

LESSON #5:

"IT IS NOT IN HEAVEN!" AUTHORITY, INTERPRETATION, AND SACRED ARGUING

This session is devoted to the concept of *'mahloket'* itself, in order to appreciate the multi-faceted dimensions of this notion. We seek to understand how *'mahloket'* has been viewed as a positive factor in promoting diversity of opinion, and/or as a negative consequence of getting farther away from Sinai and losing our connection to Revelation in some fashion. The farther away in time from Sinai, the more we seem to forget. To better understand this concept, we first need to discuss the possible definitions of the term itself. In using Marcus Jastrow's dictionary (dictionary of targumic and rabbinic literature includes thousands of entries in Hebrew and Aramaic, with references to the original texts, originally published in 1903), we see that *'mahloket'* is used to describe conflict, dispute, disagreement, and argument, but it also appears to be attempting to offer a solution of some sort. Once the students have had a chance to discuss this together and reach their conclusions, open up a larger discussion on *'mahloket'* in general with the entire class and see how this term is used both in the positive and in the negative sense, as noted above. Once this has been understood, it is possible to focus in on the term itself in the context of the Mishna found in Pirket Avot 5:17, where the concept of "arguing for the sake of heaven" is introduced. Introduce in English the well-known phrase in the Talmud, "these and those are the words of the ever-living God" (Eruvin 13b), and discuss what this phrase adds to our discussion of respect/*kavod* for minority opinions preserved within our tradition and sacred texts. In a second and separate session (#5b), introduce the first section of the Babylonian Talmud, Baba Metzia 59b (*Tanur shel Aknai*) a *sugiyah* in all of its rich complexity. Depending on the time and students' ability, the instructor needs to decide how far to go with the class discussion of this page of Talmud. In any case, due to the length and breadth of this material, my suggestion is to divide this lesson into two parts or sessions, (a) and (b), as is described in the Lesson Plan sections. Of course, the decision is left to the instructor's discretion.

Text 2 – “Mahloket I'shem Shamayim”

Mishna, Pirke Avot 5:17

Every dispute that is for the sake of Heaven will endure, and if not for the sake of Heaven, it will not endure. What is an example of a dispute for the sake of Heaven? That would be the dispute of Hillel and Shammai. And what is an example of a dispute that is not for the sake of Heaven? That would be the dispute of Korach and his congregation.

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משנה מסכת אבות פרק ה משנה יז
כל מחלוקת שהיא לשם שמים סופה להתקיים ושאין לה לשם שמים אין סופה להתקיים איזו היא מחלוקת שהיא לשם שמים זו מחלוקת הלל ושמאי ושאין לה לשם שמים זו מחלוקת קרח וכל עדתו.

Text 3 – “These and those are the ever-living words of God”

Babylonian Talmud, Eruvin 13b

R. Abba stated in the name of Samuel: For three years there was a dispute between Beth Shammai and Beth Hillel, the former asserting, ‘The halachah is in agreement with our views’ and the latter contending, ‘The halachah is in agreement with our views’. Then a bath kol issued announcing, ‘[The utterances of] both are the words of the living God, but the halachah is in agreement with the rulings of Beth Hillel’. Since, however, both are the words of the living God’ what was it that entitled Beth Hillel to have the halachah fixed in agreement with their rulings? Because they were kindly and modest, they studied their own rulings and those of Beth Shammai, and were even so [humble] as to mention the actions of Beth Shammai before theirs, (as may be seen from what we have learnt: If a man had his head and the greater part of his body within the sukkah but his table in the house, Beth Shammai ruled [that the booth was] invalid but Beth Hillel ruled that it was valid. Said Beth Hillel to Beth Shammai, ‘Did it not so happen that the

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15 elders of Beth Shammai and the elders of Beth Hillel went on a visit to R.
Johanan b. Hahoranith and found him sitting with his head and greater part
of his body within the sukkah while his table was in the house?' Beth
Shammai replied: From there proof [may be adduced for our view for] they
indeed told him, 'If you have always acted in this manner you have never
20 fulfilled the commandment of sukkah'). This teaches you that him who
humbles himself, the Holy One, blessed be He, raises up, and him who
exalts himself, the Holy One, blessed be He, humbles; from him who seeks
greatness, greatness flees, but him who flees from greatness, greatness
follows; he who forces time is forced back by time but he who yields to time
25 finds time standing at his side.

Our Rabbis taught: For two and a half years were Beth Shammai and Beth
Hillel in dispute, the former asserting that it were better for man not to have
been created than to have been created, and the latter maintaining that it is
30 better for man to have been created than not to have been created. They
finally took a vote and decided that it were better for man not to have been
created than to have been created, but now that he has been created, let him
investigate his past deeds or, as others say, let him examine his future
actions.

תלמוד בבלי מסכת עירובין דף יג עמוד ב

אמר רבי אבא אמר שמואל: שלש שנים נחלקו בית שמאי ובית הלל,
הללו אומרים הלכה כמותנו והללו אומרים הלכה כמותנו. יצאה בת קול
ואמרה: אלו ואלו דברי אלהים חיים הן, והלכה כבית הלל. וכי מאחר
שאלו ואלו דברי אלהים חיים מפני מה זכו בית הלל לקבוע הלכה כמותן
5 – מפני שנוחין ועלובין היו, ושונין דבריהן ודברי בית שמאי. ולא עוד אלא
שמקדימין דברי בית שמאי לדבריהן. באותה ששנינו: "מי שהיה ראשו
ורובו בסוכה ושלחנו בתוך הבית, בית שמאי פוסלין ובית הלל מכשירין.

אָמְרוּ בֵּית הַלֵּל לְבֵית שְׁמַאי: לֹא כֵן הָיָה מַעֲשֵׂה שְׁהֲלֹכוֹ זְקֵנֵי בֵּית שְׁמַאי
 וְזְקֵנֵי בֵּית הַלֵּל לְבַקֵּר אֶת רַבֵּי יוֹחָנָן בֶּן הַחֹרְנִית, וּמִצְאוּהוּ יוֹשֵׁב רֹאשׁוֹ
 10 וְרוֹבֵד בְּסוּפָה וְשֹׁלְחָנוֹ בְּתוֹךְ הַבַּיִת. אָמְרוּ לָהֶן בֵּית שְׁמַאי: אֵי מִשָּׁם רְאִיָּה?
 אַף הֵן אָמְרוּ לוֹ: אִם כֵּן הָיִיתָ נוֹהֵג לֹא קִיַּיְמָת מִצְוֹת סוּפָה מִיַּמִּיךָ. לְלַמְדָּךְ,
 שְׁכָל הַמְּשָׁפִיל עֲצָמוֹ הַקְּדוֹשׁ בְּרוּךְ הוּא מַגְבִּיהוּ, וְכָל הַמַּגְבִּיָּה עֲצָמוֹ הַקְּדוֹשׁ
 בְּרוּךְ הוּא מְשַׁפִּילוֹ. כָּל הַמְּחַזֵּר עַל הַגְּדוּלָּה – גְּדוּלָּה בּוֹרַחַת מִמֶּנּוּ, וְכָל
 הַבוֹרַח מִן הַגְּדוּלָּה – גְּדוּלָּה מְחַזֵּרֶת אַחֲרָיו. וְכָל הַדּוֹחֵק אֶת הַשְּׁעָה – שְׁעָה
 15 דּוֹחֶקְתּוֹ, וְכָל הַנִּדְחָה מִפְּנֵי שְׁעָה – שְׁעָה עוֹמְדַת לוֹ. תָּנוּ רַבָּנָן: שְׁתֵּי שָׁנִים
 וּמִחֻצָּה נִחְלָקוּ בֵּית שְׁמַאי וּבֵית הַלֵּל, הֵלְלוּ אוֹמְרִים: נוּחַ לוֹ לְאָדָם שְׁלֹא
 נִבְרָא יוֹתֵר מִשְׁנִבְרָא, וְהֵלְלוּ אוֹמְרִים: נוּחַ לוֹ לְאָדָם שֶׁנִּבְרָא יוֹתֵר מִשְׁלֹא
 נִבְרָא. נִמְנוּ וְגִמְרוּ: נוּחַ לוֹ לְאָדָם שְׁלֹא נִבְרָא יוֹתֵר מִשְׁנִבְרָא, עֲכָשִׁי שֶׁנִּבְרָא
 – יִפְשֵׁשׁ בְּמַעֲשָׂיו. וְאָמְרֵי לָהּ: יִמְשָׁמֵשׁ בְּמַעֲשָׂיו.

Text 4.

Rambam, Mishneh Torah, Hilchot Mamrim 1:3-4

3. So far as traditional laws are concerned, there never was any controversy.
 If there was any, we may be sure that the tradition does not date back to
 10 Moses our Teacher. As for rules derived by means of hermeneutical
 principles, if they received the sanction of all the members of the Great
 Sanhedrin, they were binding. If there was a difference of opinion among
 them, the Great Sanhedrin followed the majority, and decided the law in
 accordance with their opinion. This principle obtained also with respect to
 15 decrees, ordinances, and customs. If some felt that there was need for
 instituting a decree, for enacting an ordinance, or for discontinuing a
 practice, and others were of the opinion that there was no reason for the
 (new) decree or ordinance, or for the abandonment of the practice, they
 discussed the matter, followed the majority opinion, and acted accordingly.
 20 4 So long as the Great Sanhedrin was in existence, there were no
 controversies in Israel. Whoever was in doubt with regard to a point of law

consulted the local court. If the members thereof knew the law, they stated it; otherwise, the questioner together with the members of that court or their deputies went up to Jerusalem and submitted the question to the court that sat at the entrance of the Temple Mount. If the members thereof knew the answer, they stated it; otherwise, they all went to the court meeting at the entrance of the Court. If the members thereof knew the law, they stated it; otherwise, they all proceeded to the Hall of Hewn Stones, the seat of the Great Sanhedrin, and put the question to that body. If the law concerning which they were all in doubt was known to the Great Sanhedrin, either from tradition or from the application of one of the principles by which Scripture is expounded, they stated it forthwith. If they were not certain of the law, they considered the question at the time when it was submitted to them, discussed it until they either reached a unanimous decision or put it to a vote and decided in accordance with the majority opinion, saying to the questioners, "This is the law," and the latter departed.

After the Great Sanhedrin ceased to exist, disputes multiplied in Israel: one declaring "unclean," giving a reason for his ruling; another declaring "clean," giving a reason for his ruling; one forbidding, the other permitting.

[Translation by Isadore Twersky, *A Maimonides Reader*, Behrman House, 1989. pp. 208-209]

רמב"ם הלכות ממרים, פרק א הלכה ג-ד

ג דבריו קבלה אין בהן מחלוקת לעולם וכל דבר שתמצא בו מחלוקת בידוע שאינו קבלה ממששה רבינו. ודברים שלמדין מן הדין אם הסכימו עליהם בית דין הגדול כלם הרי הסכימו; ואם נחלקו בהם – הולכין אחר הרב ומוציאין הדין אחר הרבים. וכן הגזרות והתקנות והמנהגות אם ראו מקצתן שראוי לגזור גזרה או לתקן תקנה או שיניחו העם המנהג הזה, וראו מקצתן שאין ראוי לגזור גזרה זו ולא לתקן תקנה זו ולא להניח מנהג

זה – נושאין ונותנין אלו כנגד אלו והולכין אחר רבן ומוציאין הדבר אחר הרבים.

- 10 דבשהיה בית דין הגדול קים לא היתה מחלוקת בישראל, אלא כל דין שנולד בו ספק לאחד מישראל שואל לבית דין שבעירו. אם ידעו – אמרו לו; אם לאו – הרי השואל עם אותו בית דין או עם שלוחיו עולין לירושלים ושואלין לבית דין שבהר הבית. אם ידעו – אמרו לו; אם לאו –
- הכל באין לבית דין שעל פתח העזרה. אם ידעו – אמרו להם; ואם לאו – הכל באין ללשפת הגזית לבית דין הגדול ושואלין. אם היה הדבר שנולד בו הספק לכל ידוע אצל בית דין הגדול בין מפי הקבלה בין מפי המדה שדנו בה – אומרים מיד; אם לא היה הדבר ברור אצל בית דין הגדול – דנין בו בשעתן ונושאין ונותנין בדבר עד שייסבימו כלם, או יעמדו למנין וילכו אחר הרב ויאמרו לכל השואלים: כך הלכה, והולכין להם. משפטל בית דין הגדול רבתה מחלוקת בישראל: זה מטמא ונותן טעם לדבריו וזה מטמא ונותן טעם לדבריו, זה אוסר וזה מתיר.
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Text 5 –

Sefer Hakabalah, Avraham ben David (Ravad), p. 47:

- This is the order of the receiving of the tradition as it is to be taught to students: All of the words of our rabbis, of blessed memory, the wise ones of the Mishna and the Talmud...Rosh Yeshiva and his assistant from the mouth of Rosh Yeshiva, from the mouth of Rosh Yeshiva and his assistant,
- 5 all the way back to the members of the Great Assembly, who received from the prophets, of blessed memory. And at all times, the *chachamim* of the Talmud and the *chachamim* of the Mishna never expressed even the tiniest teaching of their own, except for decrees that they made with unanimous approval in order to make a fence around the Torah. And if a person who
- 10 has a spirit of heresy dares to say that since they disputed in so many places,

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therefore I doubt the validity of their words, you should blunt his teeth and inform him that he is a rebel according to Beit Din. For the sages of blessed memory never disputed the essence of any mitzvah, but only its applications, because they did not apprentice sufficiently. For instance, they never disputed if one is to light Shabbat candles or not. About what did they disagree? As to what can or cannot be used when lighting the candles. And similarly, they never disputed if we are obligated to recite the Shema in the evening and in the morning or not. About what did they disagree? Regarding the time when one can commence to say the Shema in the evening, and the time when one can commence to say the Shema in the morning, and so it is with all of their teachings.

ספר הקבלה לראב"ד, עמ' 47

זה סדר הקבלה בתבונהו להודיע לתלמידים, כי כל דברי רבותינו ז"ל חכמי המשנה והתלמוד כולם מקובלים, חכם גדול וצדיק, ראש ישיבה וסיעתו מפי ראש ישיבה מפי ראש ישיבה וסיעתו, עד אנשי כנסת הגדולה שקבלו מהנביאים זכר כולם לברכה. ולעולם חכמי התלמוד, וכל שכן חכמי המשנה, אפילו דבר קטן לא אמרו מלבם חוץ מן התקנות שתקנו בהסכמת כולם כדי לעשות סייג לתורה. ואם לחשך אדם שיש בו ריח מינות לומר מפני שנחלקו בכמה מקומות לפיכך אני מסופק בדבריהם, אף אתה הקהה את שניו והודיעהו שהוא ממרה על פי בית דין, ושלא נחלקו רז"ל לעולם בעיקר מצוה אלא בתולדותיה, ששמעו עיקרה מרבותיהם ולא שאלום על תולדותיה מפני שלא שמשו כל צרכן. כיוצא בדבר לא נחלקו אם מדליקין נר בשבת אם לא. ועל מה נחלקו? במה מדליקין ובמה אין מדליקין. וכן לא נחלקו אם אנו חייבין לקרוא קריאת שמע ערבית ושחרית אם לא. על מה נחלקו? מאימתי קורין את שמע בערבית ומאימתי קורין את שמע בשחרית, וכן בכל דבריהם.

Text 6

Aruch HaShulchan, Yehiel Epstein (1835-1905), Introduction:

Every dispute between tanaim or amoraim or gaonim or decisors of halacha comes in order to provide for a rich understanding of the issue; they are the words of a living God, and they all have a place within halacha. And actually, this is the glory of our holy and pure Torah; the whole of Torah is called a song, and the song is in its glory when the voices are different from one another. And this is the essence of its desirability. One who wanders into the sea of Talmud will take note of a variety of pleasures in the presence of multiple voices, different one from the other.

ערוך השולחן, חושן משפט, הקדמה

וכל מחלוקת התנאים והאמוראים והגאונים והפוסקים, באת למבין דבר לאשורו, דברי אלהים חיים המה, ולכולם יש פנים בהלכה. ואדרבא, זוהי תפארת תורתנו הקדושה והטהורה וכל התורה כולה נקראת לשירה, ותפארת השיר היא כשהקולות משונים זה מזה. וזהו עיקר הנעימות. ומי שמשוטט בים התלמוד יראה נעימות משונות בכל הקולות המשונות זה מזה.

LESSON PLAN #5A - MAHKLOKET

I. Dictionary work (skill): examining the root of the word 'Mahloket':

Students are to divide into chevruta groups and examine the word (root: H-L-K) as it is defined in the Jastrow Dictionary [Jastrow Dictionary on MAHLOKET (Definitions, p. 473)]

Students should discuss the various definitions given: (1) "to be smooth, viscous" (2) "to divide, to part" (3) "to differ with, object, oppose" (4) "divided, interrupted, disputed, of different opinion"

Questions to address in chevruta groups include:

- ✳ What do each of these definitions teach us about the concept of *Mahloket*?
- ✳ How are these definitions related to one another? Try to understand the *peshat* (basic/simple) meaning of '*mahloket*' in each of these contexts.
- ✳ How might these definitions relate, individually and in unison, to the concept of "Sacred Arguing"?
- ✳ How does one understand these definitions of H-L-K and MAHLOKET in relation to the ethical principles of Sacred Arguing?
- ✳ What makes an argument sacred?

Teacher may point out that metaphorically speaking, the sea/ocean as likened to the Talmud, might be a nice way to connect 'arguing' to the first definition given above – that is, like sharp glass that is thrown into the sea/ocean and smoothed out as it is tumbled around by all the waves, so too is one's opinion 'smoothed out' when thrown into the sea of Sacred Arguing.

II. Read and discuss the mishna from Tractate Avot and Selection from Eirubin in reference to the concept of a Mahloket I'shem Shamayim.

III. Various concepts

Go into further elaboration of the various concepts of *mahloket*.

- ✳ How did it begin?
- ✳ Is *mahloket* inherently built into the talmudic dialectic?
- ✳ Was it a result of 'forgetting' Torah?
- ✳ Is *mahloket* something to avoid? Is it something to cultivate, and, if so, how?
- ✳ What do we learn about the concept at this point – and moreover, what are the principles and ethics that surround disputes and disagreements which are understood to be arguments 'for the sake of heaven'?

IV. The Negative Side

Move the discussion away from the positive side of *mahloket* (as a force for change and creativity), and spend some time on the negative potential of *mahloket* (divisiveness and division), where the assumption is that if pure Revelation had been transmitted from one generation to the next without mistakes, there would be no *mahloket* in the text or in life.

V. Rambam's opinion

Discuss the opinion cited by Rambam in Mishneh Torah, that *mahloket* was never a part of Sinai Revelation. Rather, due to human weakness, forgetfulness (of a teacher's teaching) of Torah, and a senseless kind of arguing for the sake of disagreement, later generations inherited the unfortunate reality of *mahloket*.

- ✳ What does it mean to view the *mahloket* as a sign of human weakness?

VI. Ravad

The Ravad takes the position that one must be wary of those who misunderstand the nature of dispute among the sages. The sages do not dispute the "essence" of any mitzvah, but rather only the "applications." And this, he states, is the result of insufficient apprenticing.

- ✳ What are the strengths and the weaknesses of this position? How does this definition of *mahloket* differ from what is implied in the last text, from the Mishneh torah?

VII. Aruch HaShulchan –

How does Epstein differ radically from the Ravad in terms of his understanding of and relationship to *mahloket*? How can all sides of the dispute “have a place within the halacha?”

VIII. Conclusion

Conclude the session with a class discussion on the possible merits of *Mahlokot* as part of Jewish tradition and life within our own Jewish communities:

- ✳ In what other circumstances could *mahlokot* enhance committee meetings and/or retreats?
- ✳ In which settings and contexts does Sacred Arguing feel most organic and comfortable?
- ✳ In which settings (or at what times) does it feel most hurtful, awkward, and uncomfortable?
- ✳ At what points and places in synagogue/communal life do we most encourage Sacred Arguing?
- ✳ At what points and places do we merely tolerate it? Stop or end it? Do not tolerate it at all?

LESSON #5B: DEALING WITH MAHKLOKET

TEXTS AND WORKSHEET

Text 1.

Talmud Bavli, Baba Metzia 59b

And this was the oven of 'Aknai. Why [the oven of] 'Aknai? — Said Rab Judah in Samuel's name: [It means] that they encompassed it with arguments as a snake, and proved it unclean. It has been taught: On that day R. Eliezer brought forward every imaginable argument, but they did not
5 accept them. Said he to them: 'If the halachah agrees with me, let this carob-tree prove it!' Thereupon the carob-tree was torn a hundred cubits out of its place — others affirm, four hundred cubits. 'No proof can be brought from a carob-tree,' they retorted. Again he said to them: 'If the halachah agrees with me, let the stream of water prove it!' Whereupon the stream of water
10 flowed backwards — 'No proof can be brought from a stream of water,' they rejoined. Again he urged: 'If the halachah agrees with me, let the walls of the schoolhouse prove it,' whereupon the walls inclined to fall. But R. Joshua rebuked them, saying: 'When scholars are engaged in a halachic dispute, what have ye to interfere?' Hence they did not fall, in honour of R. Joshua, nor did they resume the upright, in honour of R. Eliezer; and they
15 are still standing thus inclined. Again he said to them: 'If the halachah agrees with me, let it be proved from Heaven!' Whereupon a Heavenly Voice cried out: 'Why do ye dispute with R. Eliezer, seeing that in all matters the halachah agrees with him!' But R. Joshua arose and exclaimed:
20 'It is not in heaven.' What did he mean by this? — Said R. Jeremiah: That the Torah had already been given at Mount Sinai; we pay no attention to a Heavenly Voice, because Thou hast long since written in the Torah at Mount Sinai, After the majority must one incline.

25 R. Nathan met Elijah and asked him: What did the Holy One, Blessed be He, do in that hour? — He laughed [with joy], he replied, saying, 'My sons have defeated Me, My sons have defeated Me.'

תלמוד בבלי מסכת בבא מציעא דף נט עמוד ב

וְזֶה הוּא תַנּוּר שֶׁל עֶכְנָאִי. מַאי עֶכְנָאִי? – אָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל:
שֶׁהִקִּיפוּ דְבָרִים כְּעֶכְנָא זֶה, וְטַמְאוּהוּ. תַּנָּא: בְּאוֹתוֹ הַיּוֹם הִשִּׁיב רַבִּי אֱלִיעֶזֶר
כָּל תְּשׁוּבוֹת שְׁבַעוֹלָם וְלֹא קִיבְלוּ הֵימָנוּ. אָמַר לָהֶם: אִם הִלְכָה כְּמוֹתִי –
חָרוֹב זֶה יוֹכִיחַ. נֶעְקַר חָרוֹב מִמְּקוֹמוֹ מֵאֲדָה אֲמָה, וְאָמַר לָהּ: אֲרַבַּע מֵאוֹת
5 אֲמָה. אָמְרוּ לוֹ: אֵין מְבִיאִין רְאִיָּה מִן הַחָרוֹב. חֲזַר וְאָמַר לָהֶם: אִם הִלְכָה
כְּמוֹתִי – אֲמַת הַמַּיִם יוֹכִיחוּ. חֲזַרוּ אֲמַת הַמַּיִם לְאַחֲרֵיהֶם. אָמְרוּ לוֹ: אֵין
מְבִיאִין רְאִיָּה מֵאֲמַת הַמַּיִם. חֲזַר וְאָמַר לָהֶם: אִם הִלְכָה כְּמוֹתִי – כּוֹתְלֵי
בֵּית הַמְּדֻרָשׁ יוֹכִיחוּ. הֵטוּ כּוֹתְלֵי בֵּית הַמְּדֻרָשׁ לִיפּוֹל. גָּעַר בָּהֶם רַבִּי יְהוֹשֻׁעַ,
אָמַר לָהֶם: אִם תְּלַמִּידֵי חֲכָמִים מְנַצְּחִים זֶה אֶת זֶה בְּהִלְכָה – אַתֶּם מָה
10 טִיבְכֶם? לֹא נָפְלוּ מִפְּנֵי כְבוֹדוֹ שֶׁל רַבִּי יְהוֹשֻׁעַ, וְלֹא זָקְפוּ מִפְּנֵי כְבוֹדוֹ שֶׁל
רַבִּי אֱלִיעֶזֶר, וְעַדִּין מִטֵּיִן וְעוֹמְדִין. חֲזַר וְאָמַר לָהֶם: אִם הִלְכָה כְּמוֹתִי – מִן
הַשָּׁמַיִם יוֹכִיחוּ. יִצְאָתָהּ בַּת קוֹל וְאָמְרָה: מָה לָכֶם אֶצֶל רַבִּי אֱלִיעֶזֶר
שֶׁהִלְכָה כְּמוֹתוֹ בְּכָל מְקוֹם! עָמַד רַבִּי יְהוֹשֻׁעַ עַל רִגְלָיו וְאָמַר: לֹא בְּשָׁמַיִם
הִיא. – מַאי (דְּבָרִים ל') "לֹא בְּשָׁמַיִם הִיא"? – אָמַר רַבִּי יְרֵמְיָהּ: שֶׁכָּבֵר נִתְּנָה
15 תּוֹרָה מִהַר סִינַי, אֵין אָנוּ מְשַׁגְּיחִין בְּבַת קוֹל, שֶׁכָּבֵר כְּתַבְתָּ בְּהַר סִינַי
בְּתוֹרָה (שְׁמוֹת כ"ג) "אַחֲרַי רַבִּים לְהִטָּה". – אֲשַׁכְּחִיהָ רַבִּי נִתָּן לְאַלְהֵינוּ,
אָמַר לִיָּהּ: מַאי עֶבֶיד קוֹדֵשׁא בְּרִיךְ הוּא בְּהִיא שְׁעֵתָא? – אָמַר לִיָּהּ: קַא
חֲיִיךְ וְאָמַר "נִצְחוֹנֵי בְּנֵי, נִצְחוֹנֵי בְּנֵי".

Text 2 - (Rabban Gamliel)

Mishna Rosh HaShanah 2:8-9

Mishnah 8:

R. Gamaliel used to have a diagram of phases of the moon on a tablet [hung] on the wall of his upper chamber, and he used to show them to the unlearned and say, did it look like this or this?

Mishnah 9:

Rabban Gamaliel sent to him to say, I enjoin upon you to appear before me with your staff and your money on the day which according to your reckoning should be the Day of Atonement. R. Akiba went [to R. Joshua] and found him in great distress. He said to him: I can bring proof [from the

5 scripture] that whatever Rabban Gamaliel has done is valid, because it says, these are the appointed seasons of the lord, holy convocations, which ye shall proclaim in their appointed seasons, [which means to say that] whether they are proclaimed at their proper time or not at their proper time, I have no appointed seasons save these. He [R. Joshua] then went to R. Dosa b.

10 Harkinas, who said to him: if we call in question [the decisions of] the beth din of Rabban Gamaliel, we must call in question the decisions of every beth din which has existed since the days of Moses up to the present time. For it says, then went up Moses and Aaron, Nadab and Abihu and seventy of the elders of Israel. Why were not the names of the elders mentioned? To

15 show that every group of three which has acted as a beth din over Israel is on a level with the beth din of Moses. He [R. Joshua] thereupon took his staff and his money and went to jabneh to rabban gamaliel on the day on which the Day of Atonement fell according to his reckoning. Rabban Gamaliel rose and kissed him on his head and said to him: come in peace,

20 my teacher and my disciple — my teacher in wisdom and my disciple because you have accepted my decision.

משנה מסכת ראש השנה פרק ב משנה ח

דמות צורות לבנה היו לו לרבן גמליאל בטבלא ובכותל בעלייתו שבהן
מראה את ההדיוטות ואומר: הכזה ראית או כזה? מעשה שבאו שנים
ואמרו: ראינוהו שחרית במזרח וערבית במערב. אמר רבי יוחנן בן נורי:
עדי שקר הם. כשבאו ליבנה קיבלן רבן גמליאל ועוד באו שנים ואמרו:
5 ראינוהו בזמנו, ובילל עיבורו לא נראה, וקיבלן רבן גמליאל. אמר רבי
דוסא בן הורפינס: עדי שקר הן; היאך מעידים על האשה שילדה, ולמחר
כריסה בין שיניה? אמר לו רבי יהושע: רואה אני את דבריך.

משנה מסכת ראש השנה פרק ב משנה ט

שלח לו רבן גמליאל: גזרני עליך שתבא אצלי במקלך ובמעוטיך ביום
הכפורים שחל להיות בחשבונך. הלך ומצאו רבי עקיבא מיצר. אמר לו:
יש לי ללמוד שכל מה שעשה רבן גמליאל עשוי, שנאמר (ויקרא כ"ג)
"אלה מועדי ה' מקראי קדש אשר תקראו אתם" – בין בזמן בין שלא
5 בזמן, אין לי מועדות אלא אלו. בא לו אצל רבי דוסא בן הורפינס. אמר
לו: אם באין אנו לדון אחר בית דינו של רבן גמליאל – צריכין אנו לדון
אחר כל בית דין ובית דין שעמד מימות משה ועד עכשיו, שנאמר (שמות
כ"ד) "ויעל משה ואהרן נדב ואביהוא ושבעים מזקני ישראל", ולמה לא
נתפרשו שמותן של זקנים – אלא ללמד שכל שלשה ושלשה שעמדו בית
10 דין על ישראל הרי הוא כבית דינו של משה. נטל מקלו ומעוטי בידו
והלך ליבנה אצל רבן גמליאל ביום שחל יום הכפורים להיות בחשבונו.
עמד רבן גמליאל ונשקו על ראשו. אמר לו: בוא בשלום רבי ותלמידי! רבי
– בחכמה, ותלמידי – שקבלת את דברי.

Text 3 – (Rabbi Joshua)

Talmud Bavli Rosh HaShanah 25a-b

R. AKIBA WENT AND FOUND HIM IN GREAT DISTRESS. The question was asked, Who was in distress? Was R. Akiba in distress or was R. Joshua in distress? — Come and hear, since it has been taught: ‘R. Akiba went and found R. Joshua while he was in great distress. He said to him,
5 Master, why are you in distress? He replied: Akiba, it were better for a man to be on a sick-bed for twelve months than that such an injunction should be laid on him. He said to him, [Master,] will you allow me to tell you something which you yourself have taught me? He said to him, Speak. He then said to him: The text says, ‘you’, ‘you’, ‘you’, three times, to indicate
10 that ‘you’ [may fix the festivals] even if you err inadvertently, ‘you’, even if you err deliberately, ‘you’, even if you are misled. He replied to him in these words: ‘Akiba, you have comforted me, you have comforted me’.

HE TOOK HIS STAFF AND HIS MONEY IN HIS HAND. Our Rabbis
15 taught: When he [Rabban Gamaliel] saw him, he rose from his seat and kissed him on his head, saying, Peace to thee my teacher and my disciple — my teacher, because thou hast taught me Torah publicly, my disciple because I lay an injunction on thee and thou dost carry it out like a disciple. Happy is the generation in which the greater defer to the lesser, and all the
20 more so the lesser to the greater! [You say] ‘All the more so’! It is their duty! — What it means is that because the greater defer to the lesser, the lesser apply the lesson to themselves with all the more force.

תלמוד בבלי מסכת ראש השנה דף כה עמוד א-ב
”הלך רבי עקיבא (ומצאו) +מסורת הש”ס: [מצאו ר”ע] מיצר כו””. איבעיא
להו: מי מיצר? רבי עקיבא מיצר, או רבי יהושע מיצר? תא שמע, דתנא:
הלך רבי עקיבא ומצאו לרבי יהושע כשהוא מיצר, אמר לו: [רבי,] מפני

5 מִה אֶתָּה מֵיִצְרָא? אָמַר לוֹ: (רַבִּי) עֵקִיבָא, רָאוי לוֹ שִׁיפּוּל לְמִטָּה; שְׁנַיִם עָשָׂר
 חֲדָשׁ וְאֵל יִגְזוֹר עָלָיו גְּזִירָה זֹאת. אָמַר לוֹ: רַבִּי, תְּרִשִׁינִי לֹאמַר לְפָנֶיךָ דְּבַר אֶחָד
 שְׁלֹמֶדְתָּנִי. – אָמַר לוֹ: אָמֹר. – אָמַר לוֹ: הֲרִי הוּא אוֹמֵר (ויקרא כ') "אַתֶּם",
 (ויקרא כג: ב') "אַתֶּם", (ויקרא כג: ד') "אַתֶּם", שְׁלֹשׁ פְּעָמִים, "אַתֶּם" –
 אָפִילוֹ שׁוֹגְגִין, "אַתֶּם" – אָפִילוֹ מְזִידִין, "אַתֶּם" – אָפִילוֹ מוֹטְעִין. בְּלִשׁוֹן הַזֶּה
 אָמַר לוֹ: עֵקִיבָא, נַחֲמָתָנִי, נַחֲמָתָנִי.
 10
 "נִטְלָ מִקְלוֹ וּמַעוֹתָיו בְּיָדוֹ". תָּנוּ רַבָּנָן: בֵּינָן שָׂרָאָה אוֹתוֹ עֵמֵד מִכֶּסֶּאָו, וְנִשְׁקוּ
 עַל רֵאשׁוֹ. אָמַר לוֹ: שְׁלוֹם עָלֶיךָ רַבִּי וְתִלְמִידֵי רַבִּי – שְׁלֹמֶדְתָּנִי תוֹרָה
 בְּרַבִּים, וְתִלְמִידֵי – שְׂאֵנֵי גוֹזֵר עָלֶיךָ גְּזִירָה וְאַתָּה מְקַיֶּימָה בְּתִלְמִיד. אֲשֶׁרִי
 הַדּוֹר שֶׁהַגְּדוֹלִים נִשְׁמָעִים לְקִטְנִים, קָל וְחוֹמֵר קִטְנִים לְגְדוֹלִים. – קָל וְחוֹמֵר?
 15 חִיּוּבָא הוּא! – אֵלָּא: מִתּוֹךְ שֶׁהַגְּדוֹלִים נִשְׁמָעִים לְקִטְנִים – נוֹשְׂאִין קִטְנִים קָל
 וְחוֹמֵר בְּעֵצְמָן.

Text 4 – (final section–Rabbi Eliezer)

Talmud Bavli Baba Metzia 59b

It was said: On that day all objects which R. Eliezer had declared clean were
 brought and burnt in fire. Then they took a vote and excommunicated him.
 Said they, 'Who shall go and inform him?' 'I will go,' answered R. Akiba,
 'lest an unsuitable person go and inform him, and thus destroy the whole
 5 world.' What did R. Akiba do? He donned black garments and wrapped
 himself in black, and sat at a distance of four cubits from him. 'Akiba,' said
 R. Eliezer to him, 'what has particularly happened to-day?' 'Master,' he
 replied, 'it appears to me that thy companions hold aloof from thee.'
 Thereupon he too rent his garments, put off his shoes, removed [his seat]
 10 and sat on the earth, whilst tears streamed from his eyes. The world was
 then smitten: a third of the olive crop, a third of the wheat, and a third of the
 barley crop. Some say, the dough in women's hands swelled up.

A Tanna taught: Great was the calamity that befell that day, for everything at which R. Eliezer cast his eyes was burned up. R. Gamaliel too was
15 □ itzvoth□ in a ship, when a huge wave arose to drown him. 'It appears to me,' he reflected, 'that this is on account of none other but R. Eliezer b. Hyrcanus.' Thereupon he arose and exclaimed, 'Sovereign of the Universe! Thou knowest full well that I have not acted for my honour, nor for the honour of my paternal house, but for Thine, so that strife may not multiply
20 in Israel! 'At that the raging sea subsided.

Ima Shalom was R. Eliezer's wife, and sister to R. Gamaliel. From the time of this incident onwards she did not permit him to fall upon his face. Now a certain day happened to be New Moon, but she mistook a full month for a
25 defective one. Others say, a poor man came and stood at the door, and she took out some bread to him. [On her return] she found him fallen on his face. 'Arise,' she cried out to him, 'thou hast slain my brother.' In the meanwhile an announcement was made from the house of Rabban Gamaliel that he had died. 'Whence dost thou know it?' he questioned her. 'I have
30 this tradition from my father's house: All gates are locked, excepting the gates of wounded feelings.'

תלמוד בבלי מסכת בבא מציעא דף נט עמוד ב

אותו היום הביאו כל טהרות שטיהר רבי אליעזר ושׁרפום באש, ונמנו עליו וברכוהו. ואמרו: מי ילך ויודיעו? – אמר להם רבי עקיבא: אני אלך, שזמא ילך אדם שאינו הגון ויודיעו, ונמצא מחריב את כל העולם כולו. מה עשה רבי עקיבא? לבש שחורים, ונתעטף שחורים, וישב לפניו בריחוק ארבע אמות. – אמר לו רבי אליעזר: עקיבא, מה יום מיומים? – אמר לו:
5 רבי, כמדומה לי שחבירים בדילים ממך. – אף הוא קרע בגדיו וחלץ מנעליו, ונשׁמט וישב על גבי קרקע. זלגו עיניו דמעות, לקה העולם שלישי

בְּיָתֵיכֶם, וְשִׁלִּישׁ בְּחֻטִּים, וְשִׁלִּישׁ בְּשַׁעוּרִים. וַיֵּשׁ אֹמְרִים: אִם בְּצֶק שְׁבִידֵי
 אִשָּׁה טָפַח. תֵּנָא: אַךְ גְּדוּל הָיָה בְּאוֹתוֹ הַיּוֹם, שְׁבָכְל מְקוּם שְׁנַתָּן בּוּ עֵינָיו
 10 רַבִּי אֱלִיעֶזֶר נִשְׂרַף. וְאִם רַבֵּן גַּמְלִיאֵל הָיָה בָּא בְּסַפִּינָה, עָמַד עָלָיו נְחֹשׁוּל
 לְטַבְּעוֹ. אָמַר: כְּמַדּוּמָה לִי שְׂאִין זֶה אֶלָּא בְּשִׁבִיל רַבִּי אֱלִיעֶזֶר בֶּן הוֹרְקָנוֹס.
 עָמַד עַל רִגְלָיו וְאָמַר: רַבּוֹנוֹ שֶׁל עוֹלָם, גְּלוּי וַיְדוּעַ לְפָנֶיךָ שְׂלָא לְכַבּוּדֵי
 עֲשִׂיתִי, וְלֹא לְכַבּוּד בֵּית אָבִיא עֲשִׂיתִי, אֶלָּא לְכַבּוּדְךָ, שְׂלָא יִרְבוּ מַחְלוּקוֹת
 בְּיִשְׂרָאֵל. נַח הַיָּם מוֹעֵפּוֹ. – אֵימָא שְׁלוֹם דְּבֵיתְהוּ דְּרַבִּי אֱלִיעֶזֶר אַחֲתֵיהּ דְּרַבֵּן
 15 גַּמְלִיאֵל הוּאֵי. מַהֲהוּא מַעֲשָׂה וְאֵילָךְ לָא הוּוּהּ: שְׁבָקָה לֵיהּ לְרַבִּי אֱלִיעֶזֶר
 לְמִיפַל עַל אַפִּיָּהּ. הֵהוּא יוֹמָא רִישׁ יִרְחָא הוּוּהּ, וְאֵיחְלַף לָהּ בֵּין מְלֵא לְחָסֵר.
 אֵיבָא דְאָמְרֵי: אַתָּא עֲנִיא וְקֵאֵי אַבְבָּא, אַפִּיקָא לֵיהּ רִיפְתָּא. אֲשַׁכְחַתִּיהּ
 דְּנָפַל עַל אַנְפִּיָּהּ, אָמְרָה לֵיהּ: קוּם, קְטַלִּית לְאַחֵי. אֲדַהֲכִי נֶפֶק שִׁיפוּרָא
 מִבֵּית רַבֵּן גַּמְלִיאֵל דְּשָׁכִיב. אָמַר לָהּ: מָנָא יַדְעַתָּ? אָמְרָה לֵיהּ: כִּךְ מְקוּבְלָנִי
 20 מִבֵּית אָבִי אַבְבָּא: כָּל הַשְּׁעָרִים נִנְעָלִים חוּץ מִשְׁעָרֵי אוֹנְאָה.

Text 5 – (Rabbi Joshua and Rabban Gamliel)

Talmud Bavli Tractate Berachot 27b

THE EVENING PRAYER HAS NO FIXED LIMIT. What is the meaning
 of HAS NO FIXED LIMIT? Shall I say it means that if a man wants he can
 say the Tefillah any time in the night? Then let it state, ‘The time for the
 evening Tefillah is the ‘whole night’! — But what in fact is the meaning of
 5 HAS NO FIXED LIMIT? It is equivalent to saying, The evening Tefillah is
 optional. For Rab Judah said in the name of Samuel: With regard to the
 evening Tefillah, Rabban Gamaliel says it is compulsory, whereas R. Joshua
 says it is optional. Abaye says: The halachah is as stated by the one who
 says it is compulsory; Raba says the halachah follows the one who says it is
 10 optional.

It is related that a certain disciple came before R. Joshua and asked him, Is the evening Tefillah compulsory or optional? He replied: It is optional. He then presented himself before Rabban Gamaliel and asked him: Is the evening Tefillah compulsory or optional? He replied: It is compulsory. But, he said, did not R. Joshua tell me that it is optional? He said: Wait till the champions enter the Beth ha-Midrash. When the champions came in, someone rose and inquired, Is the evening Tefillah compulsory or optional? Rabban Gamaliel replied: It is compulsory. Said Rabban Gamaliel to the Sages: Is there anyone who disputes this? R. Joshua replied to him: No. He said to him: Did they not report you to me as saying that it is optional? He then went on: Joshua, stand up and let them testify against you! R. Joshua stood up and said: Were I alive and he [the witness] dead, the living could contradict the dead. But now that he is alive and I am alive, how can the living contradict the living? Rabban Gamaliel remained sitting and expounding and R. Joshua remained standing, until all the people there began to shout and say to Huzpith the turgeman [translator], Stop! And he stopped. They then said: How long is he [Rabban Gamaliel] to go on insulting him [R. Joshua]? On New Year last year he insulted him; he insulted him in the matter of the firstborn in the affair of R. Zadok; now he insults him again! Come, let us depose him! Whom shall we appoint instead? We can hardly appoint R. Joshua, because he is one of the parties involved. We can hardly appoint R. Akiba because perhaps Rabban Gamaliel will bring a curse on him because he has no ancestral merit. Let us then appoint R. Eleazar b. Azariah, who is wise and rich and the tenth in descent from Ezra. He is wise, so that if anyone puts a question to him he will be able to answer it. He is rich, so that if occasion arises for paying court to Caesar he will be able to do so. He is tenth in descent from Ezra, so that he has ancestral merit and he [Rabban Gamaliel] cannot bring a curse on him.

תלמוד בבלי מסכת ברכות, דף כז, עמוד ב

"תפלת הערב אין לה קבע". מאי 'אין לה קבע'? אילימא דאי בעי מצלי כוליה ליליא – ליתני תפלת הערב כל הלילה! אלא מאי 'אין לה קבע'? כמאן דאמר: תפלת ערבית רשות. דאמר רב יהודה אמר שמואל: תפלת ערבית, רבן גמליאל אומר: חובה, רבי יהו שיע אומר: רשות. אמר אביי: הלכה בדברי האומר חובה. ורבא אמר: הלכה בדברי האומר רשות.

5

תנו רבנן: מעשה בתלמיד אחד שבא לפני רבי יהושע, אמר לו: תפלת ערבית רשות או חובה? אמר ליה: רשות. בא לפני רבן גמליאל, אמר לו: תפלת ערבית רשות או חובה? אמר לו: חובה. אמר לו: והלא רבי יהושע אמר לי רשות! אמר לו: המתן עד שיכנסו בעלי תריסין לבית המדרש.

10

בשנכנסו בעלי תריסין, עמד השואל ושאל: תפלת ערבית רשות או חובה? אמר לו רבן גמליאל: חובה. אמר להם רבן גמליאל לחכמים: כלום יש אדם שחולק בדבר זה? אמר ליה רבי יהושע: לאו. אמר לו: והלא משמך אמרו לי רשות! אמר ליה: יהושע, עמוד על רגליך ויעידו בך! עמד רבי יהושע על רגליו ואמר: אלמלא אני חי והוא מת – יכול החי להכחיש את המת, ועכשיו שאני חי והוא חי – היאך יכול החי להכחיש את החי? היה רבן גמליאל יושב ודורש, ורבי יהושע עומד על רגליו, עד שרננו כל העם ואמרו לחוצפית התורגמן: עמוד! ועמד. — אמרי: עד כמה נצעריה

15

וניזיל? בראש השנה אשתקד צעריה, בבכורות במעשה דרבי צדוק צעריה, הכא נמי צעריה, תא ונעבריה! מאן נוקים ליה? נוקמיה לרבי יהושע? בעל מעשה הוא; נוקמיה לרבי עקיבא? דילמא עניש ליה, דלית ליה זכות אבות; אלא נוקמיה לרבי אלעזר בן עזריה, דהוא חכם והוא עשיר והוא עשירי לעזרא. הוא חכם – דאי מקשי ליה מפרק ליה, והוא עשיר – דאי אית ליה לפלוחי לבי קיסר אף הוא אול ופלח, והוא עשירי לעזרא – דאית ליה זכות אבות ולא מצי עניש ליה.

25

QUESTIONS FOR CHEVRUTA STUDY

Individual Tests of Mahloket:

Outline the issues of conflict/dispute for each of the three Rabbis:

Rabban Gamliel:

Rabbi Joshua:

Rabbi Eliezer:

How far does each of the Rabbis go to reach the boundary line of Sacred Arguing?
Who decides to cross it, when, and for what reasons?

What issues within your community/own life might mirror the various approaches to Mahloket? When have you acted like Rabban Gamliel, Rabbi Joshua, and/or Rabbi Eliezer?

Is it ever appropriate to break with one's community over a *mahloket*, and if so, when?

Who seems to have real power, and when? At what point do they then lose their power?

Which of the Rabbi's personalities seem to negotiate power struggles the best, and why?

What principles might we ourselves learn from these struggles, and with whom do we identify the most? What can we learn from these journeys to the margins?

How far are we willing to go (as individuals and community members) with debate/conflict? Is there a point at which the argument might no longer be sacred?

In order for Sacred Argument to work, must a community have each of these personalities – Rabban Gamliel, Rabbi Joshua, Rabbi Eliezer, Rabbi Akiva?

LESSON PLAN #5b – DEALING WITH MAHKLOKET

Reference material (Instructor/Students):

Rabbi Eliezer Berkovitz, It Is Not In Heaven!

Background material for Instructor on Rabban Gamliel, Rabbi Joshua, and Rabbi Eliezer found in Rabbi Adin Steinsaltz, Talmudic Images and/or Elie Wiesel, Sages and Dreamers

In chevruta groups, read the texts provided below and discuss the following questions: Instructor's choice of texts 1, 2, 3, 4 and/or 5. If all of the texts are to be used, each chevruta group can receive one text to work with, and then as a class, each group reports back their findings, adding to the layers of discussion.

Following a close reading and analysis of these texts in chevruta groups, you can ask the following specific questions:

- ✳ On what principles of Torah are predicated each of these teachings and understandings?
- ✳ What does it mean to "no longer listen to a *bat kol*?" (i.e. direct revelation)
- ✳ What implication does "It is not in Heaven" have for our own communities? And for the future?
- ✳ What do you think of the ending of the *sugiyah* where God seems to be delighted by his children? Why does God laugh?
- ✳ The Jerusalem Talmud version B.M 59b does not include this line. Which version do you prefer? Why?
- ✳ What role does the prophet Elijah seem to play in Sacred Arguing?
- ✳ What role do we ourselves play in Sacred Arguing?

Next, lead a discussion as to how the various principles of *mahloket* can be derived from each of these stories.

- ✳ How far does each of them go to reach the boundary line of Sacred Arguing? Who crosses it? When? Why?
- ✳ What issues in our own community might be likened to these approaches to *mahloket*?

Lesson 5: "It is not in Heaven!" Authority, Interpretation and Sacred Arguing

TALES FROM THE TALMUD

PAGE 65

- ✳ What issues within our own lives (self, family, friends, and community) mirror the various approaches to *mahloket*? When have we been a Rabban Gamliel? Rabbi Joshua? Rabbi Eliezer?
- ✳ Is it ever justified to break with one's community over *mahloket*, and if so, when?
- ✳ When have you served as a Rabbi Akiva emissary of connection and kindness?
- ✳ How might what we have learned from the Rabbis' choices and actions when faced with conflict and debate in text, serve as a guide for our own complicated and difficult decisions today?
- ✳ How can our Torah learning have an influence on the decision-making processes of our own community? Are there principles we can bring to the committees on which we serve that might improve and add respect to the ways we talk/debate with each other? In what ways could our Torah learning radically affect the life of a community beyond the classroom?

Include a discussion of Torah as **absolute truth** and/or as a **lived truth** for a generation; as a means of personalizing what Torah means to us today in our lives as Jews:

- ✳ What does it mean to have Sacred Literature as a guide for our lives?
- ✳ Does Torah ask anything of us, and if so, what?

Examine the interpreted traditions of Rabbi Joshua or Rabbi Eliezer's Torah.

- ✳ What kind of Torah do they stand for?
- ✳ With whom do you side in this debate?

Emphasize the importance of preserving minority and majority opinions.

- ✳ What does it mean to remain truly open to the possibility that we might eventually live out the current minority opinions at some time in the future?
- ✳ What new dimensions does this approach add to the issue of change and continuity as expressed within our own Jewish communities today?

BOARD POLICY

CONTROVERSIAL TOPICS

Within the Columbia Jewish Congregation

Sacred Arguing is a Jewish way of life allowing controversy to be seen as a means of coming closer to the sacred. Sacred Arguing requires the willingness to listen to differing points of view and to enter into healthy dialogue with people in our community.

I. The Clergy

- 1) The Board of Directors supports the clergy's free expression of views on the full range of topics.
- 2) The clergy will keep the Board of Directors informed about issues they anticipate may be controversial, as well as any plans they have to deal with controversial issues.
- 3) The clergy will use the Board of Directors, as they deem appropriate, for input and ideas about how best to handle controversial issues.

II. The Board of Directors

The congregation and the Board of Directors will view topics which cause controversies as opportunities for Jewish learning. The Board of Directors will recommend that the Adult Education Committee develop programming that will enable members to approach such issues from a knowledgeable Jewish perspective.

III. The Congregation

In order to maintain diversity, it is incumbent upon the members of the community to approach controversial issues with respect for differing points of view.

Approved at the
November 4, 2003
Board Meeting

Source:

‘Spiritual Practices for Mediation Challenges: Pragmatic Application from Five Major World Religious Traditions,’ Heidi M. Tauscher, May 2003—James Boskey Dispute Resolution Essay Competition

“...In stage two of the mediation process, the parties begin negotiation of their dispute in earnest. Party negotiations are carried out with the aid of the intermediary. Though the use of both joint sessions and private meetings (caucuses), the mediator works with the parties to understand the various perspectives on the dispute and to assist them in understanding their opponent’s viewpoint. Further, the mediation attempts to identify the various parties’ interests and priorities, as well as their preferred resolution for the conflict. Throughout the negotiation process, the mediator questions the parties and tests their resolve to better understand their positions and identify settlement options. When possible, the mediator brings the parties together to listen and share their different perceptions on the issues and ideas for resolution. During this phase, the mediator seeks to develop the parties’ awareness of the need for settlement options and to detach them from recalcitrant positions. Throughout stage two, the mediator’s challenge is to create an atmosphere of cooperation between the mediator and parties that fosters the openness, flexibility, interaction, and creativity necessary to identify options for dispute resolution (16).

As the mediator assists the parties with negotiations, there is the need to foster respect and trust. In Judaism, the concept of *mahloket* is helpful. *Mahloket* denotes constructive conflict of a type that honors both sides of the debate, as opposed to persistent disagreement. While mutual respect does not eliminate conflict, it does help to positively reformulate the character of the dispute. *Mahloket* allows for civility because it anticipates that friendship will survive the conflict (17). Through respect and optimistic anticipation of an amicable resolution, the mediator can set the stage for civility, honorable negotiation, earnest conciliation, and the peaceful resolution of the parties.

 (16) Moore, pp. 231, 244; Christopher Moore, The Mediation Process, Jossey-Bass 1996

(17) Gopin, pp. 127, 178; Marc Gopin, From Eden to Armageddon, Oxford Press 2000

TEXT 4: Likutei Moharan 64:4 (Rabbi Nachman of Bratslav, Ukraine 1772-1810)

וכן הוא בְּחִינַת הַמְּסֻלּוֹקוֹת, פִּי אֱלוֹהֵי קָל הַמְּלִמְדֵי־חֻכְמִים אֶחָד, לֹא הָיָה מְקוֹם לְבְרִיאַת הָעוֹלָם, רַק עַל יְדֵי הַמְּסַלְקוֹת שְׂבִינְיָהֶם, וְהֵם נִסְלָקִים זֶה מִזֶּה, וְכָל אֶחָד מוֹשֵׁף עֲצָמוֹ לְצַד אֶחָד, עַל יְדֵי זֶה נַעֲשֶׂה בִּינְיָהֶם בְּחִינּוֹת חֲלָל הַפְּנוּי, שֶׁהוּא בְּחִינּוֹת צְמֻצוֹם הָאוֹר לְצַדָּיו, שֶׁבּוֹ הוּא בְרִיאַת הָעוֹלָם עַל יְדֵי הַדְּבוּר פִּנ"ל

The same is true of the aspect of dispute. If all the Torah scholars were one, there would be no place for the world's creation. However, as a result of their dispute and their separating from one another, with each one withdrawing to a different side, the aspect of the Vacated Space is made between them. This is the aspect of the contraction of the Light to the sides, within which the world is created by means of the spoken word, as explained above.

TEXT 5: Rabbi Amy Eilberg, *From Enemy to Friend*, page 46

“For Martin Buber, what is most important about our lives is not what is contained within us, but what happens between us and other people in what he calls the sphere of ‘the between.’ It is in the ‘interhuman’ dimension of life where we become ourselves, where truth and meaning are created, where I and Thou meet, and where we may glimpse the Divine.”

The Place Where We Are Right

by Yehuda Amichai

From the place where we are right
Flowers will never grow
In the spring.

The place where we are right
Is hard and trampled
Like a yard.

But doubts and loves
Dig up the world
Like a mole, a plow.
And a whisper will be heard in the place
Where the ruined
House once stood.

הַמְּקוֹם שֶׁבּוֹ אֲנִי צוֹדֵקִים

מִן הַמְּקוֹם שֶׁבּוֹ אֲנִי צוֹדֵקִים
לֹא יִצְמְכוּ לְעוֹלָם
פְּרַחִים בְּאֵבִיב

הַמְּקוֹם שֶׁבּוֹ אֲנִי צוֹדֵקִים
הוּא רָמוֹס וְקִשָּׁה
כְּמוֹ חֲצֵר

אֲבָל סַפְּקוֹת וְאַהֲבוֹת עוֹשִׂים
אֶת הָעוֹלָם לְתַהוֹה
כְּמוֹ הַפְּרִפְרֵת כְּמוֹ הַרִישׁ
וְלַחִישָׁה תִּשְׁמַע בַּמְּקוֹם
שֶׁבּוֹ הָיָה הַבַּיִת
אֲשֶׁר נִחְרַב