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**Mishnah and the Social
Formation of the Early
Rabbinic Guild**
A Socio-Rhetorical Approach

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with an Appendix by Vernon K. Robbins

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(c) an alleged sequence of named rabbinic tradents spanning the period from the Great Revolt to Judah I; (d) the Patriarchy of Judah I and his alleged predecessors, themselves similarly depicted as linked to the aforementioned, named, rabbinic tradents. The social matrix and situation revealed in the material evidence—traditional local aristocracies existing apart from, and prior to, a well-established Patriarchy and a rabbinic class of retainers, on the one hand, and the forces of Roman-style urbanization, on the other—are suggestive indeed about the social function of such a mythology within the rabbinic movement.

Without a doubt much systematic research must ensue to move from that which is suggested by our inquiry to what would count as having been demonstrated. It is my hope this volume has tempted others, in addition to myself, to undertake such studies.

Appendix

A Comparison of Mishnah Gittin 1:1-2:2 and James 2:1-13 from a Perspective of Greco-Roman Rhetorical Elaboration

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Jack Lightstone's socio-rhetorical comparison of Mishnah Gittin 1:1-2:2 with passages in Tosefta and Semahot exhibits rhetorical practices of interpretation among Rabbis that are a dynamic alternative to, and in certain instances stand in dynamic interaction with, Christian rhetorical practices during the same centuries.¹ Lightstone's insights are based on analysis and interpretation that, from my perspective, reveal substantive dimensions of the repetitive-progressive, social, cultural, and ideological texture of these texts (Robbins, 1966a; 1966b). His demonstration that Mishnah became a rhetorical foundation for Tosefta and Semahot is a highly important conclusion for broader comparative study for two reasons. First, it means that Mishnah played a rhetorical role in third through fifth century rabbinic culture that has similarities with the rhetorical role of the New Testament in third through fifth century Christian culture. Second, it means that Mishnah created rhetorical procedures in relation both to the Hebrew Bible and to broader Jewish tradition in a manner that is a significant alternative to Christian practices during the same period. Both the similarities in function and the differences in rhetorical, social, cultural, and ideological practice are highly informative for interpreters of Judaism and Christianity, and for comparative study of other religions as well.

For a rhetorical interpreter of early Christian literature, Mishnah Gittin 1:1-2:2 stands out as an exemplary transitional text toward Rabbinic culture alongside portions of the New Testament as transitional texts toward Christian culture. One of the characteristics of these transitional texts is the manner in which they appropriate and reconfigure basic rhetorical patterns of elaboration in Greco-Roman culture. In contrast to Lightstone's emphasis (on page 65) on "what I or, in my view, ancient Greek and Latin rhetoricians would recognize as argument" in m. Gittin 1:1-2:2, I would emphasize the distinctive manner in which this text uses and reconfigures conventional patterns of argumentation in Mediterranean society and culture. The *Rhetorica ad Herennium* and the *Progymnasmatia* reveal to us how rhetoricians viewed "basic rhetorical elaboration" (the "working out" [*ergasia* or *exergasia* in Greek; *expolitio* in Latin]) of a "topic" or

1. See especially the discussions of strategies of interpretation in Torjesen (1997: 73-88), Boyarin (1999), Hirshman (1996), Cameron (1991), Brown (1992).

“subject” (*topos* in Greek; *locus* or *res* in Latin) (see Robbins, 1993; Mack and Robbins, 1989; Hock and O’Neil, 1986). To exhibit the importance of observing the argumentative qualities of portions of text in the Mishnah, the following discussion will display the pattern of rhetorical elaboration in m. Gittin 1:1-2:2 and compare it with James 2:1-13 in the New Testament.

Mishnah Gittin 1:1-2:2

1. Introduction: Gittin 1:1-2

Theme: 1:1a-b

Result:

- 1:1a. One who brings a writ from a Mediterranean province—
b. it is required that he should say: In my presence it was written and in my presence it was signed [by the witnesses].

In a manner characteristic of rabbinic discourse, the subject or topic of m. Gittin 1:1 is a ruling or law. In this instance, the concern is the validity of a written document brought from a Mediterranean province to the Land of Israel. By comparison, *Rhetorica ad Herennium* IV.xliv.57 introduces the theme: “The wise man will, on the republic’s behalf, shun no peril.” (Cicero, *Ad C. Herennium* 371, LCL edition 403; cf. Robbins, 1993: 127). In enthymematic terms, the ruling or law in Gittin 1:1 is a product of inductive reasoning—reasoning from a series of Cases to a general Result.² In *Ad Her.* IV.xliv.57, the theme also is supported by inductive reasoning, but the Cases are not presented with the specificity of their presentation in Gittin 1:1 (see below).

2. Rationale: 1:1c-d

Cases:

- 1:1c. R. Gamaliel says: Also one who brings [a writ] from Rekem and from Heger [must be able to so declare].
d. R. Eliezer says: Even [one who brings a writ] from Kefar Luddim to Lud [must be able to so declare].

[Unstated Rule:

If rabbis extend a ruling even further than its basic formulation, then they presuppose the authoritative nature of the ruling they are extending.]

This tractate of Mishnah launches its rhetorical elaboration of the ruling or law by citing two “statements” of Rabbis that present arguments from authoritative testimony which function as Rationales for the Theme.³ In contrast, early

Christian (and Greek and Roman) arguments often cite authoritative testimony to “clinch” an argument.⁴ The Rationales indicate that R. Gamaliel and R. Eliezer not only presuppose the requirement of a declaration by the person from a Mediterranean province that the writing and signing occurred in the presence of witnesses, but they extend this reasoning to Rekem, Heger, and from Kefar to Lud as well. In other words, their reasoning presupposes the reasoning in the Theme and builds upon it. This means that the Cases function inductively in support of the Result, which is stated as the Theme. Underlying this reasoning is an Unstated Rule something like: “If rabbis extend a ruling even further than its basic formulation, then they presuppose the authoritative nature of the ruling they are extending.”

Aristotle (*Rhet.* 1.1.8 [1356b]) asserted that all arguments use either examples or enthymemes (rhetorical syllogisms) to produce logical persuasion. Since m. Gittin begins with a Result followed by two Cases, the reasoning is enthymematic, rather than simply inductive. Hermogenes’ *Progymnasmata* presents the Theme of his elaboration in the form of a chreia (a Case).⁵ In this instance, the Theme functions as a Case (“Isocrates said that education’s root is bitter, its fruit is sweet”), supported by a Rationale that is a general Mediterranean Rule of reasoning (“For the most important affairs generally succeed because of toil, and once they have succeeded, they bring pleasure;” Robbins, 1993: 128-29). *Rhet ad Her* IV.xliii.56-xliv.57 functions more like m. Gittin, since the Theme is a Result (“The wise man will, on the republic’s behalf, shun no peril”) and the Rationales are generalized Cases: (a) “because it may often happen that if a man has been loath to perish for his country it will be necessary for him to perish for her;” (b) “since it is from our country that we receive all our advantages, no disadvantage incurred on her behalf is to be regarded as severe” (Robbins, 1993: 127).

But there is a major difference between m. Gittin and *Rhet ad Her* IV.xliii.56-xliv.57. In each instance, the Rationale in *Rhet ad Her* itself is argumentative, or almost argumentative, while in m. Gittin, the Rationales simply are assertions based on authoritative testimony. The first Rationale (a) in *Rhet ad Her* contains an “if . . . (then) . . .” statement, which is “not quite an argument, but almost” (Hurley, 1985: 14-17). The second Rationale (b) in *Rhet ad Her* presents a Case/Result enthymeme, with “since” introducing the Case. m. Gittin simply makes each Case assertive, but, as indicated at the bottom of the display above, the sequence of the Theme and the two Cases evokes or presupposes an unstated Rule that: ‘If rabbis extend a ruling even further than its basic formulation, then they presuppose the authoritative nature of the ruling they are extending.’ This

2. To see Rule/Case/Result analysis of syllogistic argumentation, see Robbins, 1998a; 1998b; 1999).

3. In Greek, authoritative testimony is a judgment (*krisis*); in Latin, it is a *testimonium* (see Mack and Robbins, 1989: 28-9, 38-9, 41-2, 51-7, 60-1, 93, 100-1, 136-39 *et passim*; Hock & O’Neil, 1986: 176; Robbins, 1993: 126-29); *Rhet ad Her* IV.iii.5-6: “by testimony we establish the truth of the statement, the testimony must accord with the proposition, for otherwise it cannot confirm the proposition.” See Cameron (1991: 84): “The repeated allusions to stock examples (historical figures, “good” and “bad” emperors, kingly figures like Cyrus and Alexander), stock virtues, and stock themes form the technical armory of evocation.”

4. For Hermogenes’ use, see Hock & O’Neil (1986: 177), Robbins (1993: 128-29); for *Rhet ad Her* IV.xliv.57, see Robbins (1993: 127); for Christian use, see Mack and Robbins (1989: 132-33, and 204-7 for qualifying remarks).

5. A chreia is “a brief statement or action attributed with aptness to a definite person or something analogous to a person;” see Hock & O’Neil (1986: 83); cf. Mack and Robbins (1989: 11). For Hermogenes’ rhetorical elaboration of a chreia rather than as an unattributed theme, see Hock & O’Neil (1986: 177); cf. Mack and Robbins (1989: 51-2) and Robbins (1993: 128-29).

means that the opening of m. Gittin is enthymematic, rather than simply based on example.

3. Statement from the Opposite: 1:1e

Case:

1:1e. And sages say: It is not required that he should say: In my presence it was written, and in my presence it was signed [by the witnesses]—except him who brings [a writ] from a Mediterranean province and him who takes [a writ to a Mediterranean province].

As is customary in Greco-Roman elaboration, Gittin 1:1e presents a statement from the Opposite after stating the Theme supported by Rationales. The purpose of stating the Opposite is to test the truth of the positive form of the statement.⁶ The statement from the Opposite in 1:1e is “not required,” in contrast to “required” in 1:1a-d. Stating it in the form of the Opposite produces an “except” clause that restates “bringing a writ from a Mediterranean province” in the Theme, but it also elicits an additional assertion about “bringing a writ from a Mediterranean province” as well.

Hermogenes’ argument from the Opposite, “For ordinary affairs do not need toil, and they have an outcome that is entirely without pleasure; but serious affairs have the opposite outcome,” reverses every item in the Rationale that immediately precedes it: “For the most important affairs generally succeed because of toil, and once they have succeeded, they bring pleasure” (Robbins, 1993: 129).⁷ Here the Opposites are “ordinary affairs/most important affairs,” “do not need toil to succeed/succeed because of toil,” “entirely without pleasure/bring pleasure.” The Opposite also creates the opportunity to restate the Theme in a succinct manner: “serious affairs have the opposite outcome.” Thus, in Hermogenes’ formulation, the Opposite uses the language that the Rationale introduced, and there is no addition of an item beyond those in the Rationale.

The argument from the Opposite in *Rhet ad Her* IV.xliv.57 has more of a relationship to Gittin 1:1e, since the statement of the Opposite creates the context for a Restatement of the Theme with additional Reasons (Robbins, 1993: 127). *Rhet ad Her* begins the Opposite with: “They who flee from the peril to be undergone on behalf of the republic act foolishly, for they cannot avoid the disadvantages, and are found guilty of ingratitude towards the state.” This formulation reverses the two major topics of the Theme: “flee from the peril/will shun no peril” and “wise man/act foolishly.” But then it adds a rationale: “for they cannot

avoid the disadvantages, and are found guilty of ingratitude towards the state.” This clause adds “cannot avoid” and “are found guilty” to the Theme. In addition, this statement of the Opposite supported by Rationales creates the context for a Restatement of the Theme in embellished form that adds: (a) render homage due; (b) die “for”/die “with”; (c) unjust to give back to nature/not give back to country; (d) die with manliness and honor/live in disgrace and cowardice; (e) face danger for kin/refuse to risk for the republic, which embraces that holy name of fatherland as well (Robbins, 1993: 127). As we see below, the use of the statement of the Opposite to introduce a Restatement of the Theme with Additions has a close kinship with the sequence in Gittin 1:1e-1:2.

4. Restatement of Theme with Addition and Analogy: 1:1f-1:2

Addition:

Result:

1:1f. And one who brings [a writ] from province to province in the Mediterranean provinces—
g. it is required that he should say: In my presence it was written and in my presence it was signed [by the witnesses].

Case:

1:1h. R. Simeon b. Gamaliel says: Even from district to district [within a single Mediterranean province must make such a declaration].

Addition and Analogy:

Cases:

- 1:2a. Rabbi Judah says: [One must make the declaration if taking a writ]:
- b. from Rekem to the East, and Rekem is like the East;
- c. from Ashqalon to the South, and Ashqalon is like the South;
- d. from Akko to the North, and Akko is like the North.
- e. R. Meir says: Akko is like the Land of Israel with respect to writs.

After presenting the Theme supported by Rationales, it is common in Greco-Roman argumentation, as we saw above in *Rhet ad Her* IV.xliv.57, to use a statement of the Opposite as a context for a Restatement of the Theme that introduces substantive new topics. This is what occurs in Gittin 1:1e-2a. Gittin 1:1f begins a process of “addition” to the topic in the Theme of “bringing from a Mediterranean province” and the topic in the Opposite of “taking to a Mediterranean province” (1:1e). The Restatement of the Theme, with its Rationales, adds: (a) from province to province in the Mediterranean provinces; (b) from district to district within a single Mediterranean province; (c) from Rekem to the East; (d) from Ashqalon to the South; and (e) from Akko to the North. As Lightstone observes, one of the most salient activities in Mishnaic rhetoric is the creation of “lists.” In the Restatement, new items in a list begin to emerge (1:1f) and take fully the form of a list in 1:2a.

Immediately after the statement of the Opposite in Greco-Roman argumentation, it is common to present an argument from Analogy. This argument features the use of “just as . . . so,” “. . . is like . . .,” or a description that evokes a comparison with some new item (Mack and Robbins, 1989: 54-7). The purpose is to persuade not only by testing differences but also by introducing similarities. In an uncanny way, Gittin 1:2A participates in the conventional sequence from the

6. In Aristotle’s terms, “one should look to see if the opposite [predicate] is true of the opposite [subject], [thus] refuting the argument if it is not, confirming it if it is” (*Rhet* 2.23.1); see Fahnestock (2000: 176). I am indebted to Carol Poster for calling my attention to this essay.

7. *Rhet ad Her* IV.xliii.56-xliv.57 also presents an argument based on opposites: (a) those who flee from peril/those who shun no peril; (b) those who act wisely/those who act foolishly; (c) what is received from nature/what one gives back to nature; (d) those who achieve manliness and honor/those who live in disgrace and cowardice; see Robbins (1993: 127).

Opposite to Analogy as it introduces “Rekem is like the East,” “Ashqalon is like the South,” “Akko is like the North,” and “Akko is like the Land of Israel.” In contrast to Greco-Roman argumentation, there is no attempt in Gittin to “persuade” through an argument that one thing “is like” another. The inclusion of assertions of likeness after a formulation of the Opposite, however, is noticeable when this Mishnaic rhetoric is compared with conventional rhetorical sequences in Greco-Roman argumentation. When the statements about likeness lead to an assertion about “the Land of Israel,” which is the first time this phrase occurs in the elaboration, the sequence has created a natural transition to the body of the argument, which gives serious consideration to situations within the Land of Israel as well as in the Mediterranean provinces. It is remarkable, though I think little or nothing should be made of it, that the Restatement of the Theme in the context of the Opposite in *Rhet ad Her* IV.xliv.57 reaches its climax in a statement about “that most holy name of the fatherland.” In turn, the final Rationale (Case) in the Restatement in Gittin 1:2E introduces “the Land of Israel” as a transition to the first statement (1:3a) in the Argument.

5. Argument (Probatio): Gittin 1:3-6

Reintroduction of the Opposite as a Context for Contraries: 1:3

Result:

- 1:3a. One who brings a writ within the Land of Israel—
b. it is not required that he should say: In my presence it was written and in my presence it was signed [by the witnesses].

Condition:

- c. If there are challengers to it[s validity], it[s validity] shall stand upon [the authentication of] it[s witnesses'] signatures.

Result:

- d. One who brings a writ from a Mediterranean province,
e. and cannot say: In my presence it was written, and in my presence it was signed [by witnesses]—

Condition:

- f. if there are upon it [the signatures of] witnesses, it[s validity] shall stand upon [the authentication of] it[s witnesses'] signatures.

Once Greco-Roman argumentation has introduced the topic through a sequence of Theme, Rationales, Opposite, and Restatement, the elaboration moves to the body of the argument, which features Analogy, example, and authoritative ancient testimony (Robbins, 1993: 127-30). As we have seen above, Gittin 1:2 introduces authoritative ancient testimonies as Rationales throughout the beginning, and it introduces Analogy in the Restatement of the Theme. Gittin 1:3 begins the Argument by reintroducing the Opposite (“not required to say”) in relation to “bringing a writ within the Land of Israel,” and brings in the variation of “cannot say” in relation to “bringing a writ from a Mediterranean province.” This move creates a context for a sequence of conditional statements (“if-then”) that changes one item in the assertion (“challengers to its validity”/“upon it the signatures of witnesses”). These variations produce a rhetorical environment for negotiating Contraries that extends throughout the body of the argument into the Conclusion.

Contraries are different from Opposites by being “alternatives,” things that are different rather than contradictory. There is only one Opposite to a positive assertion (e.g., required/not required),⁸ but there are many Contraries to it.⁹ In Gittin 1:3, the principle of “addition,” which emerged clearly in the list in 1:2, leads to a sequence of negative statements that are Contraries” rather than Opposites. Here we see a primary dimension of Mishnaic rhetoric. Lightstone has keenly observed, as noted above, that Rabbis were “Masters of lists.” I would emphasize that they were Masters of “unlimited lists of Contraries in contexts of limited lists of Opposites.” The ability of the Rabbis to create Opposites is highly impressive, but this is a widespread ability throughout Mediterranean discourse, and perhaps throughout the world. What is truly impressive, in my view, is their ability to create seemingly unlimited lists of Contraries in contexts of limited lists of Opposites.

As noted above, Gittin 1:3 begins the programmatic exploration of Contraries with a sequence that produces two conditional assertions (“if-[then]”). These assertions enable the formulation of multiple conditions in which something “is” or “is not” required. In 1:3A it is “not required” to say, but in 1:3E they are “not able” to say. Within these alternatives, its validity will stand upon authentication of signatures either “if there are challengers” or “if there are signatures” in relation to “within the Land of Israel” or “from a Mediterranean province.” At this point, then, the argumentation is moving decisively beyond Opposites” into highly complex lists of Contraries. Every statement of a Contrary for the remainder of the elaboration can be a context for exploring some kind of complexity. Gittin 1:1-2 features one major Opposite (“required/not required”) and one lesser Opposite (“bring from/take to”). Gittin 1:3 introduces a new Opposite (“within the Land of Israel/from a Mediterranean province”) as a context for exploring Contraries of various kinds. Interestingly enough, once “the Land of Israel” has been presented in this Opposite manner, there is no need for it to appear throughout the remainder of the elaboration, since what is “required” in the Theme is “not required” for the Land of Israel.

6. Equation of Specific Alternatives: 1:4

Result:

- 1:4a. One [and] the same are writs [of divorce] of women and manumission papers of slaves;

Case:

- b. they equated [them] with regard to one who takes [them to a Mediterranean province] and with regard to one who brings [them from a Mediterranean province].

Rule:

- c. And this is one of the ways [only] that they equated writs [of divorce] of women with manumission papers of slaves.

8. Aristotle called this “affirmation/negation” (*Categories* 17a); see Fahnestock (2000: 176).
9. Aristotle described three kinds in *Categories* 11b): (1) contraries (hot/cold); (2) privation/possession pairs (blindness/sight); and (3) relatives (double/half); see Fahnestock (2000: 176).

Once the body of the argument has been launched with the assertion that what is “required” when a writ is brought from a Mediterranean province is “not required” when it is brought within the Land of Israel, the argumentation moves on to other alternatives (Contraries). Gittin 1:4 explores the relation of writs of divorce of women with manumission papers of slaves. These are Contraries, because there are other kinds of writs besides manumission papers that are different from a writ of divorce.¹⁰ Gittin 1:4 asserts that these Contraries are alike in regard to “bringing from” a Mediterranean province (the Theme) and “taking to” a Mediterranean province (introduced in the Opposite: 1:1e). As 1:4 makes this transition, it seems to me to contain a distinctive rhetorical move in the context of Mediterranean argumentation. It is common in Greco-Roman argumentation to introduce a “divisio” near the beginning of the argument, which may include an “enumeration” and/or “exposition” of the topics the argument will discuss (*Rhet ad Her* I.x.17). In contrast, 1:4 allows the elaboration to deal with “two topics” at the same time. This seems to be a move consistent with the “complexity of Contraries” the discourse establishes in 1:1-3.

7. Negotiating Specific Cases: 1:5-6

Result/Ruling:

- 1:5a. Any writ [of divorce] that has upon it [the signature of] a Samaritan witness
 b. is unfit,
 c. except for writs [of divorce] of women and manumission papers of slaves.

Case/Rationale (Example):

- 1:5d. It once happened that they brought before R. Gamaliel in Kefar Otnai a writ [of divorce] of a woman,
 e. and its witnesses were Samaritan witnesses,
 f. and he declared [it] fit.

Result/Ruling:

- g. Any bonds issuing from [court] bureaus of the gentiles—
 h. even though their signatories are gentiles—
 i. are fit,
 j. except for writs [of divorce] of women and manumission papers of slaves.

Contrary Case/Rationale (Testimony):

- 1:5k. R. Simeon says: Also these are fit.

Negotiating Case (Testimony):

- l. They specified [that the latter were unfit] only when they were done in a nonprofessional tribunal.

Result/Ruling (Testimony):

- 1:6a. One who says: Give this writ [of divorce] to my wife and this manumission bond to my slave—
 b. if he desired to retract with respect to both of them, he may retract, the words of R. Meir.

Contrary Result/Ruling:

- c. But sages say: With respect to writs [of divorce] of women, [he may retract]; however not with respect to manumission papers of slaves,

Case/Rationale:

- d. because they benefit one when not in his [or her] presence, but they obligate him [or her] only in his [or her] presence;

Confirmation of Rationale:

- e. since if he should desire not to feed his slave, he is allowed, but not to feed his wife, he is not allowed.
 f. He said to them: But lo he renders unfit his slave for the [eating of] heave offering [if the owner is a priest], just as he renders unfit his wife.

Underlying Rule:

- g. They said to him: Because he is his property [and she is not].

Result/Ruling:

- h. One who says: Give this writ [of divorce] to my wife and this manumission bond to my slave,
 i. and he died—
 j. they may not give [either] after [the person's] death.

Result/Ruling:

- k. [One who says:] Give a maneh to such-and-such person,
 l. and he died—
 m. they may give [the maneh] after [the person's] death.

Gittin 1:5-6 moves into the specialty of Mishnaic rhetoric: negotiating highly complex, contrary phenomena in a context of a limited set of Opposites. In this context, Gittin 1:5-6 uses exception clauses, an example, “even though” clauses, additional arguments from the Opposite, “if-then” clauses, and “because” clauses. In other words, this section of the elaboration uses various argumentative tools to negotiate multiple kinds of Contraries that accompany different kinds of situations.

Gittin 1:5 introduces a new Opposite, “unfit/fit,” and negotiates different situations with exception clauses (1:5c, j), an argument from example (1:5d), and an “even though” clause (1:5h). Then Gittin 1:6 introduces “give/not give,” “retract/not retract,” “not in his presence/in his presence,” “obligate/not obligate,” “allow/not allow,” “is property/is not property.” In this context, writs of divorce and writs of manumission finally emerge as Opposites (“may retract/may not retract”) in 1:6c: a man may retract writs of divorce with women, but he may not retract manumission papers of slaves. This calls forth the highest form of argumentation in Gittin 1:1-2:2. At this point, Gittin 1:6c, d, e, and g present “syllogistic argumentation” accompanied by a confirmation of the Rationale (Case):

Result/Theme:

- 1:6c. With respect of writs [of divorce] of women, [he may retract]; however not with respect to manumission papers of slaves.

10. In Aristotle's terms, these contraries would be “relatives” (*Categories* 11b); see Fahnestock, 2000: 176.

Case/Rationale:

1:6d. because [slaves] benefit one when not in his [or her] presence, but they obligate him [or her] only in his [or her] presence.

Confirmation of the Case (Rationale):

1:6e. since if he should desire not to feed his slave, he is allowed, but not to feed his wife, he is not allowed.

Underlying Rule:

1:6g. Because he (slave) is his property [and she (wife) is not].

In the midst of argumentation about bringing or taking writs to various regions, the elaboration moves to a climax at the end of the Argument where it discusses retracting or not retracting a writ. At this point, the argumentation distinguishes between writs of divorce and manumission, and presents syllogistic reasoning to support its ruling. In contrast to all previous argumentative sequences, which contain only a Result (Theme) supported by a Case (Rationale), this one not only contains a sequence of Result/Case/Confirmation/Rule, but it includes “because” or “since” at the beginning of its assertions.

My proposal is that this moment of “conventional Greco-Roman” argumentation emerges in Gittin 1:1-2:2 because at this point the issue about divorce of women and manumission of slaves is a “public” issue in Mediterranean society, rather than simply or primarily an “internal” issue within Jewish communities. Both with divorce and with manumission, Jewish people, including Rabbis, come clearly into public view. At this point, the elaboration presents a case that can be defended in public.

In a surprising way, then, the Argument of the elaboration moves from internal issues, where writs of divorce of women and manumission papers of slaves are equated, to a public issue, where writs of divorce and manumission papers are treated differently. The Argument prepared for this outcome in 1:4c where it asserted: “And this is one of the ways [only] that they equated writs of divorce of women with manumission papers of slaves.” Once the Argument makes its case for its “public ruling,” which distinguishes between writs of divorce and manumission, the elaboration briefly presents only two more rulings (1:6h-m) before moving to a summarizing conclusion.

8. Conclusion: 2:1-2

Cases: 2:1a. One who brings a writ from a Mediterranean province,

- b. and one said: In my presence it was written, however not in my presence was it signed [by the witnesses];
- c. in my presence it was signed [by the witnesses], however not in my presence was it written;
- d. in my presence it was written in its entirety, and in my presence it was signed in part;
- e. in my presence it was written in part, and in my presence it was signed in its entirety--

Result:

f. [the writ] is unfit.

Case:

g. One says: In my presence it was written, and one [i.e., another] says: In my presence it was signed--

Result:

h. [the writ] is unfit.

Case:

i. Two [bring writ and] say: In our presence it was written, and one says: In my presence it was signed--

Result:

j. [the writ] is unfit.

Opposite:

k. And R. Judah declares fit.

Case:

l. One says: In my presence it was written, and two [i.e., both] say: In our presence it was signed--

Result:

m. [the writ] is fit.

Cases:

- 2:2a. It [the writ] was written in the daytime and was signed in the daytime,
- b. [or was written] in the night time and was signed in the night time,
- c. [or was written] in the night time and was signed in the day time--

Result:

d. [the writ] is fit.

Opposite Case:

e. [The writ was written] in the daytime and was signed in the night time--

Result:

f. [the writ] is unfit.

Opposite Result:

g. R. Simeon declares [such a writ] fit,

Case:

- h. for R. Simeon used to say: All writs that were written in the daytime and were signed in the night time
- i. are unfit,
- j. except for writs [of divorce] of women.

[Unstated Rule:

Writs of divorce of women are in one way [at least] different from all other kinds of writs.]

These verses present a summary (Resumé) of the overall argument within an oppositional framework of “fit/unfit,” returning to the primary topic of the Theme: “One who brings a writ from a Mediterranean province.” Gittin 2:1a-h

summarizes all the combinations concerning one person bringing a writ that was written or signed either fully or partially in that person's presence, and there is agreement that the writ is unfit. Gittin 2:1i-m summarizes instances where two people are somehow involved, and here there is disagreement if two say it was written in their presence and only one says it was signed in his/her presence. Gittin 2:2a-h summarizes instances where a writ was written or signed in the daytime or night time. The summary includes all kinds of writs until the very last clause where, similar to the sequence of the Argument, it distinguishes writs of divorce of women from other writs. In this instance, it distinguishes writs of divorce not only from manumission papers but from all other kinds of writs: only writs of divorce are fit if they were written in the daytime and signed in the night time. The exploration of lists of Contraries within a limited list of Opposites reaches its end in this final argument, because at this point it has arrived at the opposite end of the spectrum from where the exploration began. Beginning with a major way in which writs of divorce are equated with manumission papers (1:4a-c: "taking them to" and "bringing them from" a Mediterranean province), the exploration has arrived at the one way in which one Rabbi (R. Simeon) was convinced that writs of divorce are different from all other writs. In other words, in the context of long lists of Contraries and Opposites, the elaboration has explored writs of divorce along the entire spectrum of how it is like other writs and how it is different from them.

The entire sequence exhibits the remarkable way in which Mishnaic rhetoric "elaborates" halakic discourse. Overall, as Lightstone observes, the elaboration exhibits a mastery of "list-making" (cf. pp. 63ff.). In addition, our investigation has exhibited a mastery of unlimited lists of Contraries in contexts of limited lists of Opposites. For the "persuasive" function of this Contrary list-making, it is important to see how the unit works through an elaboration process that features rhetorical figures commonly present in Greco-Roman elaboration. The primary issue at stake in the elaboration appears to be the nature of writs of divorce of women. The nature of all other writs is subsidiary to the importance of this kind of writ. Next in importance, however, are manumission papers of slaves. The importance of these writs, it would appear, concerns the manner in which they are, in the final analysis, "public" writs, rather than writs that can remain "internal" to Jewish life and community. With all other kinds of writs, it may be questionable whether a Jewish person could get a "civil" court to accept the case, if he or she disagreed with the ruling of the Rabbis. With divorce and manumission, however, there are issues of property, inheritance, and ownership that a Jewish person might be able to take to a civil court outside Jewish circles of authority. It is informative in this regard that the elaboration features "all writs brought from a Mediterranean province" at the beginning and end. This framework for the Argument in the middle exhibits, in essence, a public concern about the authority of Rabbinic decisions regarding writs of divorce and manumission papers, but most of all writs of divorce, in Mediterranean society. "Bringing a writ from a Mediterranean province" is, then, a prime example of the relation of internal Jewish convictions to values and practices in Mediterranean society. Wittingly or unwittingly, this dynamic resides in the manner in which m. Gittin 1:1-

2:2 initiates and unfolds its elaboration of the Theme of "all writs one brings from a Mediterranean province."

The promise of this analysis for comparative interpretation becomes evident when an interpreter sees the similarities and differences between m. Gittin 1:1-2:2 and a unit like James 2:1-13 in the New Testament. Wesley H. Wachob's recent socio-rhetorical analysis of this passage (Wachob, 2000) provides a good opportunity to compare briefly the results of his investigation, with slight adaptations, to the results of our investigation of m. Gittin 1:1-2:2.

James 2:1-13

1. Introduction: James 2:1-4

Result/Theme: 2:1-4

2:1. My brethren, show no partiality as you hold the faith of our glorious Lord Jesus Christ.

Despite the concern of the Epistle of James with "religious law," which caused Martin Luther to consider it to be contradictory to "gospel," the nature of early Christian "religious law" discourse is "theological wisdom discourse," rather than "legal discourse." As the elaborations in the Epistle of James progress, therefore, general, theologically-grounded principles emerge, rather than rulings that negotiate Opposites and Contraries in a context of multiple complexities that emerge with specific cases. Nevertheless, there are similarities. Like Gittin 1:1, James 2:1-4 begins with a Theme (Result/ruling) supported by a Rationale (Case/example). James 2:1 does not begin with the same kind of Theme as Gittin 1:1 and *Rhet ad Her* IV.xliv.57, since the theme contains a reference to a specific personage, "our glorious Lord Jesus Christ." James 2:1 also does not begin with a chreia, like Hermogenes' elaboration. Rather, James 2:1 formulates a global ruling that one should "show no partiality" in a context of "holding the faith of our glorious Lord Jesus Christ." As Wachob explains, since the Theme is formulated in negative rather than positive terms, it presents a contrary assertion: "Acts of partiality are contrary to the 'faith of our glorious Lord Jesus Christ'" (Wachob, 2000: 70). This elaboration begins with a Contrary rather than a positive statement of the Theme in Gittin 1:1. Thus, it has more of a relation to the Theme in Hermogenes' elaboration of the chreia attributed to Isocrates, "Education's root is bitter, its fruit is sweet," which presents both a negative and positive side of the issue.

2. Case/Rationale: 2:2-4

- 2:2. For if a man with gold rings and in fine clothing comes into your assembly, and a poor man in shabby clothing also comes in,
3. and you pay attention to the one who wears the fine clothing and say, "Have a seat here, please," while you say to the poor man, "Stand there," or, "Sit at my feet,"
4. have you not made distinctions among yourselves, and become judges with evil thoughts?

While Gittin 1:1c-d presents two Cases in support of its ruling, James 2:2-4 presents one Case. The Case in James 2:2-4 is not an authoritative testimony but an argument from example, more like the example in Gittin 1:5d-f. The difference is significant. James 2:1-4 proceeds like a special kind of wisdom discourse in the

Mediterranean world, moving toward a global principle rather than toward guidelines for adjudicating a specific instance that has particular complexities. "Whether the social example in James 2.2-3 refers to an actual or hypothetical case simply cannot be conclusively determined" (Wachob, 2000: 75). It is clear, however, that the author "offers it as proof, as the compelling social basis for what he says" (Wachob, 2000: 77). The Case ends in 2:4 with an argument that if people make distinctions on the basis of wealth, they have allowed evil thoughts to guide their judgments. The goal here is not simply to provide a guideline for negotiating a specific case, but it aims at attitudes and convictions that lie behind people's deeds.

3. Argument (Probatio): James 2:5-11

Theological Rule: 2:5

2:5. Listen, my beloved brothers [and sisters]. Has not God chosen the poor in the world to be rich in faith and heirs of the kingdom which he has promised to those who love him?

Immediately after presenting a ruling (Result) supported by a Case, James 2:5 formulates a Rule that is grounded in the attributes and actions of God. As Wachob indicates, "James 2.5 essentially restates the entymematic beginning of the argument by capturing and reformulating the reasoning in James 2.1-4." In addition, ". . . the author appears to play on a Jesus-beatitude, reformulating it around certain terms that are key to his persuasive purpose" (Wachob, 2000: 86). If this Rule were not articulated, the reader would presuppose some kind of unstated Rule that includes "holding the faith of our glorious Lord Jesus Christ" (2:1), which could be compared with: "If Rabbis extend a ruling even further than the basic formulation, then they presuppose the authoritative nature of the ruling they are extending" (see above, Gittin 1:1c-d). Instead, the rule reformulates a beatitude that, in other early Christian literature, is a *chreia* attributed to Jesus. The articulation of the Rule moves the reasoning beyond "the Lord Jesus Christ" to the nature of God. In other words, rather than allowing the reasoning to focus on an exceptional manifestation of holiness in the human realm (like a Rabbi), the reasoning moves in a theological direction toward God and the nature of God's actions. In addition, when James 2:5 refers to "the kingdom which God has promised to those who love God," it interweaves either prophetic or apocalyptic reasoning into wisdom reasoning (Robbins, forthcoming). The discourse evokes the presuppositions of these other modes of reasoning in a vigorous rhetorical manner by couching the assertion in the form of an *interrogatio*, a strong assertion in the form of a question.

4. Case/Argument from the Opposite: 2:6a

6a. But you have dishonored the poor.

The argument from the Opposite in James 2:6a is an accusation like a prosecutor would present to a judge. As Wachob says, ". . . it argues that the behavior of the elect community toward the poor man is the conspicuous Opposite of God's actions toward the poor in James 2:5" (Wachob, 2000: 87). Thus, rather

than presenting and negotiating laws, this discourse is presenting a case like a trial lawyer presents a case before a judge and jury. The discourse in James, then, is personally-directed "public" discourse from beginning to end, in contrast to Gittin 1:1-2:2, which moves into a mode of public discourse only in 1:6c-g.

5. Case/Social Example: 2:6b-7

6b. Do not the rich oppress you, and do they not drag you into courts?

7. Do they not blaspheme the honorable name that was pronounced over you?

This argument from example addresses the reader directly in a manner that indicts the person and moves them into self-examination. In addition, "verses 6b-7 expand the understanding of 'acts of partiality' in the theme (2:1) and rationale (2:2-4) by referring this behavior to a broader arena of relationships. The theme and rationale, and even the argument from the Opposite (2:6a) located partialities within the community of 'the elect poor'; the social example here finds 'unjust judgments' against the (elect) poor in the larger spheres of life, in the socio-economic arena (2:6b) and in the arena of religion (2:7)" (Wachob, 2000: 89). Here, then, the discourse has moved away from religious law itself into a rhetorical challenge to make judgments about justice and injustice on the basis of their knowledge of God's attributes and actions. Again, the discourse in James is not "legal" discourse, like we have seen in m. Gittin 1:1-2:2, but "wisdom" discourse that embeds insights from legal discourse into its own reasoning.

6-10. Argument from Judgment, based on written law, in four parts: 2:8-11

6. Result/Theme based on Authoritative Testimony: 2:8

8. If you really fulfil the royal law, according to the scripture: "You shall love your neighbor as yourself," you do honorably.

7. Result/Argument from the Contrary: 2:9

9. But if you show partiality, you commit sin and are convicted by the law as transgressors.

8. Rule/Rationale: 2:10

10. For whoever keeps the whole law but fails in one point has become guilty of all of it (the whole law).

9. Case/Confirmation of Rationale with Authoritative Testimony: 2:11

11. For the one [who gave the whole law] who said, "Do not commit adultery," also said, "Do not commit murder."

10. Conditional Result:

Now if you do not commit adultery but you do commit murder, you have become a transgressor of the law (= you have become guilty of the whole law) (Wachob, 2000: 102-3).

James 2:8-11 represents the climax of the Argument in James 2:5-11, much like Gittin 1:6c-g is the climax of the Argument in Gittin 1:3-6. Like the climax in Gittin 1:1c-g, James 2:6-11 presents an argument that contains a Result/Theme, a Confirmation, and a Rule. In other words, both present a fully developed, syllogistic argument. Like Gittin 1:1c-g, James 2:5-11 is concerned to defend a particular interpretation of religious law. James 2:5-11 is concerned to

argue that “if you do not commit adultery but you do commit murder, you have become a transgressor of the whole law” (2:11b). On the other hand, Gittin 1:1c-g is concerned to argue that “With respect to writs of divorce of women, he may retract; however not with respect to manumission papers of slaves.” Both arguments concern what a person is and is not permitted to do in the domain of religious law. But the discourse in the Epistle of James has moved to another level or argumentation. Its focus is not on particular stipulations of religious law in and of themselves, but upon stipulations of religious law as a guide towards the nature of all of God’s law. In other words, the Epistle of James is focused on the nature of God’s law as it is embedded in God’s wisdom. If a person knows the nature of God’s attributes and actions, then a person has an insight into the wisdom of God, and people can decide for or against allowing God’s wisdom to inform their own wisdom. For this reason, the argument in James 2:8-11 begins and ends with conditional statements directed personally at the hearer: “if you . . .” The discourse in James is not simply telling its hearers what a person is required or not required to do, and thus what practices or documents are fit or unfit. The discourse in James is using social reasoning (acting honorably/being convicted by law as a transgressor) to persuade people to do what they are required by religious law (God’s law) to do.

11. Conclusion: James 2:12-13

Enthymematic Summary: 2:12-13

Result:

12. Thus you should speak and thus you should do as those who are to be judged [by God] under the law of freedom.

Rule:

13. For judgment is without mercy to one who has shown no mercy; but [for one who has shown mercy], mercy triumphs over judgment (Wachob, 2000, 108).

In accord with its nature as wisdom discourse, James 2:1-13 ends with an enthymematic summary that supports its “Result/ruling” about people’s actions with a “Rule” about God’s mercy that comes from Hebrew Bible prophetic discourse. As Wachob observes, “. . . ‘mercy’ is here, as it is particularly in Jewish and Christian literature, an attribute of God. . . . On the other hand, in the LXX *eleos* is demanded by God of those to whom God shows love (Micah 6:8; Zech. 7:9-10; LXX Jer. 9:23; Hos. 12:7; cf. Dan. 4:27; Sir. 3:30; 40:17; and Tob. 4:9-11)” (Wachob, 2000: 133-34). Rather than, like Gittin 2:1-2, summarizing all the contrary possibilities that may exist as one attempts to determine what is required or not required, and thus what writ is fit or unfit; James 2:12-13 summarizes how a person should speak and act as a result of God’s attributes and actions.

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