YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Talmudic *Aggadot***

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Shiur #28: The Pious Man and the Goat (Part I)

# Introduction

# Since springtime in Israel is when we celebrate the return to the Promised Land, I have chosen at this time to delve deeply into an *aggada* found in a *sugya* relating to the laws of the *Eretz Yisrael* and protecting its environment: the prohibition of raising small cattle (*beheima daka*) in the *Eretz Yisrael*.

In the next few *shiurim*, we will examine a narrative from Tractate *Bava Kama* 80a in the Babylonian Talmud about a pious man who keeps a goat in his home for medical reasons, despite the ban on doing so in the *Eretz Yisrael*. By comparing this story to its various parallels and its broader context in the Babylonian Talmud, we will attempt to demonstrate how minor discrepancies in formulation and the broader context influence the message of the story.

**The Context of the Narrative in the *Sugya***

It is forbidden to raise small cattle in the *Eretz Yisrael*, but it is permitted to raise them in Syria or in the wildernesses of the *Eretz Yisrael*. (Mishna, *Bava Kama* 7:7)

The *sugya* analyzing this *mishna* (79b) cites two *baraitot* that restrict the prohibition in various ways. In citing the second *baraita*, the *gemara* interweaves explanation and interpretation:

Our rabbis taught: It is forbidden to raise small cattle in the *Eretz Yisrael*, but they may be bred in the woods of the *Eretz Yisrael* or in Syria even in inhabited settlements, and needless to say also outside the *Eretz Yisrael*.

Another [*baraita*] teaches: It is forbidden to raise small cattle in *Eretz Yisrael*. They may, however, be bred in the deserts of Judah and in the desert at the border of Acre.

Still, though the Sages said that it is forbidden to raise small cattle, it is nevertheless quite proper to raise large herd animals, for we should not impose a restriction upon the community unless the majority of the community will be able to withstand it.[[1]](#footnote-1)

Small cattle could be imported from outside *Eretz Yisrael*, whereas large herd animals could not be imported from outside *Eretz Yisrael*.

Again, although they said that it is forbidden to raise small cattle, one may nevertheless keep them before a festival for thirty days, and similarly before the wedding festivity of his son for thirty days. He should, however, not retain the animal last bought for thirty days [if these expire after the festival]…

A livestock dealer may, however, buy and slaughter, or buy and [even] keep for the market. But he may not retain the animal he bought last for thirty days.

Rabban Gamliel was asked by his disciples whether it is permissible to raise [small cattle].

He said to them: “It is permissible.”

But did we not learn: “It is forbidden to raise”? What they asked him was really this: “What about retaining [it]?”

He said to them: “It is permissible, provided it does not go out and pasture with the herd, but is fastened to the legs of the bed.”

Immediately after the end of the second *baraita*, a story is cited.

**The Narrative**

1. The rabbis taught: A pious man was once groaning from his heart,
2. So they consulted **the doctors,**
3. **Who said, “There is no remedy for him except** suckling boiling milk every single morning.”
4. A goat was therefore brought to him and fastened to the legs of the bed,
5. And he sucked from it [reliable manuscripts add: boiling milk] every morning.
6. After some days, his colleagues came to visit him,
7. But as soon as they noticed the goat fastened to the legs of the bed they turned back.
8. They said: “An armed robber is in the house of this man! How can we come in to [see] him?”
9. They thereupon sat down and inquired into his conduct, but they did not find any fault in him except this sin about the goat.
10. He also at the time of his death proclaimed: “I know that no sin can be imputed to me save that of the goat, when I transgressed against the words of my colleagues.” (*Bava Kama* 80a)

**Prohibition of Raising Small Cattle — Historical Background**

As we saw above, the *mishna* in *Bava Kama* determines that it is prohibited to raise small cattle in the *Eretz Yisrael*. This anonymous *mishna* does not give much of a clue as to when this ban was promulgated, nor why or to what extent. A number of attempts have been made to address these question based on analysis of the Tannaitic and Amoraic sources that deal with rule, based on the realities of the era.[[2]](#footnote-2) Recently, Rafi Etzion has assembled and encapsulated all the relevant material in an exhaustive and comprehensive manner.[[3]](#footnote-3) We will summarize his findings below as background for our analysis.

The various researchers have not reached a consensus about dating the genesis of this prohibition, nor can they say how it developed in various periods. Some researchers believe that the prohibition itself was formally instituted at the end of the Second Temple Era, and some maintain that it was rooted in the turbulent political events of the Great Revolt and the Destruction of the Temple. Others believe that the formal inception of the ban was during the period that the *Sanhedrin* was based in Yavneh.

The range of opinions on the matter is a result of the anonymity of this prohibition’s origins; most Tannaitic sources on this issue are not attributed to any specific authority, nor do they express any specific justifications, and it is therefore difficult to date them and establish the precise circumstances of the ban’s development. The common denominator in the researchers’ conclusions is that the power, size, and scope of the prohibition to raise small cattle in *Eretz Yisrael* were not uniform in all periods.

The sources in our *sugya* and their Tannaitic parallels indicate that during the Yavneh Era, in the time of Rabban Gamliel, there was no consensus among the Sages. The Tosefta reports that Rabban Gamliel himself allowed raising small cattle under certain conditions, particularly limitations of time:

Rabban Gamliel was asked whether it is permissible to raise small cattle. He said to them: One may retain the leftover for thirty days; a livestock dealer may, however, buy and sell, as long as he does not retain the animal he bought last for more than thirty days. (Tosefta *Bava Kama* 8:12 [ed. Leiberman, p. 39)

According to some of the sources in our *sugya*, such as the *baraitot* cited above, Rabban Gamliel allowed raising a small herd animal (the simple meaning of the *baraita*), or at least retaining it (the *gemara*’s conclusion). In the *baraita* in our *sugya*, it is also mentioned that Rabban Gamliel requires tying it to the legs of the bed, a point that the Tosefta (8:11) omits. Another source cites R. Eliezer, contemporary of Rabban Gamliel, as avoiding giving a straight answer about raising small cattle and similar bans, as he had no explicit tradition regarding them,[[4]](#footnote-4) which puts in doubt the assumption that this rule had some ancient origin.

There is an additional source that testifies to the prohibition in another specific period, the fifth generation of *Tanna’im* (the first generation in the Galilee). In Mishna *Demai* (2:3), this ban is listed among the prerequisites for becoming a *chaver* (fellow) according to the minority view of R. Yehuda; the Sages disagree. This indicates that the existence of such a ban was not acceptable to everyone.

Based on these sources, particularly the *baraitot* that introduce the *sugya* before our story, the reaction of the pious man’s colleagues is particularly noteworthy. Rabban Gamliel’s leniency is summarily rejected,[[5]](#footnote-5) even in a case of medical need. At the same time, however, there are also a number of Tannaitic sources (which we cannot date) that are sharply critical of those who raise small cattle. For example:

Those who sell in alleyways and those who raise small cattle and those who chop down good trees never see a sign of blessing. (Tosefta *Bikkurim* 2:16 [ed. Lieberman, p. 293])[[6]](#footnote-6)

Other sources take an extremely dim view of either herdsmen alone or those who herd and raise small animals.[[7]](#footnote-7)

The commentators dispute the reason for the prohibition as well. Naturally, according to some views this question would depend on the issue of dating the ban. A common explanation views the prohibition as a precaution to avoid the prohibition of robbery, which is violated when one’s sheep or goat grazes among the produce of another’s field.[[8]](#footnote-8) This theory is buttressed by the broader context of the *mishna* that contains the ban, namely the seventh chapter of *Bava Kama*, which deals with the assorted laws of theft and robbery.[[9]](#footnote-9) Moreover, the first half of the preceding chapter deals with the damage caused by domesticated animals grazing in a field that does not belong to their owners. Indeed, the sources above also support this view, as those who herd or raise goats or sheep are classified with various thieves, robbers, and the like.

Another explanation, mentioned by Rashi in his commentary on the *mishna*, is developed by some of the researchers: “On account of the settlement of the *Eretz Yisrael*, because it destroys the fields.”[[10]](#footnote-10) Small cattle, goats in particular, are known for their extraordinary abilities to climb and eat,[[11]](#footnote-11) which pose a significant threat to the forests and agricultural land where they pasture.

**Analysis of the Story: Comparing the Parallels**

The story of the pious man and the goat has parallels in Tosefta *Bava Kama* 8:13 (ed. Leiberman, p. 39); Jerusalem Talmud, *Sota* 9:10, 24a; and Babylonian Talmud, *Temura* 15b. The last of these is very similar to our *sugya*, so the table below compares our narrative to the version in the Tosefta and the Jerusalem Talmud.

|  |  |  |
| --- | --- | --- |
| **Babylonian Talmud*****Bava Kama*** | **Jerusalem Talmud*****Sota*** | **Tosefta*****Bava Kama*** |
| Rabban Gamliel was asked by his disciples whether it is permissible to raise [small cattle]. He said to them: “It is permissible.” But did we not learn: “It is forbidden to raise”? What they asked him was really this: “What about retaining [it]?”  He said to them: “It is permissible, provided it does not go out and pasture with the herd, but is fastened to the legs of the bed.”The rabbis taught: A pious man was once groaning from his heart, so they consulted **the doctors, who said, “There is no remedy for him except** suckling boiling milk every single morning.”A goat was therefore brought to him and fastened to the legs of the bed, and he sucked from it [boiling milk] every morning. After some days, his colleagues came to visit him, but as soon as they noticed the goat fastened to the legs of the bed they turned back. They said, “An armed robber is in the house of this man! How can we come in to [see] him?” They thereupon sat down and inquired into his conduct, but they did not find any fault in him except this sin about the goat. He also at the time of his death proclaimed, “I know that no sin can be imputed to me save that of the goat, when I transgressed against the words of my colleagues.” | No cluster arose until R. Akiva arose. But were the Pairs not clusters? Rather, those served in leadership roles, but these did not serve in leadership roles. We have learnt: All of the Pairs who arose from the death of Moshe until Yosei ben Yoezer of Tzereida and Yosef ben Yochanan of Jerusalem arose were irreproachable; once Yosa ben Yoezer of Tzereida and Yosa ben Yochanan of Jerusalem died, until R. Yehuda ben Bava arose, they were reproachable.They tell about R. Yehuda ben Bava that all of his deeds were dedicated to the glory of Heaven, except that he kept small cattle. So it happened that one time he fell ill, **and the doctors entered to examine him**. They said to him, “There is no remedy for you except for boiling milk*,”* because he was groaning. So he went out and got himself a goat and tied it to the leg of his bed, and he would suck, whenever he would groan. One time the Sages wanted to enter to visit him, but they said, "How is it possible to come to him, when he hosts thieves in his home?" When he died, the Sages examined carefully all of the things he had ever done, and they found in him no sin except for the one about this goat alone. | Rabban Gamliel was asked whether it is permissible to raise small cattle. He said to them: “One may retain the leftover for thirty days; a livestock dealer may, however, buy and sell, as long as he does not retain the animal he bought last for more than thirty days.” All of the clusters that arose for Israel, from the death of Moshe until Yosa ben Yoezer of Tzereida and Yosef ben Yochanan of Jerusalem arose, were irreproachable. Once, Yosa ben Yoezer of Tzereida and Yosef ben Yochanan of Jerusalem died, until R. Yehuda ben Bava arose, they were reproachable. They tell about R. Yehuda ben Bava that all of his deeds were dedicated to the glory of Heaven, except that he kept small cattle. One time he fell ill, **and the doctors entered to examine him**. They said to him, “There is no remedy for you except for boiling milk*.*” So he went out and got himself a goat and tied it to the leg of his bed, and he would suck, whenever he would groan. One time the Sages wanted to enter to visit him, but they said, "How is it possible to come to him, when he hosts thieves in his home?" When he died, the Sages examined carefully all of the things he had ever done, and they found in him no sin except for this one alone. Indeed, he said when he was dying, “I know that there is against my account only this sin alone, which I have done in transgressing the opinion of my colleagues.” |

The narratives in the Tosefta and the Jerusalem Talmud are very similar. The Babylonian Talmud’s version is a bit different, but not in plot – just in its structure and formulation.

The most prominent distinction is that both the Tosefta and the Jerusalem Talmud preface the narrative with a number of general sentences about some prominent Jewish leaders in the Tannaitic and pre-Tannaitic period. The Pairs (*Zugot*) were the president and chief justice of the Sanhedrin, the first of whom were both named Yosei and the last of whom were Hillel and Shammai. *Eshkol* (cluster of grapes) is a term used in the Mishna (*Sota* 9:9) to describe leaders who excel in virtue and erudition:

When Yosei ben Yoezer of Tzereida and Yosei ben Yochanan of Jerusalem died, the clusters ceased, as it is said, “There is not a cluster to eat; not a ripe fig I could desire. [The pious are vanished from the land, none upright are left among men]” (*Mikha* 7:1-2).

Both the Tosefta and the Jerusalem Talmud, in their version of our narrative, bring up the *eshkol* issue as it relates to R. Yehuda ben Bava (although there is some question as to the exact phrasing of the text in the latter). The story then flows naturally. In the Babylonian Talmud in Tractate *Temura*, some of these lines appear discussing the *eshkol* issue. However, it is not a complementary source, but rather contradictory – an independent *baraita* showing a different view of Rabbi Yehuda ben Bava. In Tractate *Bava Kama*, the Babylonian Talmud makes no mention of this preface. Ostensibly, the reason for this is the different context in each *sugya*. In *Temura*, the *baraita* about the clusters is an essential part of the issue at hand, the generations of Torah scholars from Moshe Rabbeinu on, not the question of raising a *beheima daka*.[[12]](#footnote-12) In contrast, our *sugya* in *Bava Kama* is interested only in the implications for raising animals, not the question of the virtue and intelligence of various Jewish leaders in history.

**The Narrative in the Tosefta and the Jerusalem Talmud**

As noted, the Tosefta and the Jerusalem Talmud seem to tell the same story, with only some minor variations in formulation. In both cases, the story is attributed to R. Yehuda ben Bava, while the Babylonian Talmud speaks only of “a pious man.” R. Yehuda ben Bava is a *Tanna* of the second generation in Yavneh.[[13]](#footnote-13)

Naturally, the halakhic reality that serves as the background for the story as presented in the Tannaitic sources cited above means that there is a ban extant prohibiting raising small cattle in the *Eretz Yisrael*, but there are also dispensations to retain such an animal under certain circumstances. One of these, as mentioned in the Tosefta (8:11), is tying it to the legs of the bed, as R. Yehuda ben Bava does in the story.

However, an additional condition is the limitation of time. The dispensation to retain small cattle is limited in the Tosefta – even in the view of Rabban Gamliel, contemporary of R. Yehuda ben Bava – to a specific event, such as the pilgrimage festivals or a feast. Thirty days remains the maximum. The livestock dealer is the one exception to this rule, as such an individual does not require a specific event to allow the raising of such an animal, but the time limit is still in effect; thirty days is the maximum for the last of such animals.[[14]](#footnote-14) The common denominator of these restrictions is that the rabbinical dispensation to retain small cattle is granted only when the aim of such maintenance is to have an animal to slaughter and eat in the near future.

Apparently, the situation described in the narrative does not meet these requirements. The ailing R. Yehuda ben Bava keeps a goat in his house with no limitation of time and no intention of slaughtering it; on the contrary, he wants to keep the animal alive so he can suckle from it. It seems that there ought to be some justification for this action, as this is a medical issue, perhaps even a matter of life and death. After all, R. Yehuda ben Bava is not raising a goat so that it can frolic in verdant pastures. Whether the general concern is one of theft or environmental damage, it would not appear to apply here. Nevertheless, in his own words, R. Yehuda “transgressed against the words of my colleagues,” defying the rabbinical prohibition against raising small cattle in the *Eretz Yisrael*.[[15]](#footnote-15)

This confession of wrongdoing concludes the story, but the concept of transgression is stressed by its preceding structure as well. The story may be split into two parts with direct parallelism, as demonstrated by the phrases and terms that are repeated, as we may see in the following table:

|  |  |
| --- | --- |
| One time **the Sages wanted to enter to visit him**, but they said, "How is it possible to come to him, when he hosts thieves in his home?"  | One time he fell ill, **and the doctors entered to examine him**. They said to him, “There is no remedy for you except forboiling milk*.”* So he went out and got himself a goat and tied it to the leg of his bed, and he would suck, whenever he would groan. |

This structure sets up a confrontation, the Sages versus the doctors, and it stresses that R. Yehuda ben Bava follows the words of the latter and not of the former. The result is that the doctors come in, not the Sages, who make their decision to disassociate from him due to the situation in his home. According to this structure, the focus of the narrative is upon the conflict between listening to the doctor and listening to the rabbi, with R. Yehuda ben Bava picking the former. Granted, he is ill, and the doctor’s prescription does not offer any alternative treatments. Still, a number of Tannaitic and Amoraic sources indicate that violating the proscription of one’s rabbinic colleagues is viewed as extremely problematic by R. Yehuda ben Bava’s contemporaries, even in a case of illness.[[16]](#footnote-16) This is expressed, for example, in the *sugya* and the *baraita* in Tractate *Berakhot* in the Jerusalem Talmud:

Nevertheless, R. Akiva disagreed with the Rabbis but would not violate their view. Similarly, R. Meir disagreed with the Rabbis but would not violate their view.

As it was taught: A sick person may be anointed with oenanthe on the Sabbath, but only if it was mixed with wine and oil before the Sabbath; but if one has not mixed it before the Sabbath, it is forbidden.

It was taught: R. Shimon ben Elazar says: R. Meir would allow mixing wine and oil to anoint a sick person on the Sabbath. One time he fell ill and we sought to do this for him, but he would not allow us to do so. We said to him, “Rabbi, will you violate your own words at the cost of your life?” But he said to us, “Even though I am lenient for others, I am stringent when it comes to me, as I disagree with my colleagues.” (Jerusalem Talmud, *Berakhot* 1:1, 3a)

However, in this source as well, it is not clear what the level of severity of the illness is and whether it is actually or even potentially a matter of life and death.

An additional expression of the severity of the matter may be seen also in the next *baraita* cited in Tractate *Shabbat* in the Babylonian Talmud, in the words of R. Yossei, from the generation after R. Yehuda ben Bava:

R. Yosei also said: [I maintain such strict standards of modesty in dress that] the beams of my house have never seen the seams of my shirt.

R. Yosei also said: I have never disregarded the words of my colleagues. I know of myself that I am not a priest, but if my colleagues were to tell me to ascend to the platform [to recite the Priests’ Blessing], I would ascend. (Babylonian Talmud, *Shabbat* 118b)

This story of R. Yehuda ben Bava, who violates an enactment of the Sages, also recalls the story of his own contemporary, R. Akiva, which appears in Tractate *Eruvin* (21b) in the Babylonian Talmud.[[17]](#footnote-17) R. Akiva, imprisoned by the Roman authorities, is about to receive his daily ration of water brought by his student, but he finds that his jailers have spilled out half the precious liquid. Nevertheless, he refuses to set aside the rabbinic enactment of washing one’s hands before eating bread.

R. Akiva said to him, “Give me some water to wash my hands.”

“It will not suffice for drinking,” the other complained. “Will it suffice for washing your hands?”

“What can I do?” the former replied. “For [neglecting] the words of the Rabbis, one deserves death. It is better that I myself should die than that I should transgress against the opinion of my colleagues.”

It was related that he tasted nothing until the other had brought him water wherewith to wash his hands. (*Eruvin* 21b)

This position of the Sages towards their colleagues’ views explains the severity with which R. Yehuda ben Bava’s action is viewed – not only by the Sages but by R. Yehuda ben Bava himself, as he confesses to his transgression. The parallel structure in the narrative of R. Yehuda ben Bava and the goat stresses not only his sin, but the harsh judgment of his action by the Sages. Unlike the doctors, the Sages refuse to pay a house call.

From a literary point of view, the end of the tale contributes significantly to the harsh judgment of R. Yehuda ben Bava. The story ends with this paragraph:

When he died, the Sages examined carefully all of the things he had ever done, and they found in him no sin except for this one alone. Indeed, he said when he was dying, “I know that there is against my account only this sin alone, which I have done in transgressing the opinion of my colleagues.”

Opening with “when he died” creates continuity with the previous paragraph, as here the narrative seems to be playing with time. The reader’s initial impression is that this is consecutive to the story of the goat, even if this is not what the narrative means to claim in practice. This impression alludes for the reader to the possibility that the protagonist dies because of the sin mentioned here, perhaps from the medical condition described in the narrative, intensifying and sharpening the impression of the sin of violating the words of the Sages.

In the next *shiur*, we will discuss the slightly altered version in the Babylonian Talmud, and we will see how its message differs.

Translated by Yoseif Bloch

1. Cf. Tosefta *Shevi’it* 3:13 (ed. Lieberman, p. 177): “It is forbidden to raise small cattle, but it is permitted to raise large herd animals, for they only impose a restriction which is bearable.” See about this below. [↑](#footnote-ref-1)
2. For those who are interested in delving into these studies, see primarily A. Gulak, "Shepherds and Breeders of Small Cattle after the Destruction of the Second Temple," Tarbiz 12 (1940-1941), pp. 181-189, and the sources cited there in fn. 1. Also see Y. Ber, “The Historical Foundations of Halakha,” *Zion* 17 (1952), pp. 40-41; E.E. Urbach, “The Jews in their Land in the Tannaitic Era,” in *Studies in Judaica*, eds. M.D. Herr and Y. Fraenkel (Jerusalem: 1998), vol. II, pp. 687-700; G*.* Alon*,* *The Jews in their Land in the Talmudic Age* (1953), vol. I, p. 175; B.Z. Luria, “A Place for Raising Small cattle,” *Sinai* 83 (1978), pp. 24-26; Y. Shivtiel, “It is Forbidden to Raise Small cattle in the *Eretz Yisrael*,” *Sedei Chemed* 48 (2005), pp. 15-22. [↑](#footnote-ref-2)
3. Rafi Etzion, “Rabbinical Laws Based on Invalidated Reasons in Latter-Day Rulings,” doctoral dissertation, Bar-Ilan University, 2008, pp. 147-156. [↑](#footnote-ref-3)
4. Tosefta *Yevamot* 3:1 (ed. Lieberman p. 9). Cf. Babylonian Talmud, *Yoma* 66b and *Sukka* 27b. Other sources are listed by Lieberman, *Tosefta K-iFshutah,* *Yevamot* p. 24. [↑](#footnote-ref-4)
5. See Lieberman, *Tosefta Ki-Fshutah,* *Bava Kama*, p. 88 (based on *Shita Mekubetzet*): "I transgressed against the words of my colleagues and I relied on the words of Rabban Gamliel.” [↑](#footnote-ref-5)
6. Compare to an apparently late parallel in Tractate *Derekh Eretz*, ch. *Ha-Yotzei*, para. 11 (ed. Higger, p. 311), in which these words are attributed to R. Akiva and his students, which is appropriate for the era of this story. Cf. Tosefta *Sukka* 2:5 (ed. Lieberman, p. 262): “And on account of four things are the luminaries in eclipse: on account of those who perpetrate forgeries, on account of those who give false witness, on account of those who raise small cattle in the *Eretz Yisrael*, and on account of those who chop down good trees.” [↑](#footnote-ref-6)
7. See e.g. Tosefta *Bava Metzia* 2:13 (ed. Lieberman, p. 72): “Those who herd and raise small animals are not to be brought up from a pit, nor are they to be brought down into it.” Concerning this *baraita*, see Lieberman, *Tosefta Ki-Fshutah* *Yevamot*, pp. 23-24. For additional sources, see Gulak (supra n. 2), pp. 181-182. [↑](#footnote-ref-7)
8. Rashi, *Temura*, s.v. *Listim*: “A small herd animal cannot be guarded, as it will go and graze in others’ fields.” Cf. Lieberman, *Tosefta Ki-Fshutah*, *Yevamot*, p. 23. [↑](#footnote-ref-8)
9. Cf. Shivtiel (supra n. 2), p. 15. [↑](#footnote-ref-9)
10. Rashi 79b, s.v. *Ein megaddelin*. [↑](#footnote-ref-10)
11. For a survey of the goat’s characteristics, see Shivtiel (supra n.2), p. 17. [↑](#footnote-ref-11)
12. For this reason, the Babylonian Talmud in Tractate *Temura* adds another sentence at the conclusion of the narrative, “For the Sages have said that it is prohibited to raise small cattle,” because the *sugya* does not deal with this law at all; the law must therefore be recapitulated so that the story will be understandable. [↑](#footnote-ref-12)
13. See Chanokh Albeck, *Mavo La-Mishna*, p. 226. [↑](#footnote-ref-13)
14. Tosefta ibid. Viz. *Tosefta Ki-Fshutah,* *Bava Kama*, p. 87. [↑](#footnote-ref-14)
15. Lieberman (*Tosefta Ki-Fshutah* ibid. p. 88) maintains, as some Rishonim do (see “The Gaon” cited in *Shita Mekubetzet* ad loc., whom Lieberman cites as well) that R. Yehuda ben Bava’s action would have been allowed following the lone view of Rabban Gamliel, but he was nevertheless considered to be defying the words of his colleagues in the majority. See the sources he cites (some of which we will mention below), which indicate that even when there is a dispute, it is considered a violation of the words of the Sages not to follow the majority. It is noteworthy that in these sources, a sage who disagrees with his colleagues acts stringently and does not rely on his own view, and this is not necessarily equivalent to a person who decides to rely on the halakhic view of a given sage whose colleagues disagree with him. The simple reading of Rabban Gamliel’s words in the Tosefta indicates that he insists on the limitation of time, and it is therefore possible that R. Yehuda ben Bava would have violated the ban even according to Rabban Gamliel. See below regarding the discussion in the Babylonian Talmud, in which Rabban Gamliel’s view is cited without any limitation of time; it appears that this is what the *Rishonim* rely on. [↑](#footnote-ref-15)
16. According to some views, this is true even at the peril of one’s life. An example of a similar conflict to our narrative among early *Amora’im* can be found in a story from the Babylonian Talmud that we analyzed at length earlier this year (*shiurim* 9-10), the story of the obsessed man in *Sanhedrin* 75a.

Obviously, every one of these sources must be evaluated independently in order to see how much it reflects a historical reality of the era of the *Tanna’im* described in it. The examples brought below are not meant as proofs per se, but rather serve to explain the matter and to give a general interpretive direction concerning the relationship of this narrative to the views of one’s colleagues; cf. Alon ibid. [↑](#footnote-ref-16)
17. Preceding this story about R. Akiva, there a number of extremely sharp statements about accepting the rulings of “the Scribes” (the early authorities of the Oral Law), attesting to a similar spirit in the Amoraic era.

Rava made the following exposition: What is meant by the verse (*Kohelet* 12:12), “And, furthermore my son, be admonished: of making many books (*sefarim*) [there is no end, and much study (*lahag*) is an exertion of flesh]”?

[It means:] My son, be more careful in [the observance of] the words of the Scribes (*soferim*) than in the words of the Torah, for in the laws of the Torah there are positive and negative precepts; but, as to the laws of the Scribes, whoever transgresses any of the enactments of the Scribes incurs the penalty of death.

You might object: if they are of real value, why were they not recorded [in the Torah]? So Scripture states: “Of making many books there is no end.”

“And much study is a exertion of meat” – R. Papa son of R. Acha bar Ada stated in the name of R. Acha bar Ulla: This teaches that one who scoffs at the words of the Sages will be condemned to boil in excrement.

Rava demurred: But it does not say scoffing (*la’ag*); it says studying (*lahag*). Rather, this means that whenever one studies them, one finds a meaty taste.

Consider this harsh story in a later source: *Bereishit Rabbati, Parashat Vayishlach*, ed. Albeck, p. 146. See also the notes of Lieberman, *Yerushalmi Ki-Fshuto*, p. 481. [↑](#footnote-ref-17)