a give-and-take until they were all agreed, or vote and follow the majority, and tell all those who had inquired: this is the halakha, and they would depart" (Ben Maimon 2007, 15-16).

From his words it is evident that if a person had some question or doubt, he would appeal to the local court for an answer. If the court knew the answer, it would resolve the matter for the inquirer. If the court could not answer the inquirer, the latter and the court would go to Jerusalem and ask the court located on the Temple Mount. If the latter was unable to answer the inquirer, they would ask the next instance, until reaching the Hall of Hewn Stones in its seat in the south of Azarat Yisrael on the Temple Mount: "There were six chambers in the Azarah, ... on the south ... the chamber of Hewn Stones" (Epstein 1948, 22) or in the north of the Azarah (Ben Maimon 1967, 300-302) and there they would ask the Great Sanhedrin (Sanhedrin of seventy one) and these would answer the inquirer. If the answer to the inquirer's question or doubt was not known or clear to the Great Sanhedrin they would debate the matter until reaching a decision that was agreed by everyone or until they would vote and decide according to the majority, following the rule "an individual and many, the halakha is in accordance with many" (Berakhot 9a), which is evident from the mishna in Tractate Eduyot (1:5): "The *halachah* must be according to the opinion of the many" (Epstein 1935b, 3) that is based on the biblical verse "after the majority must one incline" (Ex. 23:2), and thus they would answer all inquirers.

According to these two sources, it is clear why there was no possibility of a dispute in earlier times (as stated, a dispute could arise during the court's deliberations, as long as no unanimous decision had been reached or until the stage that preceded the judges' vote and majority decision) that remained as a dispute and was passed on to the next generations. The reason was that all disputes in ancient times would be solved by agreement or decided by a majority of the judges in the Great Sanhedrin at the Hall of Hewn Stones in the Temple in Jerusalem. Those who were in the minority accepted the opinion of the majority and were compelled to give up their opinion or their halakhic tradition. In this way, one unambiguous undisputed answer or halakha was generated. Only the halakha reached in the Great Sanhedrin was commonly known, as stated by the Talmud Yerushalmi, Sanhedrin (1:4, 19c): "For from there Torah spreads forth over all Israel" (Zuckerman 1963, 425; Neusner 1995, 14). It was passed on the next generations as an undisputed halakha and the minority opinion was cancelled, neither taught in the next generations or publicized for the next generations. This, because the legal-halakhic trend in ancient times, for the circa four hundred and fifty years before Christ, was codified and apodictic. Although notably, there were some exceptions in the period of the pairs, wherein some sages who did not agree with the majority opinion did not give up their minority opinion or halakhic tradition and were unwilling to accept the decision of the majority reached formally in the Great Sanhedrin. These sages were compelled to retire from the center of decisions in Jerusalem and move elsewhere, far from Jerusalem. This is related, for instance, in Tractate Pesahim (70b),

where "Judah the son of Durtai separated himself [from the sages], he and his son Durtai, and went and dwelt in the South" (Epstein 1938b, 360).

4. Publicizing "controversies that are in the name of heaven" from the time of Hillel and Shammai and subsequently

From the time of Hillel and Shammai there were many disputes between Beit Hillel and Beit Shammai, namely between the disciples of Hillel and the disciples of Shammai, and this was noted in the Talmud Yerusahalmi, Tractate Hagigah (yHagigah 2:2, 77d) and Tractate Sanhedrin (1:4, 19c), as well as in the Talmud Bavli, Tractate Sanhedrin (88b): "When the disciples of Shammai and Hillel, who [sc. the disciples] had insufficiently studied, increased [in number], disputes multiplied in Israel, and the Torah became as two Torah" (Epstein 1935a, 586), and also in Tractate Sotah (47b), but there with the addition "When the haughty of heart multiplied, dissensions increased in Israel" (Epstein 1936, 253). Rashi interprets the words "haughty of heart" as follows: students "who are not well attentive to their teacher and who rely on their own understanding to clarify their learning" (Yitzhaki 1962, 47b). According to these sources, the many disputes between Beit Hillel and Beit Shammai have two explanations. The first is that the students' learning was insufficient. Maimonides expands this explanation as follows: "When the studies of their students [of Beit Shammai and Beit Hillel] diminished and their [knowledge] of the ways of the law [for discussing the attributes by which the Torah is learned] weakened (Ben Maimon 1963, 9 n. 57)] compared to Hillel and Shammai their teachers, they became divided in the give-and-take on many matters, as each of them debated based on his own intelligence and the rules he knew... and this conduct was the reason for [their] dispute, not that they erred regarding what they had received [the oral law], and the tradition received by one was the truth and the other was cancelled" (Ben Maimon 1963, 11-12). Hence, the disciples of Beit Shammai and of Beit Hillel spent less time studying with their rabbis, which led to a weakening of their knowledge and to differing personal knowledge, which eventually resulted in the emergence of many disputes between them.

The second explanation is that the many disputes stemmed from their being "haughty of heart". According to Rashi's interpretation above, students who were arrogant, conceited, who were not well attentive to their teacher but rather relied on their own understanding in order to clarify the halakhic traditions, are those who caused the many disputes between them.

Maimonides notes another explanation: "When the Great Sanhedrin was cancelled the disputes multiplied in Israel, this one [ruled] unclean and brought explanations for his opinion, and that one [ruled] clean and

brought explanations for his opinion, this one forbade and that one permitted” (Ben Maimon 2007, 16). He says that the cancellation of the Great Sanhedrin, which had previously determined one accepted decision or halakha or ruled by majority, led to multiple disputes in Israel as noted above and led to the lack of a single accepted decision or single halakha determined by an established and certified judicial-halakhic body. As a result, each person voiced a different or contrasting opinion, “this one forbade and that one permitted”, sometimes with different or conflicting reasons: “this one [ruled] unclean and brought explanations for his opinion, and that one [ruled] clean and brought explanations for his opinion”, due to the weakening of their knowledge and the different individual knowledge of each, as mentioned above. All these generated many disputes between Beit Hillel and Beit Shammai as well as between the sages in the period after the cancellation of the Great Sanhedrin.

In any case, there is one outlook that generalizes both the minority opinion and the majority opinion, wherein both sides are considered “the words of the living God”, as it says in Tractate Eruvin (13b): “[The utterances of] both are the words of the living God”(Epstein 1938b, 85-86).

In addition, according to another outlook mentioned in the beit midrash of R. Ishmael in Tractate Sanhedrin (34a), the verse “And like a hammer that breaketh the rock in pieces” (Jer. 23:29) is expounded thus: “In R. Ishmael’s school it was taught: *And like a hammer that breaketh the rock in pieces* (Jer.23:29): i.e., just as [the rock] is split into many splinters, so also may one Biblical verse convey many teachings” (Epstein 1935a, 214). This outlook can be found in another version in Tractate Shabbat (88b): “The school of R. Ishmael taught: *And like a hammer that breaketh the rock in pieces* (Jer.23:29): just as a hammer is divided into many sparks, so every single word that went forth from the Holy One, blessed be he, split up into seventy languages” (Epstein 1945h, 420).

In both these versions the meaning is similar. Just like hitting one rock with a hammer shatters it and splinters the rock into pieces of different shapes and sizes that all originate from the same rock, so there is room for different justifications that originate from the biblical verses, and there is room for all the views in the dispute, the majority opinion and the minority opinion, the view of Beit Hillel and the view of Beit Shammai.

In light of the multiple disputes mentioned above, and in light of the two outlooks specified, a dramatic transformation occurred in the time of Beit Hillel and Beit Shammai with regard to disputes in general and to the multiple disputes between Beit Shammai and Beit Hillel. These multiple disputes may have been allowed in order to correct the negative connotation emerging from the two explanations mentioned at the beginning of this section. From this point on, there was room for the two different approaches that developed, that of Beit Shammai and that of Beit Hillel (the majority opinion and the minority opinion), even if they contradicted each other.

The change in trend with regard to disputes, which began in the time of Shammai and Hillel, was explained as one that was intended “to teach the following generations”, as noted by the mishna in Tractate Eduyot (1:4): “And why do they record the opinions of Shammai and Hillel to set them aside? – To teach the following generations” (Epstein 1935b, 3).

This change with regard to disputes and the existence of multiple disputes introduce, from this point on, a new definition and meaning of “controversies that are in the name of heaven the end thereof is [destined] to result in something permanent”. The meaning of the words *sofah lehitkayem* (“the end thereof is [destined] to result in something permanent”) and their new definition is the publicizing of disputes for the next generations (Cohen, 1992, 192). Even if they contradict each other, the different approaches – the majority opinion as well as the minority opinion – are preserved and publicized for the next generations so that they will serve as a source of learning and new things will be produced from them in different matters, as exemplified in the next section. The dispute between Beit Shammai and Beit Hillel is defined in light of the new meaning of the words “the end thereof is [destined] to result in something permanent” with regard to publicizing their dispute for the next generations, and for this reason it is precisely the dispute of Shammai and Hillel that is brought in the mishna as an example of a “controversy that is in the name of heaven”, followed by the disputes between Beit Shammai and Beit Hillel.

5. The significance of publicizing a “controversy that is in the name of heaven”

The mishna in Tractate Eduyot (1:4) notes the significance of publicizing a “controversy that is in the name of heaven” for future generations: “And why do they record the opinions of Shammai and Hillel to set them aside? – To teach the following generations that a man should not [always] persist in his opinion, for behold, the fathers of the world [Hillel and Shammai] did not persist in their opinion” (Epstein 1935b, 3).

Publicizing disputes for the next generations is intended to teach one “not to insist on his opinion and to rely on it and to conduct oneself accordingly, and not to find it hard to act contrary to his opinion, since the fathers of the world, Hillel and Shammai, their words were rejected, and the sages did not insist on their previous words” (Ben Maimon 1965a, 190). Accordingly, publicizing a “controversy that is in the name of heaven” for the next generations is intended to teach the individual in future generations as well to relinquish his opinion, or his view, if it does not answer the challenges of the other party to the dispute, rather he must act contrary to his opinion or change his contention. Hillel and Shammai, the “fathers of the world”, exemplify this, as when the words of

one were refuted he did not insist on acting on his refuted opinion rather the opposite, accepting the opinion of the other party to the dispute. Accordingly, publicizing a “controversy that is in the name of heaven” for the next generations is intended to instill in people lofty personal attributes and qualities that involve letting go – knowing when to let go, and not insisting stubbornly – not insisting and adhering to your view if it is wrong or mistaken.

Another significant reason for publicizing a “controversy that is in the name of heaven” for the next generations is evident in the words of the next mishna in Tractate Eduyot (1:5): “And why do they record the opinion of a single person among the many ... so that if a court prefers the opinion of the single person it may depend on him. For no court may set aside the decision of another court unless it is greater than it in wisdom and in number” (Epstein 1935b, 3). A significant reason for publicizing a “controversy that is in the name of heaven” for the next generations concerns the halakhic legal dimension. Namely, no court may set aside the decision of a previous court if the previous court decided according to the opinion of a majority. But if the later court decided according to the opinion of an individual as mentioned by the previous court, then the decision of the first court may be set aside even when the condition named here is not fulfilled, for instance the wisdom of its president as compared with the wisdom of the president of the former court, and the number of the members of the court (Epstein 1935b, 3).

However there are also various explanations brought by the Mishna’s early commentators. For instance according to one explanation, if some court had already followed the opinion of an individual, no other court can set this aside and rule according to the opinion of the majority, unless it has more members than the previous court that had followed the opinion of that individual and is also wiser than it, namely, if the president of this [later] court is wiser than the [president of the] previous [court] (Ben Maimon 1965a, 190). Namely, this opinion of the individual is also important and the court can rely on it, and therefore it is important to publicize “controversies that are in the name of heaven” for future generations, including the opinion of the individual.

This is also what emerges from the similarity between the language of the Tosefta in Tractate Eduyot (1:4), which notes “in case you will need them [the words of the individual] in time [meaning: in the future] and they will be relied on” (Zuckerman 1963, 455), and the wording “as a later court can only rely on the words of the individual in a time of need. As a court cannot set aside the words of another court” (Ben David 1962, 2a). The meaning of the words “in a time of need” is that it is important to publicize in a dispute [that is in the name of heaven] also the view of the individual for future generations, as if the words of the individual (from the first court) had not been known, the last court (“another court”) could not have permitted that which the first court forbade (Ben David 1962, 2a).

A detailed example of the reason for publicizing the words of an individual in a “controversy that is in the name of heaven” together with those of the majority for the next generations is presented in the following way, that “if the court should see the words of the individual, such as the Amoraim who reached halakhic rulings, and when they see the reason brought by the individual they may rule accordingly, as if his words had been forgotten, the Amoraim could not have contradicted the Tannaim, as they [the latter] had been greater than them in wisdom and numbers, and on this basis [the words of the individual] they could rule according to his words... Even though the words of the individual had not been accepted to begin with [in earlier times] and the majority had not agreed with him, when another generation should come and a majority would agree with his [the individual’s] words then the halakha shall be ruled according to them” [the majority, who in later times accepted the words of the individual rather than those of the majority that were accepted in ancient times] (Ben David 1962, 2a). This interpretation indicates a different reason for publicizing the words of the individual in a “controversy that is in the name of heaven” for the next generations, and this is its designation for the purpose of the halakhic dynamics that allows changing the halakha in later times from that accepted in previous generations (even if that previous halakha was received at that time based on a majority) but according to criteria that the later court must uphold, which are its greatness over the first court “in wisdom and numbers”.

Another reason for publicizing a “controversy that is in the name of heaven” for the next generations was mentioned in the next mishna (Eduyot 1:6): “R. Judah said: If so, why do they record the opinion of a single person among the many to set it aside? So that if a man shall say, ‘Thus have I learnt the tradition,’ it may be said to him, ‘According to the [refuted] opinion of that individual did you hear it.’ ” (Epstein 1935b, 3-4). The reason for publicizing the words of the individual (that were rejected for the opinion of the majority) in a “controversy that is in the name of heaven” is related to the individual and intended to avoid doubts harbored by one who holds an opinion that contrasts with that of the majority, whereby he is entitled to say that he holds or supports the opinion of the individual whose words were mentioned in early times. Maimonides explains this latter reason for publicizing as follows: “The reason for mentioning it [the words of the individual that were rejected] is that if a person learned the matter [meaning: the words of the individual that were rejected] and thought that everyone agrees with it [meaning: with the words of the individual that were rejected] and found that in practice the opposite is done [meaning: the opposite of the words of the individual that were rejected] and he shall have doubts, then we shall inform him that what he learned is the opinion of the individual that has already been rejected” (Ben Maimon 1962, 2b). Namely, an individual who learned a certain matter according to the words of the individual (that were

rejected) and thought that everyone agrees with the words of that individual, and then found out that the majority do the opposite of the words of that individual, might harbor doubts (as to whether the majority, who do the opposite of the opinion of that person who learned as the opinion of the individual, are acting correctly or not), and then we shall inform that person who learned according to the opinion of the individual, that he had in fact learned the opinion of the individual (the minority opinion) whose words have already been rejected.

In light of all the above, the reasons for publicizing a “controversy that is in the name of heaven” for the next generations relate to two main domains, the private domain and the legal halakhic domain. In the private domain – publicizing a “controversy that is in the name of heaven” is intended to instill in one virtues and good qualities that entail letting go of personal views and not insisting on erroneous views. Also, freedom of opinion and speech, awarding the individual the legitimacy to hold an individual opinion that contradicts that of the majority because he adheres to an individual opinion that was customary in the past or he agrees with it. In the legal halakhic domain – publicizing a “controversy that is in the name of heaven” relates to the significance of preserving individual opinions for the future, as in the future the court will be able to rely on the individual opinions, or a current court will rely on an individual opinion in order to permit that which a previous court had forbade, or for purposes of the halakhic dynamics, namely, changing the halakha by a court in current times from the halakha accepted by the court in a previous period, in certain circumstances (the current court is greater “in wisdom and numbers” than the previous court).

6. Conclusions

From rabbinical times (mid-fifth century BC) to the time of Hillel and Shammai (early first century AD), it was important for the sages to resolve disputes in order to determine the halakha for the public unequivocally and create unity and uniformity for the next generations. This outlook changed in the time of Hillel and Shammai, due to the many disputes between their disciples, Beit Hillel and Beit Shammai, disputes that were conducted in the name of heaven and not for the purpose of victory or for the pride of enjoying honor and authority. The new outlook generated in the time of Hillel and Shammai advocated publicizing “controversies for the sake of heaven” for the next generations and spreading them among society, both the majority opinion and the minority opinion, due to the great significance attached to “controversies for the sake of heaven”. The reason for publicizing “controversies for the sake of heaven” concerned two main important domains, the private domain and the legal halakhic domain. Since the time of Hillel and Shammai “controversies for the sake

of heaven” were publicized for future generations in the period of the Tannaim, through the teachings of R. Judah Hanassi, in the disputes of the Amoraim in the Talmud Bavli and Yerushalmi, as well as in the various sources in subsequent eras up until the current times.

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