Between Law and Narrative in the Talmud

Dr. Sarah Wolf

Dr. Sarah Wolf is Assistant Professor of Talmud and Rabbinics at The Jewish Theological Seminary. Dr. Wolf’s research focuses on legal textual cultures in rabbinic Judaism. Her dissertation, The Rabbinic Legal Imagination: Narrativity and Scholasticism in the Babylonian Talmud, traced the development of literary elements in the Talmud’s legal passages in the context of the rise of the rabbinic academy. Her current book project examines the construction of emotions as legal categories in rabbinic literature. Dr. Wolf received her PhD from Northwestern University and her BA in Literature from Yale University. She is also a faculty member at the Shalom Hartman Institute of North America.
Rav Yohanan said in the name of Rav Shimon the son of Yehotzadaq: They counted and concluded in the attic of the house of Nitza in the city of Lod: Regarding all the transgressions in the Torah, if a person is told, “Transgress, and you will not be killed,” one should transgress and not be killed, except for idol worship, forbidden sexual relations, and murder.
2. Babylonian Talmud Sanhedrin 75a

Rav Yehudah said in the name of Rav: There is a story of a man who placed his eyes on a woman and his heart filled with black bile. And they came and asked the doctors, and the doctors said, “He has no treatment unless she has intercourse with him.” The sages said, “Let him die, but she will not have intercourse with him.” “She should stand before him naked.” “Let him die, but she will not stand before him naked.” “She should converse with him from behind a barrier.” “Let him die, but she will not converse with him from behind a barrier.”

Rav Yakov bar Iddi and Rav Shmuel bar Nahmeni disagreed about it. One said she was married, and the other said she was unmarried. For the one who said she was married the story works well, but for the one who said she was unmarried, what is this all about?

Rav Pappa said: Because of family shame.

Rav Aha son of Rav Iqa said: So that the daughters of Israel should not be prostituted for illicit sex. So let him marry her? That would not settle his mind because of Rav Yitzhak. For Rav Yitzhak said from the day of the destruction of the Temple, the flavor of intercourse was taken and given to sinners as it is written (Proverbs 9:17), “Stolen waters are sweet and bread eaten furtively is tasty.”

אמר רב יהודה אמר רב מעשה באדם אחד נתן עיניו באשה אחת והעלה לבו טינא ובאו ושאלו לרופאים ואמרו אין לו תקנה עד שתבעל אמרו חכמים ימות ואל תבעל לו תעמוד לפניו ערומה ימות ואל תעמוד לפניו ערומה תספר עמו叕ה.getEnd

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1 Translation of this text is adapted from Barry Wimpfheimer, Narrating the Law: A Poetics of Talmudic Legal Stories (University of Pennsylvania Press, 2011). All other translations are my own.
If an ox gored a man and the man died, if the ox is *mu’ad* the owner pays restitution, and if the ox is *tam* he is exempt from restitution, and both the former and the latter ox are liable for the death penalty…

But if they kill it when it is tam, how can it be found mu’ad?!

Rava said: What are we dealing with here? If they estimated that it could kill three people.

Rav Ashi said: Estimation is meaningless. Rather, what are we dealing with here? If it endangered three people.

Rav Zavid said: If it killed three animals.

Is an ox that is mu’ad for animals mu’ad for people?!

Rather, Rav Shimi the son of Ashi said: If it killed three non-Jews.

Is an ox that is mu’ad for non-Jews mu’ad for Jews?!

Rather, Rav Shimon the son of Laqish said: If it killed three fatally afflicted people.

Is an ox that is mu’ad for fatally afflicted people mu’ad for intact people?!

Rather, Rav Pappa said: It killed and ran away into the meadow and killed again and ran away into the meadow.

Rav Aha the son of Rav Iqa said: If witnesses testified about the ox, their testimony was declared false testimony by other witnesses, and the falsification of the testimony was itself declared false by a third set of witnesses.
If someone throws a stone into the public domain and thus kills, behold, this person is exiled…
Into the public domain?! Then he committed this act intentionally!
Said Rav Shmuel bar Yitzhak: The Mishnah refers to a person who is knocking down his wall.
But he should have checked for passersby!
The Mishnah refers to the case of a person who is knocking down his wall at night.
At night he also should have checked for passersby!
The Mishnah refers to the case of a person who is knocking down his wall into a refuse heap.
This refuse heap, what is it like? If the public frequents it, he is a sinner. If the public does not frequent it, he is compelled.
Said Rav Pappa: There is no difficulty; this ruling is necessary for a refuse heap intended for people to relieve themselves there at night and not intended for people to relieve themselves there during the day, but it could happen that someone came to relieve himself there during the day.
It is not criminal negligence, for behold, it was not intended for people to relieve themselves in it during the day; it is also not compulsion, for behold, it could happen that someone came.

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