

אלו ואלו: MAKING SENSE OF THE TRUTHS COME OUT

When asked any question in Judaism, the most common – and therefore default – answer is to say that it is a מחלוקת. Aside from the fact that Jews just love arguing with each other and tend to be very opinionated (as the classic adage goes: 2 Jews, 3 opinions), there is inherent value to מחלוקת, as we will talk more about later. The משנה tells us¹ that there is inherent value to מחלוקת and מחלוקת לשם שמים. The difference between the two is that a מחלוקת לשם שמים does not have any personal agendas or vendetta, rather the goal is solely to arrive at the truth.² The לשון used there in the רמב"ם is very interesting. It says that one who seeks the truth, "יתקיים מאמרו ולא יכרת דברו", his opinion will stand. However, the משנה tells us that a מחלוקת לשם שמים, namely both sides, will stand. At the end of the day, isn't one opinion going to be right and the other wrong? How can they both prevail after all is said and done? Although pragmatically we must have one right answer, the other answer definitely has value. The question is what precisely that value is. This notion that both opinions have legitimate value is coined by the גמרא (quoting from a בת קול) as "אלו ואלו דברי", both these and those are the words of the living God.³ The specific choice of the בת קול to compare each opinion to the enduring God emphasizes both the longevity and infallibility of even the wrong opinion. Not only will it withstand the test of time, but it also has a Godly aspect to it. If that is indeed the case, how can it be wrong? This dialectic opens the floodgates of discussion as to what the principle of אלו ואלו really means.

When משה רבינו was learning the תורה from הקב"ה Himself, he saw in every case 49 reasons why it should be אסור, and 49 reasons why it should be מותר. In each case, משה asked the הקב"ה what the ultimate conclusion was. Sometimes the answer was מותר and sometimes it was אסור. However, other times the answer was – you guessed it – מחלוקת. For those cases that did not have a clear דין, the כח הפסק was given to the חכמים in every generation to decide based on what they thought what the הלכה should be.⁴ This was clearly done with a reason (as the ריטב"א himself stresses). The reason is because if everything was straight up yes or no, there would be no job of a פוסק. Now that the תורה is vague, when the פוסק has to make the call, he has פוסקים of earlier generations (or the תורה itself) backing him up by showing how the same פסק applies in a similar context.⁵ This discussion illustrates that both sides comprise aspects of מן השמים. Rav Schachter often quotes רי"ב חפצא של תורה that the other שיטה constitutes a חפצא של תורה. This means to say that even if I were to just learn the שיטה of בית שמאי, that would require me to make ברכות התורה, since even a wrong opinion is considered תורה if it was derived properly using the foundations and principles of the תורה.

There are various פסוקים and מאמרי חז"ל that highlight the various aspects of תורה through comparing it to different items and concepts. One such comparison is to שירה, a song.⁶ One reason for this comparison is just as the beauty of a song comes through different voices singing at different pitches and octaves coming together to form a beautiful harmony, so too the beauty of the תורה comes through different approaches and perspectives coming together to form the cohesive unit that

¹ פרקי אבות ה. יז

² רמב"ם פהמ"ש שם

³ עירובין יג:

⁴ ריטב"א שם ד"ה "אלו ואלו"

⁵ מסכת סופרים טז.ה ועיין ירושלמי סנהדרין ד.ז.ב (כא:)

⁶ דברים לא. יט

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is the corpus of התורה כולה.⁷ This is how the פסק is developed. We pointed out that a מחלוקת is one geared towards achieving אמת. Depending on how you understand אמת, that can be a very tall task. We know that אמת is a fundamental tenet of the world,⁸ so much so that the seal of הקב"ה is in fact אמת.⁹ Rav Moshe Feinstein brings down¹⁰ that there are צוויי דינים when it comes to אמת. There is אמת להוראה, and אמת כלפי שמיא. Seemingly, the most ideal form of אמת is אמת כלפי שמיא, or "absolute truth". However, the job of the פוסק is to go through the סוגיא and reach the point of אמת להוראה, or "relative truth". It could be that these two are the same, but more often than not, they are at odds. Yet, the dictum of אלו ואלו דברי אלקים חיים applies to the relative truth as well. Even if it may contradict the absolute truth, the פסק is not just also correct, but is even legally binding upon all who are under the jurisdiction of that particular פוסק. A proof of this brought down by רב משה is by ברית מילה. There is a מחלוקת in the משנה if מכשירי מילה are דוחין שבת, and all מכשירי מצוה (and all מכשירי מילה) are not דוחין שבת.¹¹ While we like רבי עקיבא פסקין like רבי אליעזר, the opinion of רבי אליעזר is that they are דוחין. Therefore, those who held like רבי אליעזר did what we would deem to be חילול שבת and חיוב מיתת ב"ד. Yet, when the Romans made decrees against ברית מילה and killed people who violated their decrees, the city of רבי אליעזר was not affected. This was because they were diligent in the performance of the מצוה of מילה by listening to their פוסק. To view it from the other perspective, the פסק (at the level of אמת להוראה for that community) had the full strength of a פסק, to the point where those who listened to it were rewarded.

In the modern world, the role of a פוסק becomes that much harder. We are זוכה to have many inventions and materials that the תנאים and אמוראים, and even some of the earlier אחרונים, did not have. We have discovered plastic, electricity, quinoa, and many other amazing things. This introduces us to a slew of new שאלות that never came up. We saw this with our own eyes during the lockdowns that Covid-19 brought upon us. פוסקים were being bombarded with questions that never made it to the pages of the שולחן ערוך. How did they know what to do? This gets back to the point of the מסכת סופרים. Had the תורה given us the bottom-line הלכה פסקי הלכה, there would be nothing telling us that we can apply the סברא to other areas of הלכה, because there is no סברא. The תורה would just say this case is מותר and this case is אסור! By being vague and only giving us the כללים, we can apply these כללים to unique and new scenarios. Sometimes, we may get to these conclusions not by using the accepted פסק, but a rejected שיטה. If we understand why שמיא say what they say, since we only reject their conclusion (and not their סברא), we can use the סברא where we see fit.¹²

Another way to understand אלו ואלו can best be illustrated by a famous story in the גמרא.¹³ When רבי יוחנן died, רבי אליעזר בן פדת was tasked with consoling רבי יוחנן. Every time רבי יוחנן said a סברא, he would be met with רבי אליעזר quoting a ברייתא that said like him. רבי יוחנן lamented that when he would say a סברא, he'd be met with 24 questions on his סברא. He would then reply to רבי יוחנן's questions with 24 ראיות as to why he is right. He said that this give-and-take would sharpen his סברא, and now he was missing that. I once heard that a ראיה for one position is a קשיא on the other, and vice-versa. Therefore, every ריש לקיש that was asking was really a ראיה

⁷ ערוך השולחן חושן משפט הקדמה

⁸ עיין בראשית רבה ט.ה.

⁹ עיין שבת נה.

¹⁰ שו"ת אגרות משה הקדמה

¹¹ שבת קל.

¹² רש"י כתובות נו. ד"ה "הא קמ"ל"

¹³ צבא מליעא פד.

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for what he held. The opinion of ריש לקיש is generally not decided as פסק הלכה,¹⁴ yet his שיטה helped us arrive at the אמת. This is another interpretation of אלו ואלו. The גמרא says¹⁵ that to come to דברי תורה, you have to be נכשל. It requires falling and realizing your mistake to come out on top. This is likened to a deep-sea diver. When the diver goes down to fetch precious gems, he often comes to the surface with ordinary rocks. This is because when he is down under, it is hard to differentiate between the good stuff and the bad stuff. Yet, his coming up to the light at the surface gives him an opportunity to properly examine whatever it is he brought up, and now knows what to look for and feel around for next time he goes down to ultimately come up with the prize.¹⁶

By learning about אלו ואלו, we can hopefully come to realize that everyone has something valuable to add, even if we don't see the value right away. We should never write off anything that somebody with שכל says. First, we must truly analyze it. Even then, if we think it is wrong, it may very well be, but that doesn't mean it's not useful. Whether being able to be applied elsewhere, helping to arrive at the conclusion, or just enhancing פלפולו של תורה and one's אלקים, we all have what to say. לכל זמן ועת לכל חפץ תחת השמים. Everyone will have their time to shine. I heard brought down בדרך דרוש that to merit a good judgement on ראש השנה, the פסוק tells us in פרשת אי"ה that we need to be מזרז in משפט צדק. If we judge others favorably, אי"ה we will receive a favorable judgment. Consequently, if we were to always listen to what others had to say and recognize their חשיבות, hopefully they will see that and reciprocate the gesture in our favor. אי"ה we should be זוכה to receiving a good judgment from הקב"ה and our peers.

¹⁴ עיין יצמות לו. ומאירי שם

¹⁵ גיטין מג.

¹⁶ נתיבות המשפט הקדמה