

נצחוני בניי

The Powerless God in Israeli Women's Midrash

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All *midrash* is theology. This is not to say that *midrash* is a treatise on theology or that it is prescriptivist doctrine. It is, nevertheless, a descriptive theology. Or, rather, *midrashim* are a series of descriptive theologies that, while they may not intend to make such claims, inevitably and implicitly have something to say about God and the world. In this respect, the fact that *midrashim* contradict one another is unsurprising and, frankly, unproblematic. Like the maxim that there are *שבעים פנים לתורה*, seventy faces (or interpretive stances) to the Torah, different *midrashim* access different aspects of Jewish theology. To read *midrash* is to read a theological argument about the nature of God in the world.

It follows, then, that to write *midrash* is to make a theological argument about the nature of God in the world. In this paper, I want to address the theologies implicit in re-writings of the story of “The Oven of Akhnai”¹ as they appear in two contemporary *midrashim* written by women. Both are found in the first volume of *Dirshuni*, a collection of contemporary *midrashim* written by Israeli women and edited by Tamar Biala and Nehama Mintz-Weingarten, and each retells part of the original *midrash* — specifically the part that occurs within the walls of the *beit midrash* — by highlighting Jewish women’s experiences.² In the original story, the rabbis win the debate with the exclamation “לא בשמים היא”, the Torah is not in the heavens. The *midrash* tells us that when R. Natan asked the ministering angels what God was doing at the moment the rabbis said this, the angels answered that God laughed and exclaimed “נצחוני בניי”, my children — but literally sons — have defeated me.

1. BT Bava Metzia 59b.

2. Weingarten-Mintz, Nehama, and Tamar Biala. דרשוני: מדרשי נשים. 2009. ידיעות אחרונות.

This motif of נצחוני (God's laughter) is shared by these two *midrashim* to show that women fighting for change are on the same side as God, but they make radically different theological claims about God's relationship to God's children. Looking at these *midrashim*, we see that although they end with the same refrain, the first reflects the same laughing, triumphant, conceding God found in the original, while the second sees a God who is utterly powerless to right the wrongs committed by God's people. This second *midrash* calls into question the theology of the first, suggesting that God's concession is not delight at being out-argued but rather devastation at being overruled. It takes נצחוני בני to its logical conclusion and asks us to imagine a God who sees not only the tragedy of the world but also the sins of God's own sons and can do nothing to fix it. The second *midrash* from *Dirshuni* presents a compelling and disturbing theology where God has as little power as a chained woman, an *agunah*.

"The Oven of Akhnai" may have the distinction of being the single most commented-on work of *midrash* in the canon. For that reason, I have no intention of offering another read of the narrative here: my goal is to provide enough of context to explain the contemporary versions. To that end, I rely primarily on Jeffrey Rubenstein's read of the *midrash* in *Talmudic Stories*, particularly his emphasis on R. Eliezer's experience of pain as the fulcrum around which the story turns.³ That focus parallels the pain of the female characters at the center of the *Dirshuni* versions. I also draw on both Miriam Gedweiser and Charlotte Fonrobert's interpretations of gender in "The Oven of Akhnai" to clarify how gender has always been a part of this narrative, even before its transformation in *Dirshuni*.⁴ All these authors emphasize the need to read the story in its entirety, from the Mishnah that discusses the prohibition of causing anguish through to the end when R. Gamaliel dies from R. Eliezer's anguish.

3. Rubenstein, Jeffrey L. *Talmudic Stories: Narrative Art, Composition, and Culture*. First Edition edition. Baltimore, MD London: Johns Hopkins University Press, 2003. 34–63.

4. Gedwiser, Miriam. "If Your Wife Is Short, Bend Down and Hear Her Whisper: Rereading Tanur Shel Akhnai — The Lehrhaus," February 17, 2019. <https://the-lehrhaus.com/scholarship/if-your-wife-is-short-bend-down-and-hear-her-whisper-rereading-tanur-shel-akhnai/>. Fonrobert, Charlotte Elisheva. "When the Rabbi Weeps: On Reading Gender in Talmudic Aggadah." *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, no. 4 (2001): 56–83.

However, given that these contemporary *midrashim* only use part of the original and call attention to God's role, my work tries to balance both perspectives.

To that end, it is useful to consider how the argument of *לא בשמים היא* is used in the original: R. Eliezer uses supernatural proofs to support his position, which culminate in the *bat kol*, heavenly voice, that validates his approach. The response of *לא בשמים היא* is the equivalent of telling God that God has no say in the development of law in the *beit midrash*. Rubenstein cites Daniel Boyarin's observation that the rabbis use their own power to justify making such a determination.⁵ But the victory is incomplete, as Fonrobert observes, because R. Eliezer's anguish leads to the death of R. Gamaliel later in the story.⁶ But with the reassuring statement of *נצחוני בני* in the divine voice, the *midrash* walks the fine line between rabbinic practice and rabbinic attitude. Although the rabbis' behavior was suspect, they had the rabbinic right to be correct, so much so that even God agreed. The presence of *נצחוני בני* means that, even if the specifics of this story end in tragedy, the overall rabbinic project is justified. With rabbinic vindication resting solely on the word of God as transmitted by R. Natan ex-post-facto, however, one is tempted to imagine what the story would be like absent divine approbation.

Fortunately for us, the version in the Talmud Yerushalmi — found in chapter 3 of Moed Kattan — ends with the statement *לא בשמים היא*, and this happens after R. Eliezer is excommunicated, thus ending the tragedy rather than escalating it. What is asserted is the rabbinic right to make these decisions, even when they lead to anger. Only in the Bavli does the story provide an account of God's laughter and pronouncement of *נצחוני בני* and the story's continuation with R. Eliezer's excommunication and R. Gamaliel's death, the latter of which is absent entirely from the Yerushalmi. As Rubenstein puts it, "the rejection of the heavenly voice [in the Yerushalmi] successfully contains the destruction while the ban has no deleterious consequence."⁷ When the Bavli's retelling becomes a narrative of anguish, it places God in a position of powerlessness. While not as common as depictions of a powerful God, this is still an occasional theme in Jewish theology, especially when considering God as empowered by and partnering with human beings. Perhaps more significantly, though, it places the rabbis in the position of sinners. The point is

5. Ibid., p. 41.

6. Ibid., p. 56–7.

7. Ibid., p. 50.

not that God is powerless, but God is powerless to stop them from disobeying God's will when they say *לא בשמים היא*. Maybe, in their actions, they have thrown out not merely R. Eliezer but God and God's will. Given the destructive outcome, the Bavli needs some reassurance that the rabbis did the right thing. Emphasizing God's laughter and concession is a sign that what the rabbis have done with their right to say *לא בשמים היא* is also morally correct.

Thus, despite appearances, *נצחוני בני* is how the rabbis reassure themselves that they are aligned with God's will. Because God allows them to win and laughs at their cleverness, there is no concern that they have sinned in matters of *halakha*. Even if they have acted wrongly in their treatment of R. Eliezer, the larger project of the *beit midrash* and the debate therein is validated through God's pronouncement. Fonrobert argues that this *midrash* is a foundation myth that establishes the collective identity of the rabbinic *beit midrash*,⁸ and, in that respect, *נצחוני בני* plays an integral role in the mythopoesis. *נצחוני בני* is how the rabbis know that God wants a *beit midrash* with fierce debate and battle lines drawn. The very language of *נצח*, victory, echoes the valorization of the battlegrounds of Torah. And, ideologically, *נצחוני בני* is the language of justifying our own decisions. God is delighting in our claims and laughing, conceding to our position. No wonder that it appears multiple times in *Dirshuni*, sometimes altered to the feminine form of *נצחוני בנותיי*: the authors are co-opting that same reassurance and justification to validate the choices they make and the changes they want to see.

The version I see as paradigmatic is the *midrash* on the *מדרשה* by Yehudit Shilat, which opens with the daughters of Israel approaching God and requesting “*יפתחו לפנינו שערי תורה*” — open before us the gates of Torah. But then R. Eliezer (the same one from the *midrash* of the oven of Akhnai) stands up and makes his well-known statement from the Mishnah in Sotah⁹: “*כל המלמד בתו: תורה כאילו מלמדה תפלות*” — all who teach their daughter Torah, it is as if they taught her nothingness/garbage/immorality. In this *midrash*, the women debate but eventually lose heart and go home to the labor that keeps the Jewish household running. But later, after the gates of understanding are opened to the whole world — which I think means after modernity arrives and women are seen as men's intellectual equals — the women approach God again and make their case that they too have a share in the Torah. This time, the

8. Ibid., p. 59.

9. M. Sotah 3:4.

disagreement comes from “a few” of the sages, who ask where they have been for the past 2000 years. The women respond that they have a tradition from Imma Shalom, the wife of R. Eliezer and the sister of R. Gamaliel, that all the gates (of supplication) may be locked except for the gates of anguish, the *o’naah* around which the entire *midrash* of “The Oven of Akhnai” revolves in the Bavli. They continue:

Is it not known before you, God, that for many generations we have borne the burden of the house of Jacob with willingness and love: we have wed, birthed [...] cooked, laundered, suffered without complaint and, with all this, we have built the house of Israel. And now that You, in Your infinite goodness, have opened the gates of understanding to the entire world and in Your great compassion you have made the work easy, we desire to make our souls whole through learning Your Torah. The Holy Blessed One, hears, and He desired what they said and smiled. A heavenly voice rang out and declared *נצחוני בנותי, נצחוני בנותי*. My daughters have conquered me, my daughters have conquered me.¹⁰

In this version, Shilat cleverly reworks the debate between R. Eliezer and the sages about an oven into a debate about R. Eliezer’s infamous statement about women’s learning. Though she omits the supernatural elements of the original version, Shilat retains the larger theme of anguish so that, as in the original, God can side with those making the good *halakhic* argument and with those experiencing pain. Like the rabbis of the Bavli, who imagine God as a delighted bystander who validates their struggle, Shilat imagines a similar God who is eager to support women’s Torah study as soon as the case is made. God is, once again, figured as caring, invested, powerful, and willing to take sides in an ideological struggle. Most crucially, theologically speaking, God is on the women’s side.

With the understanding that the *midrash* is not necessarily intending to make every theological claim that a close reader uncovers, the text does suggest that God opposed women’s learning for two millennia and just came around recently. In the original, the debate is about the purity of the oven and, while the debate is important, the two *halakhic* positions lack a moral valence. When God laughs, God concedes that the *halakhic* case is strong enough that the

10. Shilat, *Dirshuni*. 119, trans. mine.

decision made by the rabbis can stand. There is no fraught, ethical question attached to whether the oven is pure or impure.

Not so in Shilat's *midrash*. This *midrash*'s argument — which it never explicitly contradicts even though I feel strongly that it did not intend to make this argument — is that God originally agreed with R. Eliezer's interpretations that opposed women's learning. Only after the women mount their final argument does God change God's mind about women's learning. When one accepts the idea of *מלחמתא דתורה*, the battle of Torah, one takes on the rest of the metaphor as well. Wars have a winner and loser. Wars have two sides. If God's daughters win against God, God might be delighted, but it does seem God was on the "losing" side until God conceded. This is the peril of *midrash*, after all; the story is never just a story. In the same way that the Bavli's rewriting of "The Oven of Akhnai" makes manifest the troubling possibility that the rabbis were defying God's will and God would not or could not stop them, Shilat's retelling makes manifest an equally troubling implication. Maybe, for all these years, God was not on the side of women.¹¹

There is an alternative read, which — based on how strongly the rabbis rejected it in "The Oven of Akhnai" — appears to be even more fraught. Maybe the rabbis really did spend years inadvertently flouting the will of God and God could do nothing to stop them. Maybe their rabbinic right was wrong. It is this idea that Rivka Lubitch addresses in her "*Midrash Mesuravet*." This is the story of one of the *mesuravot get*, the women whose husbands refuse to give them a *get*, or writ of divorce, and who are commonly called *agunot*: chained women. One woman comes before the rabbis and says, "Give me my *get* and I will leave." The rabbis protest that only her husband can give the *get*. She then suggests that they force him to give the *get*, and they refuse, lest it be considered a "*get me'usah*," a forced document that lacks authority. And so on, with the woman suggesting one *halakhic* solution after another that will allow her to be free of the chains of her marriage and the rabbis finding one reason after another to reject her suggestions and keep her a prisoner. With each

11. Creating a consistent theology that accounts for *halakha* and God's will as an ongoing project that can develop or change but that does not, in changing, indict earlier iterations of itself is the work of Tamar Ross's *Expanding the Palace of Torah* and what she calls "cumulative revelation." It is precisely the sorts of problems illuminated by Shilat's *midrash* that animate the final chapter of Ross's magnum opus.

refusal on the part of the rabbis, a miracle happens in the house of study to show heavenly support for the petitioner, just like the miracles that supported R. Eliezer in the story of the oven of Akhnai, and yet the rabbis ignore them. Finally, in response to the suggestion that perhaps she has withheld something from her husband and that is why he is refusing to grant the *get*, a heavenly voice rings out and says, “What is it to you that this woman’s husband is disgusting to her and she does not need to give him anything so that she can receive her *get*.” The rabbis respond “לא בשמים היא” and add “we do not rely on a heavenly voice.” And in that hour, the *midrash* says, God was crying and saying “נצחוני בני, נצחוני בני”.

If, as this *midrash* suggests, it is theologically untenable to believe that God had the power to effect change in the status of women but chose not to do so for two thousand years, the only alternative is that God is powerless in the face of the rabbis here on earth. We can imagine God as partnering with human beings, as depending on human beings, even as being defeated by the clever arguments of human beings. But does the rabbinic imagination stretch to the idea of a God who can do nothing except cry as the rabbis override the Divine Will to cause anguish in God’s daughters? In the original, R. Eliezer’s anguish causes R. Gamaliel’s death. In Shilat’s, anguish brings about a *halakhic* sea change. In Lubitch’s version, the rabbis are not God’s partners but God’s enemies. And they have won. That is what this *midrash* proclaims: My sons, not my daughters, have conquered me, says God. With the Bavli’s framing of causing anguish using words (*ona’ah*) but without the reassurances of נצחוני בני, “The Oven of Akhnai” can be read as the story of a powerless God unable to intervene when the rabbis bully God’s child using God’s own *halakhic* system. It is, in fact, the exact story told in the “*Midrash Mesuravet*.”

As uncomfortable as I find this *midrash* as a person holding rabbinic authority, I find the implications of Lubitch’s *midrash* less troubling than Shilat’s. If God’s willingness to laugh and declare us victors is all women are waiting for, where has God been all these years? Why does it take two thousand years and the gates of anguish for God to take the side of God’s daughters? If the “right” side wins, why was God on the “wrong” side? While I do not think this is Shilat’s intentional theological claim, it is an unavoidable consequence of the way that God is figured in “The Oven of Akhnai” and all the variations that evolve from it. Lubitch, along with the Bavli, is most sensitive to these theological implications.

When Fonrobert, in her read of gender in “The Oven of Akhnai,” discusses

the feminization of rabbinic behavior and how the rabbis take on symbolically female roles through their crying, one can almost hear Lubitch's narrative crying out, "Yes, but what about the actual women?" Imma Shalom, the wife of R. Eliezer who keeps the peace (hence her name), is the least feminized character in the story: it is the men, and specifically her husband, who play the role of the wronged wife. And yet the complexity of the story, the interplay between the ideal *beit midrash* and the anguish of R. Eliezer, the myth of the *beit midrash* "that is endowed with the creative power to coordinate human, natural, and divine forces"¹² only stands because it incorporates women symbolically but not physically.

To my mind, it is Lubitch's *midrash* that articulates the more compelling position. If nothing changes after God's delighted announcement of נִצְחוּנֵי בְנוֹתַי, if the rabbis remain unconvinced, then the distinction between the God of Shilat's *midrash* and the God of Lubitch's evaporates. They are both stories of divine powerlessness. Shilat's *midrash* points towards a development of *halakha* most clearly articulated in Rahel Berkovits's article about her grandfather, Eliezer Berkovits', approach to Judaism.¹³ Eliezer Berkovits believes the job of a rabbi and *posek* is to build and innovate an ethical *halakha*. Rahel Berkovits accepts that framing and, in her articulation of her grandfather's position, imagines *halakhic* leaders making the changes that Shilat champions in her *midrash*. The difference, of course, is that in Shilat's *midrash*, the women make those changes themselves. Berkovits writes about reality, a place where it does not actually matter how often God says נִצְחוּנֵי בְנוֹתַי if the rabbis do not feel the same push towards ethical behavior. There are other *midrashim* in *Dirshuni* that culminate with women refusing rabbinic authority and making their own decisions, often with approbation from God, because *halakhic* Jews need the reassurance that their behavior merits God's delighted laugh. We humans, says this approach, are getting better at following God's will.

Lubitch's *midrash* is almost a direct response to Berkovits. Where, asks the *midrash*, are these ethical rabbis? Where are these men concerned for the honor of the Torah and the ethics of *halakha*? Berkovits' entire concept of *halakha*, which he articulates in the book aptly titled *Not in Heaven*, is grounded in the idea that *halakha* is a code that does — and must — reflect the underlying

12. Fonrobert, "When the Rabbi Weeps." p.75.

13. Berkovits, Rahel. "Torat Hayyim: The Status of Women in the Thought of Eliezer Berkovits." *Shofar* 31, no. 4 (2013): 4–15.

moral nature of God and what God desires. Lubitch's *midrash* points to a break between the underlying moral nature of God and *halakha* as experienced by those who are subject to it. There is no moral *halakha* here, only a God who cries at the immorality of how *halakha* is instantiated. God is trapped by the *halakhic* system no less than the *mesuravot* and, enmeshed in it, can find no way to effect change.

Lubitch, then, offers a story without tangible hope. When God is not merely on the side of the helpless and the oppressed, but with them and portrayed as chained alongside them, the savior of the Jewish people cannot save. The *agunah* can never free herself, and God can do no more than she. But this is, paradoxically, why I find it to be the more theologically comforting narrative: the world is filled with things that we, as good people, need not countenance because God also cannot countenance them. The *mesuravet get* does not need to give up on God even if she may need to give up on expecting divine intervention to matter. The theology offered by her *midrash* is, perhaps, the only tenable one given the world as it is experienced by the *mesuravot get*. These women are no less beloved by God, no less fought for than any other of God's children. And yet they are at the mercy of those who conquer God and against whom God is powerless to respond. God, in this story, has always been a feminist. God has always been the God of the widow and the orphan, the *agunah* and the *mesuravet*. Lubitch takes a situation that has always been treated as an earthly one — לא בשמים היא indeed — and drags God down into it to force us to reframe the question of “what does *halakha* say?” into “what ought God's *halakha* be?” The rabbis refuse the reframing. Lubitch saves Berkovits' God of morality and righteousness, although she sacrifices the *halakhic* system to do so.

In these stories, God takes the role of the women writing them: God is deeply invested in the outcome and in the *halakhic* system itself; God cares about the outcome and lends God's weight to the right side; and God is, ultimately, silenced by the status quo. The only hope left lies in the articulation of the very powerlessness of God and the *mesuravet*, that anguished cry that echoes R. Eliezer's sobbing. There is something devastating in the *midrash's* inability to continue and, like the original on which it is based, imagine an end where the anguish of those wronged can emerge as a cautionary tale. The best hope that this *midrash* offers is in the invitation to see the anguish and, through it, take steps towards turning נצחוני בנותיי into נצחוני בניי.