

Halevy, Halivni and The Oral Formation of the Babylonian Talmud

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Submitted in partial fulfillment of the
requirements for the degree of
Doctor of Philosophy
in the Graduate School of Arts and Sciences

COLUMBIA UNIVERSITY

2014

Introduction

THE FORMATION OF THE BABYLONIAN TALMUD

The Formation of the Talmud

Despite the centrality of the Bavli to rabbinic Judaism, the history of its formation is elusive and remains an important topic of scholarly debate. There is a paucity of direct evidence on the major questions concerning the Talmud's textual development and redaction—and even indirect evidence is elusive. Louis Jacobs writes: “Judging by the Talmudic evidence, the final editors of the Talmud managed successfully to conceal their identity. Nowhere in the Talmud is there any definite statement about the process of redaction and how it was done and by whom.”¹ Although the Mishnah also does not contain information about its editing process, it is clear that Rabbi Judah the Prince played a leading role. Several talmudic passages refer to Rabbi Judah the Prince as the editor of the Mishnah.² No such information is available for the Talmud's redaction and editing with the exception of a brief talmudic tradition found in b. Bava Metzi'a 86a: “Rav Ashi and Ravina—End of *hora'ah*,” which does not describe or detail a redaction or editing process.³

This dissertation is dedicated to a comparison of the theory of two scholars who were able to combine the roles of historian and literary critic to provide a full construct of

¹Louis Jacobs, *Rabbinic Thought in the Talmud* (Edgware, Middlesex ; Portland, OR: Vallentine Mitchell, 2005), 4.

²Halivni, *The Formation of the Babylonian Talmud*, 103, note 88 and the literature cited there.

³This short passage came to be a source of great controversy among scholars. See pp. 0 and 0.

the process of the formation of the Babylonian Talmud with supporting internal evidence to support each claim: Yitzhak Isaac Halevy and David Weiss Halivni. Their mastery of the Talmud enabled them to present a comprehensive account of the development and history of the Bavli, a daunting task. In order to make a comprehensive argument, internal evidence needs to be brought from the vast talmudic material spanning over more than 2,700 folios. As J. Rubenstein writes:

The reluctance to attempt vast and synthetic histories of the Bavli is certainly understandable in view of the formidable challenges entailed. To do so requires proficiency in the “sea of Talmud” in all its length and breadth, its thousands of folios, the variant manuscript traditions, the interrelationships and intertextual connections between its myriads of passages. One must possess exhaustive knowledge of parallel and related passages in the Mishnah, Tosefta, Yerushalmi, halakhic and aggadic midrashim, and in the complete corpus of rabbinic literature with which to compare Bavli traditions so as to reconstruct their development and metamorphoses.⁴

Yet while Halevy and Halivni are both masters of the talmudic text, their methodology is very different. While Halevy starts with a historical construct and proceeds to internal textual evidence to support his claims, Halivni’s literary findings are what lead him to his theories regarding historic development. While Halevy is primarily a historian, Halivni is primarily a talmudist and commentator on the text. This dissertation will demonstrate that despite progress based on their theories we are still in need of additional models for our understanding of the historical construct of the process of the redaction of the Bavli. Halevy’s construct despite providing valuable scholarly insights and findings is tainted by a strong ideological agenda. Halivni on the other hand, as a literary critic, provides an insightful literary analysis and his conclusions on the uniqueness of the *stam* have been firmly established and demonstrated. However, when analyzing Halivni’s theory one must distinguish between his literary conclusions and his

⁴Halivni, *The Formation of the Babylonian Talmud*, xviii–ix.

historical construct. Halivni's historical construct is constantly evolving, and it has presented numerous problems as it has developed. One of the major problems has been the placement of a hitherto unknown category of sages, the *Stammaim*, as central and actively involved in the redaction process, despite the lack of any historical or chronological records to support such a claim; here Halivni's theory contradicts R. Sherira's Epistle which was written less than two hundred years later. I will present in chapter three of this dissertation a workable framework that provides a plausible historical construct of the elusive history of the formation of the Bavli. By applying form criticism to determine the *Sitz im Leben* of talmudic transmission and teaching, combined with recent scholarship on the various forms of oral transmission, I will propose a model which allows for a plausible historical construct that integrates the perceptive historical insights of Halevy with Halivni's illuminating literary findings. This intermediate model allows for the return to historicity while at the same time applying Halivni's uniquely valuable literary insights. Moreover, the historical construct proposed can provide a compelling approach to solving the scholarly problem of dating the *stam* and the recurring evidence of early *stamot*. This method presents a model of transmission that demonstrates that this dilemma was predicated upon an erroneous understanding of the process of the Talmud's formation. My hope is that my conclusions will help to bridge some of the divides of talmudical scholarship and provide a platform for further detailed analyses of *sugyot* and the development of new ideas.

Halevy and Dorot Harishonim

Conclusion

Halevy's model of the formation of the Talmud provides a detailed and comprehensive analysis of the process of unparalleled scope and breath. His mastery of

the talmudic corpus with a keen textual acumen places him in a unique position in relation to other historians who had addressed the subject previously.

Halevy's historical construct and the chronology of the various stages of the formation of the Talmud is summarized in the charts below:

The Formation of the Talmud

ca. 308	Abaye and Rava and the Compilation of the Proto-Talmud	Pumbedita
324	Inclusion of the traditions of the Palestinian Sages	Pumbedita
351/2	Death of Rava and the end of the Compilation of the Proto-Talmud	Sura and Pumbedita
ca. 391/2	Final Redaction and Editing of Talmud by Rav Ashi's Court	Mata Mehasia (Sura)
422/6?	Rav Ashi's oath and the post Rav Ashi editing	Mata Mehasia and Sura
474/5	Death of Ravina bar Huna and the Closing of the Talmud	Sura

The Saboraic Era

474/5	Rav Yose and the First Generation of <i>Saboraim</i> <i>(Rabanan de'Mefarshey)</i> Committing of Talmud to writing	Pumbedita
ca. 510/20	The reopening of Sura and Rav Eina named its head	Sura
520	Death of Rav Yose and end of <i>Rabanan de'Mefarshey</i>	Pumbedita
520	Later <i>Saboraim</i> and minor editing/ cosmetic work of the Talmud	
	Rav Eina	Sura
	Rav Simona	Pumbedita
ca. 540	Rav Eina's death and closing of Sura due to new persecutions	
560	Death of Rav Revai of Rov and temporary closure of Pumbedita	
570	Creation of a new <i>Beit Hava'ad</i> Composition of <i>Masekhtot Qetanot</i>	Piruz Shabur (Nehardea)
589	Appointment of first <i>Gaon</i> and end of Saboraic Era	Pumbedita
609	Reopening of the academy in Sura	Sura

A critical review of his research shows that his apologetic goals and political agenda heavily affected his views and distorted his conclusions. Unfortunately, when analyzing his research, one has a sense of a retrofit attempt to convert research into ideology. Halevy's desire to uphold his conservative view of tradition actually forced him to break with traditional views and previously held opinions. As noted by Weinberg, "the author of *Dorot Harishonim* should be remembered favorably, for his work opened new horizons in the research of the period of the savoraic rabbis and into their contribution to the sealing of the Talmud. . . however, Halevy's research is bounded, in my view, in a very narrow framework."⁵

Halevy's findings make a significant contribution regarding the role of Abaye and Rava in the formation of the Talmud. He argues that there was a fundamental change in the transmission of learning during their time, and there is indeed evidence to support this. The establishment of the Talmud's unique structured collective format in their time is a unique step in the formation of the text, and Halevy's findings are a great contribution to our understanding of the process. A further contribution of his research that is also evident is the unique role of Rav Ashi in the Talmud and his participation in the formation process of the Talmud. Nonetheless none of the evidence provided by Halevy sheds any light on the extent or nature of his participation, nor to the extent proposed by him. The following are the salient points of his theory and the weaknesses and problems noted:

(a) His theory about the *Metivta Kolelet*, central to his historical construct, lacks any adequate proof. Furthermore, although an increased institutional complexity is evident from the beginning of the fourth century it nonetheless clearly seems that the most common institutional setting was the disciple circle, and that it was rather diffused.

⁵Jehiel Jacob Weinberg, *Mehkarim BaTalmud*, V.

It is clear that Halevy's ideology led him to search for the existence of a talmudic *Beit Hava'ad*. In his world view, any major accomplishments could only be achieved by a unified body, like his Agudath Israel, created by him for similar purposes. Notably, although evidence of Halevy's *Beit Hava'ad*, is elusive and all indications are that it perhaps never existed and it was merely a fruit of his imagination, nonetheless Halevy was able to create and establish his own *Beit Hava'ad* during his lifetime in the 20th century. The establishment of Agudath Israel in 1912 and its rabbinic council (later to become known as *Moetzes Gedolei Hatorah*—the Council of Torah Sages), allowed Halevy to implement the dream he so much attempted to find in his research of the past.

(b) His theory that the dialectics and the anonymous discursive stratum, the *stam*, was already included as an integral part of the text composed during the era of Abaye and Rava and that it was already fixed by then is also problematic. Again, Halevy, despite his erudition and creative mind, does not provide convincing evidence. The instances that he notes as proof of his theory can easily be explained in other ways.

(c) Halevy's construct that the Talmud went through a redactional and editorial process similar to the Mishnah on the part of Rav Ashi is also lacking adequate evidence from the Talmud or the Epistle. In his opinion the only distinction between the two editorial processes was that the Mishnah omitted all of the ensuing debates and discussions and preserved only the direct rulings while the Talmud preserved both the rulings and theoretical discussions surrounding them. Although, as noted above, Rav Ashi does seem to have a unique role in his participation in the process of the formation of the Talmud, nonetheless the extent or nature of his participation is unclear but it is certainly not as extensive as proposed by Halevy. The fact that such a critical enterprise and massive conference of rabbis is not mentioned anywhere in the Talmud nor is commented by the early historians of the Talmud such as STVA or the Epistle makes his theory highly unlikely. Moreover, if the Talmud was formally edited, like the Mishnah, why does it contain so many contradictory opinions and *sugyot*? The unique nature and

genre of the divergent tractates, *Masekhtot Meshunot*, is further evidence that the Talmud was not edited nor that it emanated from a single unified academy.

(d) His assertion of the substantial decrease in the contribution of the post Rav Ashi *Amoraim* is also difficult. Their era, spanning over 75 years, is just too long to justify such *de minimis* activity. His emendation of the Epistle shortening their era by one third through the antedating of Ravina bar Huna's death by 25 years is untenable and his understanding of Rabbah Tusfa'ah's name is fanciful. His assertion of the extent of their participation in the Talmud, as noted by Weinberg, does not withstand a critical review.

(e) Halevy's definite demarcation between *Amoraim* and *Saboraim*, as a discrete event, is artificial and mechanic and does not reflect historical evolutionary processes. His evidence from the Talmud and the Epistle is not convincing. This transition can be better understood instead through the prism of an evolutionary process of periodization. Accordingly, the saboraic era of the *Rabanan de'Mefarshey*, was part of an evolutionary process of periodization.

(f) Halevy's theory that the saboraic period was divided into two distinct phases and types of activity: the first generation of *Saboraim*, the *Rabanan de'Mefarshey*, the sages who brought about the final creation of the Talmud and worked in the united *Beit Hava'ad* of Pumbedita and the following generations of *Saboraim*, the later *Saboraim*, with a very limited activity is also fanciful and is contradicted by the historical record. Halevy's hard distinction between these two periods of the saboraic era is based on a tenuous allusion by R. Sherira in his description of Rav Yose which can easily be explained away. Clear evidence against his theory can be adduced from Rav Revai of Rov who was *not* from the first generation of *Saboraim*, and who is nonetheless mentioned by name in the Talmud and is referred to by the Epistle as *Rabanan de'Mefarshey*. Furthermore, his understanding of the contribution of the later *Saboraim* is inconsistent with the first *sugya* of b. Qiddushin attributed by R. Sherira to these later *Saboraim*. How can that lengthy *sugya* be described as only an explanation? Moreover,

the multi-layered undetermined arguments between the later Ravina, Ravina bar Huna, and Rav Aha clearly indicate that the process of formation of the Talmud extended far beyond the first generation of *Saboraim* and that it contained various stages including when the text could not be altered.

(g) Halevy's determination of the closing of the saboraic era with the appointment of the first *Gaon* in Pumbedita in 589 is also problematic. R. Sherira does not comment explicitly on the *end* of the saboraic period. His Epistle gives the clear impression that there was no distinct saboraic era. Furthermore, examination of other chronologies of the saboraic period further confuse any potential historical conclusions. The wide dispersion among the various sources is evidence that there was no clear definite end to the era. The attribution of the opening *sugya* in b. Qiddushin to Rav Huna, the *Gaon* of Sura in whose days the promulgation of enactments concerning the rebellious wife was implemented in 650/1 after the Arab conquest of Babylonia makes Halevy's conception of the sealing of the Talmud and the ensuing end of saboraic activities in 589 historically untenable. Halevy himself acknowledged that the Talmud contains certain additions that were added by Rav Yehudai *Gaon*, the Pumbeditan scholar who was appointed as the head of the academy of Sura in the middle of the eighth century. His theory about the closure of the saboraic era further illustrates that his model of the end of the period was the fruit of his imagination and was created to be consistent with his *Weltanschauung* and to further his contemporary agenda.

In summary, although Halevy provides a comprehensive model of the formation of the Talmud which is informed by his impressive genius and extensive knowledge unparalleled by any of his contemporary historian, his model is problematic. An alternate model needed to be found. Fortunately in David Weiss Halivni Halevy found a peer qualified to challenge his theory and to provide a diametrically opposed model which could address his weaknesses.

David Weiss Halivni and *Meqorot Umesorot*

Conclusion

Halivni's description of the formation of the Babylonian Talmud is the only comprehensive account of the processes that produced the Babylonian Talmud that matches Halevy's work in both scope and degree of comprehensiveness. It is the product of a lifetime of study and scholarship of unparalleled erudition.

His revolutionary understanding of the process of formation of the Talmud articulated a paradigm shift which has profoundly impacted modern talmudic scholarship. Halivni's understanding of the anonymous stratum, the *stam*, as a completely different nature than the amoraic stratum and his observations about the diverse form of its transmission in contrast with the amoraic apodictic data broke new ground in the understanding of the talmudic text and challenged the accepted traditional view that the Talmud was redacted by Rav Ashi. His keen literary analysis provides an abundance of evidence for his claim. His findings, unlike source criticism, are not completely dependent upon the acceptance of Halivni's scholarship position of *ki'peshuto*, the search for the plain meaning of the text and the original intent of its authors. As we explained in detail, Halivni's notion that the sages had a predilection for *peshat* is not universal. It could be that the sages preferred *derash*, which we described as applied meaning, and that it was *derash* that was their primary method, not *peshat*.

However, when analyzing Halivni's theory one must distinguish between his literary conclusions and his historical construct. There is no doubt that Halivni's conclusions on the uniqueness of the *stam* have been firmly established and demonstrated, even with the challenges of scholars like Brody. On the other hand, Halivni's historical construct is a constantly evolving theory, and it has presented

numerous problems as it has developed. A functional distinction between the amoraic and stammaitic strata can address all of Halivni's evidence without the need for a radical historical construct in opposition to all early rabbinic sources.

Halivni's predilection for scholarship *ki'peshuto* and his problem with forced explanations, coupled with his assumption that the rabbis were interested in searching for the plain meaning of the text above all else, prompted him to develop a novel historical construct. He argues that the amoraic and stammaitic strata were separated by centuries and represent vastly different approaches. This caused Halivni to argue for the existence of an entire class of sages hitherto unknown and undocumented by any early sources—the *Stammaim*. His historical construct and the chronology of the various stages of the formation of the Talmud is summarized in the chart below:

The Redaction of the Bavli

<i>Amoraim</i>	Apodictic statements and legal rulings	200–ca. 550
Combiners	Combined amoraic dicta and created <i>sugyot</i>	200–ca. 750
Reciters	Transmitters of amoraic rulings	200–ca. 550
<i>Stammaim</i>	Reconstruction of dialectical argumentation	ca. 550–750
	Transmission of amoraic rulings and dialectical argumentation	
Compilers	<i>Sugyot</i> gathered together into a single Talmud	ca. 730–770
<i>Saboraim</i>	Glossing of the Talmud and minor additions	ca. 730–770
Transposers	Transferred entire <i>sugyot</i> / completed existing <i>sugyot</i>	—————

We demonstrated that Halivni's theories regarding the historical construct are worthy of review. The following are weaknesses and problems we noted in Halivni's historical theory:

(a) The role of Rav Ashi and the meaning of the talmudic statement “Rav Ashi and Ravina—End of *hora’ah*”;⁶ Halivni argues that Rav Ashi’s role was no different than other *Amoraim*. However, as we demonstrated, both Halevy and Segal have argued an examination of traditions about Rav Ashi do show that he had a different role than other *Amoraim*. Moreover, Halivni has not been able to completely free himself from what Rubenstein termed “the tyranny” of this statement as he continues to struggle with finding a suitable interpretation. He continues to show some ambivalence regarding its historicity, and his theories about other possible meanings do not fully address the statement and continue to evolve.

(b) The conception that the era of the *Stammaim* could only begin once amoraic activity no longer took place. This formula is rigid and artificial and does not reflect a complicated and nuanced historical reality. Why would there be such a clear cutoff point?

(c) Halivni’s hypothesis that the reconstruction project of the *Stammaim* did not begin during the amoraic period because the academies during that time were dispersed seems contrived. The institutionalization of academic learning is an evolutionary process and not a discrete moment. Furthermore, why was this academic setting correlated at all to the death of the last named *Amora*? Why and how did the death of Rav Revai of Rov prompt an abrupt change in the academic setting?

(d) It is puzzling why immediately after the end of the amoraic era the sages would become worried about the “decline of generations” causing the dialectical argumentation to be lost, while the *Amoraim* were never concerned with this issue. Even the post Rav Ashi *Amoraim* were not worried about preserving the dialectical argumentation, despite the fact that tannaitic legal reasoning had already been lost by their time due to the lack of official transmission. What prompted the *Stammaim* to worry about the loss of legal reasoning that came to explain rulings?

⁶b. Bava Metzi’a 86a.

(e) The significant anonymous dialectical argumentation of the Palestinian Talmud which was redacted not any later than the eighth decade of the 4th Century. As Palestinian anonymous dialectical argumentation was preserved by this time it makes sense that a similar system was operative in Babylonia at the same time. It is difficult to understand why dialectical argumentation was preserved in Palestine so much earlier than in Babylonia and why the *Amoraim* still refused to preserve it until their period was over and the *Stammaim* started their work of reconstruction.

(f) The role of the *Stammaim* was too limited. Halivni does not attribute to them any original and creative activities which involve active reinterpretation of the material. His conception is rigid and in many ways similar to Halevy's model in which creativity is suppressed in the name of tradition. Namely, the same criticism of the weakness and rigidity of Halevy's model applies to Halivni.

(g) The massive work of reconstruction was performed in an entirely fragmented way. If the *Stammaim*'s agenda was to return dialectical argumentation of the *Amoraim* which was lost and to preserve it for future generations, how is it that it was done in such an uncoordinated way?

(h) Halivni's account leaves very little room for the saboraic activities which are documented and categorized by early sources like the Epistle and STVA. How is it possible that the Compilers, whose activity in essence formed the Talmud, were ignored by these early historical accounts while the *Saboraim* with a far more limited scope of activity were accorded a prominent category of their own?

(i) Halivni's deviation from the Epistle's account by delaying the saboraic era by over 200 years from the traditional chronology is problematic. His current historical account is even more perplexing because it delays the completion of the Talmud to the end of the eighth century, within two hundred years of the Epistle. Halivni's account differs not only regarding the *Stammaim* and their activities but also regarding the end of

the amoraic era, which according to Rav Sherira ended in 499/500.⁷ Halivni argues that the period of the *Amoraim* includes all of the later sages whom Rav Sherira and the traditional sources understand to be the early *Saboraim*. Moreover, those *Saboraim* noted by R. Sherira to predate Rav Revai of Rov, like Rav Eina head of Sura and Rav Simona head of Pumbedita, but who are not quoted by name in the Talmud, are not deemed to be either *Amoraim* or *Saboraim* by Halivni.

(j) The transition from an oral system of transmission to a written model is problematic in Halivni's scholarship because he ignores the vast changes which took place at that time regarding written culture. They clearly indicate that the transition of the Talmud from an oral setting to a written work prompted its closure rather than the opposite as claimed by Halivni. The complexities and dynamics of oral transmission versus a written model of transmission are missing from his account.

(k) Halivni's theory of the redaction of b. Nedarim is also problematic and rather artificial. Why was b. Nedarim reconstructed so much earlier than any other tractate? Why was there no gradual evolution process in the other tractates and only found in b. Nedarim? The reasoning for the neglect of the study of b. Nedarim by the geonic academies in the century before R. Yehudai Gaon posited by Halivni is quite simplistic and ignores the contextual developments of that era.

(l) Halivni's model fails to indicate any Muslim or Arabic influence, whether direct or indirect in the talmudic material despite the lateness of its redaction. The writing of the Talmud⁸ as well as the neglect of the study of b. Nedarim by the geonic academies⁹ could represent the elusive indirect influences of the larger Muslim environment which are not accounted for by his model.

⁷475 according to Halevy.

⁸See Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 20n5, 34.

⁹See Libson, *Jewish and Islamic Law: A Comparative Study of Custom During the Geonic Period*, 63.

In conclusion, it is necessary to evaluate his evidence carefully in order to appreciate the strength of his historical postulations. When analyzing his theory one must ask if there can be a more subtle approach to solve the literary issue raised without the need to resort to his daring historical construct. Combining several of Halevy's postulations with Halivni's literary conception of the *stam* as well as its diverse mode of transmission can provide a very compelling alternative account of the process and help resolve these issues.

ORALITY AND THE TWO VOICES OF THE TALMUD AN INTERMEDIATE MODEL

Conclusion

Orality was central in the transmission of texts in Babylonia during the amoraic era and extended well into the geonic era as well. Evidence of the first written texts points to the mid eighth century as the beginning of the Talmud's written tradition. The transition from an oral matrix into a written literary one was a gradual process in which both models existed simultaneously. Oral transmission remained the official channel of preservation even at a time when written copies of the Talmud were widely available. In all probability oral recitation lasted until the close of the geonic yeshivot in the eleventh century. However, the transition from a purely oral matrix into a hybrid of both written and oral Talmuds represented a watershed point in the development of the Talmud. When the Talmud was transmitted in writing these copies could be used as controls for the oral versions as well.

A careful reading of geonic material indicates that the Talmud was orally transmitted in a dual system made up of two diverse oral texts, a terse and concise fixed text which demanded interpretation and a fluid interpretative text discussed in a conversational dialectical form. While the apodictic statements were transmitted in a fixed format by the reciters, much like the Mishnah, their interpretations and deliberations—the *shakla ve taryi'a* (talmudic give and take) was transmitted by the head of the academy in his lectures and deliberations with the students in a fluid organic format. These two dynamics of oral teaching and transmission can effectively explain the distinctive genre of the two strata of the Talmud, the apodictic rulings and the *stam*.

This dual mode of transmission can be understood well with elements of both of the constructs of Halevy and Halivni. Some of Halevy's theories are useful for understanding the formation of the proto-Talmud, including his theory of its composition by Abaye and Rava during the mid fourth century, and Rav Ashi's unique role in the redaction and expansion of the proto-Talmud later.

Halivni's model offers great insight into understanding the second voice of the *stam ha'talmud*. As Halivni explains, this stratum continued to evolve until the end of the eighth century. Halivni's insight about the diverse channels of transmission between the two strata is fundamental to our understanding of the nature of the *stam*.

One of the principal advantages of the dual transmission model is that it is consistent with both STVA and the Epistle. Halivni's conclusions on the other hand are quite radical and directly contradict the role given to many sages by the Epistle. Furthermore, his revolutionary theory is predicated upon the existence of a hitherto completely unknown category of rabbis, the *Stammaim*, while our model effectively assigns the role to the *Saboraim*. Moreover, Halivni's model is quite traditional and rigid in the role that he assigns to the *stam*. In his view, the *Stammaim*'s role was one of preservers of tradition and their work was a reconstruction project while in our model the function of the authors of the *stam* was creative and their work represented an interpretative approach which allowed for the evolution of fixed texts.

The Talmud represents the collective voice of generations of the most diverse rabbis and sages and it came to create a collective authority which encompasses the sum total of the many diverse views. As Ephraim E. Urbach noted: "The process which fused the decisions, *halakhot* and *sevarot* of Sages and scholars from generation to generation created a collective authority which can be seen as the sum total of the recognition enjoyed by those sages and scholars."¹⁰ The Talmud in its dual structure allows for the

¹⁰Urbach, *The Halakhah: Its Sources and Development*, 347.

vastly different and competing constructs of Halevy and Halivni to peacefully co-exist in its two voices.