# The Argumentative Steps in the Halakhic Give-and-Take Conversations in the Mishnah and Tosefta:

# A Method to Measure the Degree of Aggressiveness

# in the Conversations

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## Abstract

*This article describes the argumentative steps in the halakhic give-and-take conversations in the Mishnah and Tosefta, which are two compilations written in Tannaitic language, the language that had been used in the first period of Mishnaic Hebrew. The argumentative steps in the conversations are examined, i.e., the connection between the arguments of the sages when they present their views in the conversations. The analysis of argumentative steps in halakhic give-and-take conversations in the Mishnah and Tosefta is based on the model proposed by Muntigl and Turnbull (1998). This model has classified the four types of disagreement acts, which were found in naturally occurring conversations: counterclaim, contradiction, challenge and irrelevancy claim; and it also ranks the degree of aggressiveness of the acts. The study conducted by Blondheim and Blum-Kulka (2001) on a Talmudic text was also based on Muntigl and Turnbull's study.*

*The aim of this article is to try to assess the degree of aggressiveness of the halakhic give-and-take conversations in the Mishnah and Tosefta by means of an examination of the types of argumentative steps. The findings from these two compilations are compared to the findings of the two previous studies.*

**Keywords:** halakhic give-and-take conversations; Mishnah; Tosefta; argumentative steps; argumentative discourse; conversation analysis

## 1. The argumentative discourse and halakhic give-and-take conversation

The argumentative discourse is known by different terms in the literature: disputing, adversative episode, oppositional argument, conflict talk, dialogical asymmetries and verbal discord.[1] The

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[1]See the different terms in P. Muntigl and W. Turnbull, 'Conversational structure and facework in arguing', *Journal of Pragmatics* 29 (1998), pp. 225–256. They use the term conversational arguing for this type of discourse.

argumentative discourse occurs when there is a lack of agreement, a state that may be called an argument, disagreement or conflict. According to Angouri and Locher,[2] a disagreement may be approaches from a number of perspectives: from the content perspective, i.e., what is being disagreed about; from the linguistic form perspective, i.e., the ways in which disagreement is expressed; and from the perspective of the relationship between the speakers. Arguing has been studied in numerous disciplines, including philosophy, rhetoric, anthropology, sociology, psychology and linguistics. The research literature describes arguments that arise under different circumstances, such as legal settings, work settings, negotiations and family conversations; and they are analysed using approaches from the fields of conversation analysis and discourse analysis.[3]

The halakhic give-and-take is part of the halakhic discourse in the rabbinic literature, and it presents the views of the sages on halakhic subjects in order to determine the laws. Sometimes the halakhic give-and-take includes not only a presentation of the sages' views, but also a **halakhic give-and-take conversation** among them regarding their views. The halakhic give-and-take conversation is part of the argumentative discourse. The main motivation for the halakhic give-and-take conversation is a disagreement that exists between the interlocutors. Blondheim and Blum-Kulka[4] maintain that intensive interpersonal argument was indeed the trope of the study process engaged in by the Tannaim and Amoraim. According to Belberg,[5] the culture of the sages may be characterised as a "culture of disagreement" (p. 65, originally in Hebrew). The controversy in rabbinic literature also shaped the tradition of controversy in Jewish and Israeli society.[6]

I explored the halakhic give-and-take conversation in the Mishnah in my book *Halachic Give-and-Take Conversations in the Mishnah*,[7] which examined aspects that belong to different linguistic areas: discourse analysis, pragmatics, conversation analysis and rhetoric.

One subject that belongs to conversation analysis, which was described in the context of the study on the conversations in the Mishnah, is the argumentative steps in the conversations. This subject was presented in a section of a previous article[8]. In this article, I would like to examine the argumentative steps in another compilation in Tannaitic language – the Tosefta – and to compare the findings from both compilations. The aim of this article is to try to assess the degree of aggressiveness of the halakhic give-and-take conversations in both compilations by means of an examination of the types of argumentative steps used by the

[2]J. Angouri, and M. A. Locher, 'Theorising disagreement', *Journal of Pragmatics* 44 (2012), pp. 1549–1553.

[3]H. Gruber, 'Disagreeing: Sequential placement and internal structure of disagreements in conflict episodes', *Text* 18, 4 (1998), pp. 467–468. See in Gruber, *ibid*, 467–503, a review and references to research in these areas.

[4]M. Blondheim and S. Blum-Kulka, 'Literacy, orality, television: Mediation and authenticity in Jewish conversational arguing 1–2000 C.E', *The Communication Review* 4, 4 (2001), pp. 511–540.

[5]M. Belberg, *Gateway to Rabbinic Literature* (Ra'anana, 2013) (Hebrew).

[6]This was found in the research of D. Schiffrin, 'Jewish argument as sociability', *Language in Society* 13, 3 (1984), pp. 311–335, who examined arguments among groups of American Jews and found in them features of the argumentative language considered typical of the Jewish conversation style too, which has its source in the Talmudic tradition of argument; as well as in the studies by Blondheim and Blum-Kulka, 'Literacy', and by S. Blum-Kulka, M. Blondheim and G. Hacohen, 'Traditions of dispute: From negotiations of Talmudic texts to the arena of political discourse in the media', *Journal of Pragmatics* 34 (2002), pp. 1569–1594, who found a marked preference for disagreement in debates that they have compared – from the Talmudic text, from paired-study debates (*xavrutot*) in contemporary Talmudic academies, and from TV talk-show debates.

[7]R. Shemesh-Raiskin, *Halachic Give-and-Take Conversations in the Mishnah* (Jerusalem, Forthcoming) (Hebrew).

[8]R. Shemesh-Raiskin, 'Adjacency pairs and argumentative steps in the halakhic give-and-take conversations in the Mishnah', *Cambridge Semitic Languages and Cultures* 2 (2020), pp. 57–95 – in Section 2.2.

sages to present their views in the conversations. In the context of conversation, the term "aggressiveness" relates to the negative impact of the responses of the interlocutors, i.e. the threat or the damage that is caused to the "face" of the interlocutor by the responding interlocutor.[9] The term "argumentative steps" will be used in this study to note the elements of the argumentative sequence in conversations between the interlocutors; in each conversation, the connection between the arguments of the interlocutors and those that preceded them was examined, i.e. the nature of the interlocutor's response to the argument presented by the previous speaker.

Section 2 will describe the study by Muntigl and Turnbull,[10] which is the basis for the study of argumentative steps in the halakhic give-and-take conversations in the Mishnah and Tosefta. Section 3 will describe the study by Blondheim and Blum-Kulka,[11] which was also based on the earlier study. Section 4 will present the findings of the current study regarding the argumentative steps in the halakhic give-and-take conversations in the Tosefta, and draw a comparison between them and the findings of the previous study regarding argumentative steps in the Mishnah. Section 5 will compare the findings of the two studies on the Mishnah and the Tosefta to the findings of the two previous studies.

It should be noted that various scholars have suggested different models to analyse the argumentative discourse in a variety of theoretical frameworks, but the model proposed by Muntigl and Turnbull[12] was preferred for the analysis of argumentative steps in halakhic give-and-take conversations in the Mishnah and Tosefta. As described in Section 2, in this model, Muntigl and Turnbull suggest classifying the disagreement acts while presenting linguistic features of the acts, and it was found to allow an investigation of the argumentative steps in the conversations in the Mishnah and Tosefta. I will note three of the models that analysed the argumentative discourse. Hutchby[13] studied open-line radio phone-in broadcast, or talk radio shows, through the Action-Opposition model. Gruber[14] investigated the sequential placement, the internal structure and types of cohesive ties between disagreements and prior utterances in conflict sequences, occurring in a database based on a TV talk-show programme in Austrian German. According to these features, he identifies two main structural types of disagreement utterances – overt disagreements and pragmatic disagreements. Twitchell et al.[15] classified the negotiation outcomes in a corpus of 20 transcripts of actual face-to-face negotiations using two classification models: The first model uses language features and speech acts to place negotiation utterance onto an integrative (i.e., seeking consensus) and distributive (i.e., divisive) scale, and the second model classifies each negotiation as successful or unsuccessful.

Another issue that should be considered is the characterisation of the language of the halakhic give-and-take conversations in the Mishnah and Tosefta. The language of the

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[9]On the terms "face" and "aggressiveness" in Muntigl and Turnbull, 'Conversational structure', model see Section 2 (after Table 1) below and note 23 there.

[10]Muntigl and Turnbull, *ibid.*

[11]Blondheim and Blum-Kulka, 'Literacy'.

[12]Muntigl and Turnbull, 'Conversational structure'.

[13]I. Hutchby, *Confrontation Talk: Arguments, Asymmetries, and Power on Talk Radio* (Mahwah, 1996).

[14]Gruber, 'Disagreeing'.

[15]D. P. Twitchell, M. L. Jensen, D. C. Derrick, J. K. Burgoon and J. F. Nunamaker, 'Negotiation outcome classification using language features', *Group Decision and Negotiation* 22 (2013), pp. 135–151.

Mishnah and Tosefta is written, and thus the conversations which appear in these compila-tions are different from the conversations of Muntigl and Turnbull[16] research, which are nat-ural spoken conversations. Nevertheless I believe that their model can be applied to the conversations in this research. The halakhic give-and-take conversations appear to be dia-logic in nature, since they express an actual spoken dialogue held between discussants. Vari-ous scholars have discussed the nature of the conversation in the Tannaitic literature, and their different positions represent two general approaches: one is that the conversation reflects an actual discussion between sages; and the second is that it is a product of editing.[17] Moreover, Blondheim and Blum-Kulka[18] examined a Talmudic text, and they likewise based their examination on the model of Muntigl and Turnbull.[19] Blondheim and Blum-Kulka explain that they refer to their text "as if it were the transcript of an actual conversa-tion rather than a virtual, literary one" (p. 516).

## 2. The Muntigl and Turnbull model (1998)

Muntigl and Turnbull[20] (hereinafter: M&T) examined arguments in naturally occurring con-versations between university students and between family members.[21] They found four types of disagreement acts within the second and third turn of arguing exchanges (= T2 and T3, i.e. the turn of the second speaker and the turn of the first speaker, respectively):

1. **Irrelevancy claim** – Assertion of a speaker that the previous claim is not relevant to the discussion at hand, e.g., "You're straying off topic";
2. **Challenge** – Disagreement by which a speaker questions an addressee's prior claim and demands that the addressee provide evidence for his or her claim, while suggesting that the addressee cannot do so, e.g., "Why do you say that?";
3. **Contradiction** – Disagreement by which a speaker presents a proposition that directly negates the previous claim, e.g., "No, that's just wrong";
4. **Counterclaim** – Proposing a claim as an alternative to the former one, without directly contradicting nor challenging that claim, e.g., the utterance "Banana is the most popular fruit" in response to the utterance "Apple is the most popular fruit".

Also found were a frequent combination of contradiction+counterclaim and other act combinations.

   M&T found that in the two types of turns, the following frequency of the acts – in descending order – counterclaim, contradiction, challenge and irrelevancy claim. Table 1 presents the frequency of the acts in the two types of turns that were examined in their study – T2 (the turn of the second speaker) and T3 (the turn of the first speaker). The

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[16]Muntigl and Turnbull, 'Conversational structure'.
   [17]For a discussion about the nature of the conversations in the research literature and about the characteristic of dialogicity see Shemesh-Raiskin, 'Adjacency pairs', Section 1, a.
   [18]Blondheim and Blum-Kulka, 'Literacy'.
   [19]Muntigl and Turnbull, 'Conversational structure'.
   [20]*ibid.*
   [21]And see a representation of their research also in the review of S. Leung, 'Conflict talk: A discourse analytical perspective', *Teachers College, Columbia University Working Papers in TESOL & Applied Linguistics* 2, 3 (2005), pp. 6–8, and in the descriptions of W. Turnbull, *Language in Action: Psychological Models of Conversation* (Hove, 2003), pp. 184–188, and D. Hample, *Arguing: Exchanging Reasons Face to Face* (London, 2012), pp. 255–261.

gradated shading represents the relatively frequency of the four types of acts – and the same goes for Tables 2–7 below).[22]

Table 1: Types of acts in the study of M&T (1998)

|  | irrelevancy claim | challenge | contradiction | counterclaim |
|---|---|---|---|---|
| second turn | 8% | 12% | 18% | 56% |
| third turn | 4% | 4% | 9% | 75% |

M&T's study was conducted in the context of the approach that views the argument as a face-threatening activity. In the wake of the examination of the distribution of these acts in an argument, M&T rank the degree of aggressiveness of the acts, i.e. in terms of the extent to which they threaten the other's face[23] – from most to least face threatening: irrelevancy claim, challenge, contradiction, the contradiction+counterclaim combination and counterclaim. The most aggressive act is the irrelevancy claim, because it limits any further discussion and attacks the most fundamental social skill of a conversationalist; next in aggressiveness is the challenge, since it directly attacks the competency of the other to back up his or her claim; contradiction is less face-threatening, since it does not directly attack the other speaker; the contradiction+counterclaim combination is less aggressive, since it contains a contradiction that repudiates the other's claim, which is somewhat mitigated by a counterclaim that offers more information with which to negotiate the disagreement; and the counterclaim is the least face-threatening, because it does not overtly mark opposition but provides an alternative claim by opening up the topic of discussion.

In accordance with this ranking, M&T classified the acts into three categories: the high aggressive category – irrelevancy claim and challenge; the intermediate aggressive category – contradiction and contradiction+counterclaim; and the low aggressive category – counterclaim.[24]

## 3. Blondheim and Blum-Kulka's study (2001)

Blondheim and Blum-Kulka[25] (hereinafter: B&BK) examined one Talmudic text (b. Baba Kamma 56b–57b)[26] in accordance with M&T's model. In this text, they found the

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[22]The data regarding the combination of contradiction+counterclaim were not noted in this Table, since it was not examined in the studies on the Mishnah and Tosefta which will be described here and also in the study of Blondhein and Blum-Kulka, 'Literacy'. M&T found, that this combination is not frequent: in the second turn it is the most rare act (6 per cent), and in the third turn it is the third in the order of frequency (8 per cent).

[23]On the concept of face and the politeness theory of Brown and Levinson (1978), which is based on this concept, see, for example, Z. Livnat, *Introduction to the Theory of Meaning: Semantics and Pragmatics* (Raanana, 2014) (Hebrew), vol. 2, pp. 180–189. And as to the concept of "Aggressiveness", M&T, 'Conversational structure', use this term "[…] synonymously with face aggravation" (p. 249).

[24]The other issue which was dealt with in their study is revealing regularities in the second and third turns (T2–T3) sequences. M&T suggest that the orderliness of the T2–T3 sequence is a consequence of interactants' concerns about face/identity: The more Speaker B's T2 act damages Speaker A's face, the more likely A is to respond with a T3 act that directly supports A's T1 claim; T3 acts that support T1 reflect A's attempt to repair damage to own face occasioned by the face aggravating T2 act. In the study about the halakhic give-and-take conversations in the Mishnah and Tosefta the second issue of the regularities in the sequences, i.e., the influence of the second turn on the third turn was not examined, because the structure of the arguments in the corpus did not allow for examination of this in a similar way.

[25]Blondheim and Blum-Kulka, 'Literacy', pp. 516–523.

[26]Blondheim and Blum-Kulka, *Ibid*, found in the Talmudic text which they analysed a number of conversational features: an overwhelming and overt preference for disagreement, the grounded nature of the disagreement, and the very high level of dialogicity of the disagreement.

following order of frequency of the acts – in descending order – contradiction, challenge, irrelevancy claim and counterclaim, as is presented in Table 2.[27]

Table 2: Types of acts in Blondheim and Blum-Kulka's study (2001)

| irrelevancy claim | challenge | contradiction | counterclaim |
|---|---|---|---|
| 18.7% | 28.6% | 45% | 7.7% |

B&BK present several results concerning the frequency of the four types of arguments: The frequency of the mildest, most mitigated form of disagreement was by far the lowest; the most aggressive act appears almost two and a half times as many as each one of the least aggressive turns; and overall, the frequency of the high-aggression pair is only slightly lower than that of the low-aggression pair (47.3 per cent and 52.8 per cent, respectively). Consequently, they concluded that the Talmudic debate that they examined could be more aggressive than the conversations that were examined by M&T, in which it was found, as noted earlier, that the acts of the low and the intermediate level of aggressiveness appeared much more frequently than the acts at the high level of aggressiveness.

B&BK's general conclusion is that unlike M&T's expectations, the Talmudic debate demonstrates a pattern that is the opposite of the facework expected: Throughout the Talmudic debate the response to challenge is not a face-saving defense but a counterattack, tit-for-tat style, and it would even appear that the more aggressive the challenge the more animated the counterattack. B&BK propose a possible explanation of the results, which is that in the Talmudic debate, challenges are based on authoritative Tannaitic texts, and that the response to challenges of this kind is T2 rather than T1 oriented.

## 4. Description of the argumentative steps in the halakhic give-and-take conversations in the Tosefta

This section will first describe how the argumentative steps in the study on halakhic give-and-take conversations in the Tosefta will be examined (subsection 4.1), followed by examples of four types of argumentative steps (4.2). Subsection 4.3 will present the findings of the examination of the argumentative steps in the Tosefta, and subsection 4.4 will compare them to the findings of the argumentative steps in the Mishnah.

### 4.1 How the argumentative steps in the conversations in the Tosefta were examined

The study on the halakhic give-and-take conversations in the Tosefta was based on a corpus that includes the halakhic give-and-take conversations that appear in three orders: Zeraʻim, Moeʻd and Nashim. This corpus involves 118 conversations that include 172 exchanges.

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[27]Appendix 1 in their article (p. 540) presents a categorisation of a glossary of Talmudic terminology for arguments by the four categories of M&T, and they mark the frequency of each term in one tractate of the Talmud – Berakhoth, for example: irrelevancy claim – *midi, shani hatam, haxa bemai askinan*; challenge – *iy haxi, maytivey, matkif*; contradiction – *kashya, mibeʻey ley*; counterclaim – *ela mai, ela meʻata*. In fact, the numerical data that they present that appear above as well as in Table 2 below relate to the frequency of the formulae in the four categories in tractate Berakhoth, and not in the Talmudic text analysed in their article, from which the first 8 turns of its 23 turn-sequences were analysed.

The examination of the argumentative steps in the halakhic give-and-take conversations in the Tosefta comprises two parts – in the manner of the examination used in the examination of the argumentative steps in the Mishnah in the previous study (which will be presented in subsection 4.4.1 below).[28]

A. The first part – examination of the regular two-part exchanges –

In this part of the examination, in each exchange, the second part of the exchange was examined in relation to the previous part, i.e. the second part spoken by the addressee that comes in response to the first part spoken by the addressor.

The first part of the examination included **88 exchanges**, which met the following two requirements:

1. Two-part exchanges – From among all the exchanges, 57 partial exchanges were removed because only in exchanges with two parts can the argumentative step held between the two parts of the exchange be examined. This requirement left 115 exchanges out of the total of 172 exchanges in the Tosefta.
2. Exchanges that contain acts of asserting, asking and answering – Out of all the exchanges, only combinations of these acts were examined, both because these acts have a clear argumentative feature and also because it was found that these acts are the most prevalent acts in exchanges. This requirement left 88 exchanges, which are 76 per cent of the 115 two-part exchanges in the Tosefta.

B. The second part – examination of the exchanges from conversations having multiple exchanges –

In this part of the examination, the second exchange in the conversation was examined as well as the exchanges that followed – if the conversation contained more than two exchanges – in order to find the argumentative step between the exchange that was examined and the exchange that preceded it in the conversation. In each exchange, the first part of the exchange was examined in order to find its relation to the second part of the exchange that preceded.

The second part of the examination included **43 exchanges**. They too included only exchanges containing the most prevalent speech acts of asserting, asking and answering. Some of these exchanges are partial exchanges, because they allowed for an examination of the relationship of the single part of the partial exchange to the second part of the previous exchange. On the other hand, the first part of the examination included, as noted, only two-part exchanges, because in this examination, the relationship of the second part of the exchange to the first part has been examined. For example, Citation 2 below contains a partial exchange C, included in which are only the words of R. Meir, without the response of the sages (אמרו לו – 'they said to him'); the argumentative step in this exchange cannot be

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[28]See the description of the manner in which the examination was conducted for the Mishnah and its finding in these sources: Shemesh-Raiskin, 'Halachic Give-and-Take', pp. 100–128; Shemesh-Raiskin, 'Adjacency pairs' – in Section 2.2. It is important to point out the manner the examination took in this study, also because it was done in a different manner from the examination in the two previous studies – of M&T and of B&BK. The examination in this study of halakhic give-and-take conversations in the Mishnah and Tosefta is different from the two other previous studies in two respects. First, each exchange was examined on its own, even when it was part of a conversation that includes multiple exchanges. And second, the arguments in the study corpus are not necessarily made up of three turns, unlike the three-turn exchange in arguing in M&T's study.

examined because it is missing the second part, but we can identify the argumentative step that is present in the first part of this exchange in relation to exchange B that precedes it (contradiction).

*4.2 Exemplification of the four argumentative steps from the halakhic give-and-take conversations in the Tosefta*

In this subsection, the four types of argumentative steps that appear in the halakhic give-and-take conversations in the Tosefta will be demonstrated.

**(a) Irrelevancy claim**

The irrelevancy claim is an assertion of a speaker that the previous claim of the addressee is not relevant to the discussion at hand. M&T[29] characterise these acts as meta-dispute-acts, because they comment on the conversational interaction.

The irrelevancy claim is the rarest argumentative step in the Tosefta – both in regular exchanges (4 = 4 per cent) as well as in exchanges that are part of the conversations (1 = 3 per cent). For example, in Citation 1, a question aimed at acquiring knowledge of the law is referred to R. Joshua – what is the law concerning the sons of a man's co-wives. R. Joshua's response commences with a rhetorical question that includes an irrelevancy claim – ?...למה אתם מכניסין ראשי לבין שני הרים גדולים ('On what account do you push my head between two high mountains…?'): [30]

1. **שאלו את ר׳ יהושע**: בני צרות מהן? **אמ׳ להם**: למה אתם מכניסין ראשי לבין שני הרים [...]
גדולים, לבין בית שמיי ובין בית הלל, שיריצו את ראשי? אלא מעיד אני על משפחת בית עלובאי
מבית צבאים ועל משפחת בית קיפאי מבית מקושש שהן בני צרות, ומהם כהנים גדולים, והיו
מקריבין לגבי מזבח [...]

[…] **They asked R. Joshua**: What is the status of the children of the co-wives? **He said to them**: On what account do you push my head between two high mountains, between the House of Shammai and the House of Hillel, who can remove my head? But I hereby give testimony concerning the family of the house of 'Aluba'ai of Bet Ṣeba'im and concerning the family of the house of Qipa'i of Bet Meqoshesh, that they are children of co-wives and from them have been chosen high priests, and they did offer up sacrifices on the Temple altar […] (Tos. Yebamot 1:10)

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[29]M&T, 'Conversational structure', p. 229.
    [30]The citations from Tannaitic literature in this article were collected from the *Ma'agarim* programme of the Hebrew Language Historical Dictionary Project (HDP) of the Academy of the Hebrew Language, located on the Academy's website. To facilitate the smooth reading of the quotations, punctuation marks have occasionally been added, and certain textual marks used by the Hebrew Historical Dictionary Project may have been omitted; as a result of this omission, necessary amendments to the text have been made. When the text in the citation is presented as a partial citation, the omitted section is noted by means of square brackets and three dots […]; in most cases, the omitted section is noted only in the middle of the citation and not at its end. The translation of the excerpts of the Tosefta into English is based mainly on J. Neusner (trans.), *The Tosefta, Translated from the Hebrew* (New York, 1981), with some changes made for purposes of clarity.
    In the presentation of the conversations in the citations in this article, the inductory patterns at the start of the exchanges are emphasised (such as **אמ׳ להם** ['He said to them] in Citation 1), and the part of the citation that does not belong to the conversation itself appears in smaller letters (e.g. the first two lines in Citation 2). If the conversation in the citation contains a number of exchanges, they are numbered with a small letter at the start (in the citation in Hebrew with the Hebrew letters א, ב etc.; and in the translation into English in small Latin letters A, B, etc., such as in Citation 2 below).

By means of this rhetorical question, R. Joshua makes it clear that the question that has been addressed to him is not relevant, that is to say, he refuses to rule on the law here because there is a controversy over this matter between the House of Shammai and the House of Hillel, and he does not want to decide on it because of the unimpeachable standing of the two schools. Afterwards, R. Joshua presents his own personal testimony regarding two families that were the sons of co-wives and were chosen to be high priests, and his opinion on the matter may be inferred from this testimony.[31]

**(b) Challenge**

The challenge expresses disagreement by which a speaker questions an addressee's prior claim and demands that the addressee provide evidence for his or her claim, while suggesting that the addressee cannot do so. According to M&T,[32] the typical syntactic form of challenges is interrogative, appearing with question particles.

In the Tosefta, the challenge is the most common argumentative step – both in the regular exchanges (38 = 43 per cent) as well as in the exchanges that are part of conversations (16 = 37 per cent).

For example,[33] Citation 2 first presents the views of R. Meir and of the sages regarding the status of the roofs of the town that are in close proximity to one another regarding the matter of carrying on Shabbat. This is followed by the citation of a conversation between them. In each of the initial exchanges A and B in the conversations, R. Meir makes an argument to justify his position that all the roofs of the town should be considered a single domain and that one may carry from one roof to another. His argument is based on the drawing of an analogy between the status of the roof and that of a shared courtyard, and the sages אמרו לו ('they said to him') disagree with his view:

**2.** כל גגות העיר רשות אחת [...] {וכולן} <וכלים010>: ששבתו בחצר מותרין ליטלטל בחצר. ושבגגות מותרין ליטלטל בגגות; דברי ר׳ מאיר. וחכמים או׳: כל אחד רשות לעצמו.

א **אמ׳ להם ר׳ מאיר:** אי אתם מודים באנשי חצר ששכחו ולא עירבו, שאסור להכניס ולהוציא מחצר לבתים ומבתים לחצר? {וכולן} <וכלים010>: ששבתו בחצר מותרין ליטלטל בחצר. מה נשתנה גג מחצר? **אמרו לו:** לא, אם אמרת בחצר שאין תחתיה דיורין, תאמר בגגות שיש תחתיהן דיורין?

ב **אמ׳ להם:** אף חצר פעמים שיש תחתיה דיורין. **אמרו לו:** לא, אם אמרת בחצר שאין כל אחד ואחד מכיר את שלו, תאמר בגגות שכל אחד ואחד מכיר את שלו?

ג **אמ׳ להם:** הרי שהיתה חלוקה או שהיתה עשויה פסיפס, לא כל אחד ואחד מכיר את שלו? אמ׳ ר׳ שמעון בן לעזר: עד כאן היתה תשובה [...]

All the roofs of a town are a single domain [...] But all [objects] which were kept for the Sabbath in the courtyard may be carried about in the courtyard. And those kept for the Sabbath on the roofs may be carried about on the roofs; the words of R. Meir. And sages say: Each one constitutes a domain unto itself.

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[31]In the examination of the argumentative steps in these pairs, only the first speech act in each part of the exchange was considered, even if an additional speech act or acts appears after it. In this citation, the type of argumentative step was determined in accordance with the first speech act in the exchange – the question – and not in accordance with the second speech act that followed it – the testimony.

[32]M&T, 'Conversational structure', pp. 229–230.

[33]For a further example of a challenge, see in the example of the counterclaim in Citation 3 below, as noted in the explanation there.

**A Said to them R. Meir:** Do you not concede in the case of the men of a courtyard who forgot and did not participate in an *'erub*, that it is prohibited to bring in or to take out objects from the courtyard to the houses and from the houses to the courtyard? Yet all [objects] which were kept for the Sabbath in the courtyard are permitted to be carried about in the courtyard. So what is the difference between the roof and the courtyard? **They said to him:** No, If you have stated the rule in regard to the courtyard, underneath which there are no distinct residences, will you state the same rule in regard to roofs, beneath which there are distinct residences?

**B He Said to them:** So too in the case of a courtyard, sometimes there are distinct residences underneath it. **They said to him:** No, If you have stated the rule with regard to the courtyard, in which case everyone will not recognise what is his [part of the courtyard], will you state the same rule in the case of roofs, in which case each person recognises what is his [part]?

**C He said to them:** No, If it [a roof area] was divided, or if it was made in mosaics, will not everyone recognise what is his?

   Said R. Simeon b. Eleazar: Up to this point was the [valid] reply […]   (Tos. Erubin 7:14)

In both exchanges A and B, the words of אמרו לו ('they said to him') contain a challenge formulated as ?...אמרת בחצר ש... תאמר בגגות ש ('No, if you have said in regard to the courtyard that… will you say the same rule in regard of roofs that…?'), with the intention of rejecting the drawing of an analogy between the status of a roof and that of a courtyard because of the difference between them. That is to say, according to the sages, the status of the roof cannot be inferred from the status of the courtyard because there are differences between them: In exchange A, they argue that the roofs are separated because different residences live beneath them, and in exchange B, they argue that for the roofs, each residence recognises which is his part; and, they argue, these two conditions are not present for the courtyard. This challenge is composed in the structure of the rejection of an *a fortiori* argument ?...לא, אם אמרת ב... ש... תאמר ב... ש ('No, if you have said in… that… will you say in… that…?'). The negation word לא ('no') reflects in this pattern the speaker's disagreement with the previous claim, and the question after states a demand for the addressee to bring evidence to strengthen his claim.[34] As noted, M&T have presented the interrogative as the typical syntactic form for the expression of challenge.

### (c) Contradiction

The contradiction expresses the speaker's opposition to the previous argument by proposing a claim as an alternative to the former one. According to M&T,[35] the contradicting proposition negates the previous claim, so that if the previous claim is positive, the contradiction would contain negative markers, and if the previous claim is negative, the contradiction would contain positive markers.

In the Tosefta, the contradiction is the third most common argumentative step – both in regular exchanges (12 = 14 per cent) and in exchanges that are part of conversations (10 = 23 per cent).

For example, in Citation 2 above, in each of the exchanges A and B, the sages (אמרו לו – 'they said to him') present differences between the courtyard and the roofs in order to express opposition to R. Meir's position that an analogy can be drawn between

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[34]See a discussion on this *a fortiori* structure in my article – R. Shemesh-Raiskin, '*A fortiori* arguments in halachic give-and-take conversations in the Mishnah and Tosefta', *Folia Orientalia* 57 (2020, forthcoming) – Structure 6 in Section 4.

[35]M&T, 'Conversational structure', p. 231.

the courtyard and the roofs; in each of the exchanges B and C that follow, R. Meir contradicts the words of the sages: In exchange A, the sages argue that the roofs are divided because they have different residences beneath them, unlike the case with the courtyard (‏לא, אם אמרת בחצר שאין תחתיה דיורין, תאמר בגגות שיש תחתיהן דיורין?‏ – ‘No, if you have stated the rule in regard to the courtyard, underneath which there are no distinct residences, will you state the same rule in regard to roofs, beneath which there are distinct residences?’), and R. Meir contradicts their words in exchange B, when he says: ‏אף חצר פעמים שיש תחתיה דיורין‏ (‘So too in the case of a courtyard, sometimes there are distinct residences underneath it’). That is to say, even under a courtyard, there are sometimes cave residences; and in exchange B, the sages argue that with roofs, every residence knows which roof is his, unlike the case with the courtyard (‏לא, אם אמרת בחצר שאין כל אחד ואחד מכיר את שלו, תאמר בגגות שכל אחד ואחד מכיר את שלו?‏ – ‘No, if you have stated the rule with regard to the courtyard, in which case everyone will not recognise what is his [part of the courtyard], will you state the same rule in the case of roofs, in which case each person recognises what is his [part]?’), and R. Meir contradicts their arguments in exchange C: ‏הרי שהיתה חלוקה או שהיתה עשויה פסיפס, לא כל אחד ואחד מכיר את שלו?‏ (‘If it [a roof area] was divided, or if it was made in mosaics, will not everyone recognise what is his?’). That is to say, in a courtyard too, there is sometimes the possibility of identifying the place that belongs to each residence, when it contains a division by means of partitions or if it is made of mosaic stones. These two contradictions by R. Meir are formulated using a positive formulation that is the opposite of the statement they aim to contradict, like the formulation found in the contradictions in the study by M&T: The contradiction (‏אף חצר פעמים שיש תחתיה דיורין‏ – ‘So too in the case of a courtyard, sometime there are distinct residences underneath it’) contradicts the statement that preceded it (‏אם אמרת בחצר שאין תחתיה דיורין...‏ – ‘If you have stated the rule in regard to the courtyard, underneath which there are no distinct residences...’); and the contradiction (‏לא כל אחד ואחד מכיר את שלו?‏ (‘Will not everyone recognise what is his?’) contradicts the formulation ‏אם אמרת בחצר שאין כל אחד ואחד מכיר את שלו...‏ (‘If you have stated the rule with regard to the courtyard, in which case everyone will not recognise what is his...’).

### d) Counterclaim

In the counterclaim, the speaker proposes an alternative claim to the former one, without directly contradicting or challenging that claim. According to M&T,[36] counterclaims tend to be preceded by pauses, prefaces and mitigating devices.

In the Tosefta, the counterclaim is the second-most common argumentative step – in regular exchanges, the counterclaim is second to the challenge in frequency (34 = 39 per cent), and in the exchanges that are part of conversations, the counterclaim and the challenge are identical in frequency, making them the two most common argumentative steps (16 = 37 per cent).

For example, in Citation 3, the views of Rabban Gamaliel and the sages are first presented in regard to the question of whether a prayer leader (“an agent of the community”) fulfils the community’s obligation to sound the ram’s horn (*shofar*), after which begins a halakhic give-and-take conversation between them regarding the status of the prayer leader in the

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[36]M&T, ‘Conversational structure’, p. 231.

prayers. In the first three exchanges A–C, Rabban Gamaliel asks the sages questions in order
to bolster his view that the prayer leader fulfills the community's obligation:

רבן גמליאל אומ׳: שליח ציבור מוציא את הרבים ידי חובתן. וחכמים אומ׳: כל אחד ואחד מוציא את עצמו.**3.**

**א אמ׳ להם:** אם כן למה מורידין אותו לפני התיבה? **אמרו לו:** כדי להוציא את מי שאינו יודע.

**ב אמ׳ להם:** אם כן למה מתפללין כל אחד ואחד לעצמו? **אמרו לו:** מפני ששליח צבור מתקין את עצמו.

**ג אמ׳ להם:** אם כן למה מורידין אותו לפני התיבה? **אמרו לו:** להוציא את מי שאינו יודע.

**ד אמ׳ להם:** כשם שהוא מוציא את מי שאינו יודע, כך הוא מוציא את מי {שאינו} : <שהוא02> יודע.

Rabban Gamaliel says: The agent of the community carries out the obligation in behalf of the
community [so that individuals do not have to sound the shofar as well]. And sages say: Each
and every one carries out his own obligation.

**A He said to them:** If that is so, then why do people go down before the ark [and say
the prayers in behalf of the community]? **They said to him:** In order to fulfil the obli-
gation for someone who does not know how to do it.

**B He said to them:** If so, then why does everyone say the prayers for himself? **They
said to him:** Because the agent of the community prepares himself [in that time].

**C He said to them:** If so, then why do they bring him down before the ark [if he was unpre-
pared]? **They said to him:** To exclude someone who does not know how to do it at all.

**D He said to them:** Just as he carries out the obligation for someone who does not know
how to do it, so he carries out the obligation of someone who does know how to do it.

(Tos. Rosh Hashana 2:18)

Each of the three questions that Rabban Gamaliel asks points to a difficulty in the view of
the sages, who take the position that each individual fulfills their own obligation to blow the
*shofar*, and are formulated as  ?...אם כן למה ('If that is so, then why…?').[37]

   In the sages' three responses to these questions, they offer an explanation to the questions
and their responses contain a counterclaim: In the first exchange, Rabban Gamaliel asks why
a prayer leader is needed if each individual in the community can fulfill his own obligation,
and the sages respond that the prayer leader's role is to fulfill the obligation of those who do
not know how to pray; he then asks why then does everyone pray for himself, and they
respond that during the individual prayer, the prayer leader prepares for his prayer; and in
the third exchange, he once again asks why a prayer leader is needed and is given an explan-
ation why he is needed. The explanations presented by the sages in these three exchanges
respond directly to Rabban Gamaliel's questions, and consequently contain a counterclaim
in regard to the questions, and are not presented in order to contradict his words or chal-
lenge him to present support for his position. The last exchange D also contains a counter-
claim: Rabban Gamaliel responds to the sages' explanation provided in the previous
exchange C (להוציא את מי שאינו יודע – 'To exclude someone who does not know how to
do it at all'), and provides further support for his view that the prayer leader fulfills the obli-
gation for the entire congregation (כשם שהוא מוציא את מי שאינו יודע, כך הוא מוציא את מי שהוא יודע
– 'Just as he carries out the obligation for someone who does not know how to do it, so he
carries out the obligation of someone who does know how to do it').

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[37]Exchange A is identical to exchange C, and it does not appear in MS London.

Citation 3 also contains a challenge: In each of the two questions in the exchanges B and C in this conversation, Rabban Gamaliel asks about the explanation given to him by the sages in the previous exchange (?...אם כן למה – 'If that is so, then why…?'), and thereby expresses his opposition to the explanation given to him, demanding that they explain their point of view.

*4.3 The findings from the examination of the argumentative steps in the halakhic give-and-take conversations in the Tosefta*

Both subsections 4.3.1 and 4.3.2 will describe the findings from both parts of the examination of the argumentative steps in the Tosefta.

### 4.3.1 The findings from the first part of the examination – the regular exchanges

Table 3 presents the findings from the first part of the examination in the Tosefta – regarding the four types of argumentative steps found in the 88 two-part exchanges. The number of exchanges of each type of step is noted and alongside it is its proportion in terms of a percentage of the overall number of exchanges examined in this part of the examination. (This will be the case for Tables 4–7 below too.)

Table 3: Types of argumentative steps in the 88 two-part exchanges in halakhic give-and-take conversations in the Tosefta

| irrelevancy claim | challenge | contradiction | counterclaim |
|---|---|---|---|
| 4 (= 4%) | 38 (43%) | 12 (= 14%) | 34 (= 39%) |

Table 3 shows that the frequency of the argumentative steps in the regular two-part exchanges in the Tosefta is – in descending order – challenge, counterclaim, contradiction and irrelevancy claim. The most common argumentative step is the challenge (43 per cent) and its prevalence is similar to the second-most common argumentative step – the counterclaim (39 per cent); the contradiction is far less common (14 per cent) and the irrelevancy claim is rare (4 per cent).

According to M&T's aggressiveness rating of argumentative steps, a similarity was found between the proportion of the acts at the high level of aggressiveness – the irrelevancy claim and the challenge (47 per cent) – and the proportion of the acts at the intermediate and the low level of aggressiveness – the counterclaim and the contradiction (53 per cent), with each pair of argumentative steps found in about half of the regular exchanges in the Tosefta.

It should be noted regarding the frequency of the challenge in the regular exchanges in the first examination in the Tosefta: 9 of 38 exchanges that contained the challenge, i.e. about a quarter (24 per cent), appear in a single long conversation having 12 exchanges containing a sequence of challenges (Tosefta Yebamot 3:1). While the other argumentative steps in the Mishnah and Tosefta often appear in two or three exchanges in a single conversation,[38] here

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[38]For example, see the cases found in the citations presented as examples: in Citation 2 above – a challenge in exchanges A and B and a contradiction in exchanges B and C; and in Citation 3 above – a counterclaim in exchanges A–C and a challenge in exchanges B and C.

we have a conversation that is extraordinarily long for conversations in the Tosefta,[39] and this affects the proportion of the challenge within the total number of exchanges examined.

### 4.3.2 The findings from the second part of the examination – the exchanges from conversations having multiple exchanges

Table 4 presents the findings for the different types of argumentative steps found in the 43 exchanges that are part of conversations containing multiple exchanges in the Tosefta.

Table 4: Types of argumentative steps in the 43 exchanges that are part of conversations having multiple exchanges in the Tosefta

| irrelevancy claim | challenge | contradiction | counterclaim |
|---|---|---|---|
| 1 (= 3%) | 16 (37%) | 10 (= 23%) | 16 (= 37%) |

   Table 4 shows that in the exchanges that are part of conversations having multiple exchanges in the Tosefta, the challenge and the counterclaim are equal to one another in proportion and they are the most common argumentative steps (37 per cent); the contradiction is less common than these two argumentative steps (23 per cent) and the irrelevancy claim is rare (3 per cent).

   **A comparison of these findings with the findings for the regular exchanges from the first part of the examination in the Tosefta**, shown in Table 3 above, indicates a similarity in the order of frequency of the argumentative steps in both parts of the examination of the Tosefta. In both types of exchanges, the challenge is prevalent (in the first type it was the most frequent – 43 per cent, and in the second type it is just as prevalent as the counterclaim – 37 per cent); in both types of exchanges, the counterclaim is prevalent (in the second type it is just as prevalent as the challenge – 37 per cent, and in the first type it was the second-most prevalent – 39 per cent); in both, the contradiction is the third-most prevalent argumentative step (in the second type it is more common than in the first type – 14 per cent compared to 23 per cent); and the irrelevancy claim is the rare argumentative step (4 per cent in the first and 3 per cent in the second).

   In terms of M&T's aggressiveness rating of argumentative steps, in both parts of the examination in the Tosefta, a similarity was found between the proportion of argumentative steps at the high level of aggressiveness – the irrelevancy claim and the challenge – and the proportion at the intermediate and low level of aggressiveness – the contradiction and the counterclaim. In the regular exchanges from the first part of the examination, these proportions were similar (47 per cent compared to 53 per cent), whereas in the exchanges from the second part of the examination, a greater difference between them was found (40 per cent compared to 60 per cent); namely, the exchanges that are part of conversations appear less aggressive than the regular exchanges in the Tosefta.

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[39]Most of the conversations in the Tosefta – 76 per cent out of the conversations – contain a single exchange, and a smaller proportion (14 per cent) contain two exchanges. A small proportion of the conversations in the corpus contains a larger number of exchanges – with three (6 per cent), four, five, and six exchanges (1 per cent for each of the three types). Only in the conversation noted here is there a number of exchanges greater than six. Similar findings were found in the halakhic give-and-take conversations in the Mishnah.

*4.4 Comparing the findings from the examination of the argumentative steps in the conversations in the Tosefta to the findings from the Mishnah*

### 4.4.1 The examination of the argumentative steps in the halakhic give-and-take conversations in the Mishnah

As noted, in my previous study of halakhic give-and-take conversations in the Mishnah, argumentative steps in conversations were examined in the same way in which argumentative steps in conversations in the Tosefta were examined in this study.[40]

The examination of the argumentative steps in the Mishnah was divided into two parts:
A. The first part – examination of the regular two-part exchanges:

This part included **116 exchanges** (out of 240 exchanges included in 190 halakhic give-and-take conversations in the Mishnah), which meet these two requirements:

1) Two-part exchanges – From among all the exchanges, 88 partial exchanges were removed. This requirement left 151 exchanges out of the total number of exchanges in the Mishnah.
2) Exchanges that contain the three speech acts of asserting, asking and answering. This requirement left 116 exchanges which are 77 per cent of the 151 two-part exchanges in the Mishnah.

B. The second part – examination of the exchanges from conversations having multiple exchanges:

This part of the examination included **40 exchanges** that appear in conversations that include multiple exchanges, which also contain the most prevalent speech acts of asserting, asking and answering. Some of these are partial exchanges.

In the subsections 4.4.2 and 4.4.3, the findings from both parts of the examination of the Mishnah will be presented and they will be compared to the findings from the two parts of the corresponding examination of the Tosefta, which are presented in subsections 4.3.1 and 4.3.2 above.

### 4.4.2 Comparing the findings for the regular exchanges in the Mishnah and Tosefta

Table 5 presents the findings from the first part of the examination in the Mishnah – regarding the four types of argumentative steps found in the 116 two-part exchanges in the Mishnah.

Table 5: Types of argumentative steps in the 116 two-part exchanges in halakhic give-and-take conversations in the Mishnah

| irrelevancy claim | challenge | contradiction | counterclaim |
| --- | --- | --- | --- |
| 4 (= 3%) | 23 (20%) | 39 (= 34%) | 50 (= 43%) |

[40]See the description of the way the examination was conducted in the Mishnah, the sampling of the argumentative steps and the finding from the examination of these stores in Shemesh-Raiskin, 'Halachic Give-and-Take', pp. 100–128; Shemesh-Raiskin, 'Adjacency pairs', Section 2.2.

Table 5 shows that the frequency of the argumentative steps in the regular two-part exchanges in the Mishnah is – in descending order – counterclaim, contradiction, challenge and irrelevancy claim. According to M&T's aggressiveness rating of argumentative steps, the argumentative steps at the high level of aggressiveness – the irrelevancy claim and the challenge – can be found in only about a quarter of the exchanges (23 per cent), whereas the argumentative steps that are at the intermediate and low level of aggressiveness – the contradiction and the counterclaim – are the most prevalent argumentative steps in the regular exchanges in the Mishnah (77 per cent).

**The comparison of the findings from the examination of the regular exchanges in the Mishnah to the corresponding examination in the Tosefta**, which was presented in Table 3 above, shows that in terms of the frequency of the argumentative steps, the two compilations are similar only for the rarest argumentative step contained in them – the irrelevancy claim (3 per cent in the Mishnah and 4 per cent in the Tosefta). In contrast, differences between the two compilations can be found regarding the frequency of the other argumentative steps: In the Tosefta the most frequent argumentative step is the challenge (43 per cent), close in proportion to that of the second-most frequent argumentative step – the counterclaim (39 per cent); the contradiction is much less frequent (14 per cent). In the Mishnah, on the other hand, the most frequent argumentative step is the counterclaim (43 per cent) with the second-most frequent being the contradiction (34 per cent); the challenge is much less frequent (20 per cent). In this frequency order, the difference between the two compilations is striking in terms of the relative status of the challenge and contradiction: In the Tosefta, the challenge is the most frequent argumentative step and can be found three times more often than the contradiction, whereas in the Mishnah, the contradiction is more frequent than the challenge, but to a smaller proportion – 1.7 times more often.

There is also a clear difference between the two compilations in the regular exchanges in terms of M&T's aggressiveness rating of argumentative steps: the argumentative steps that are at a high level of aggressiveness – the irrelevancy claim and challenge – are found in about half of the exchanges in the Tosefta (47 per cent), but in only about a quarter of the exchanges in the Mishnah (23 per cent), whereas the argumentative steps that are at the intermediate and low level of aggressiveness – contradiction and counterclaim – can be found in about half of the exchanges in the Tosefta (53 per cent), whereas in the Mishnah they are more prevalent and can be found in about three-quarters of the exchanges (77 per cent).

**The comparison of the findings from the examination of the regular exchanges in the Mishnah to the findings of the corresponding examination in the Tosefta**, which were presented in Table 3 above, show that in terms of the order of frequency of the argumentative steps, the two compilations are similar only for the rarest argumentative step – the irrelevancy claim (3 per cent in the Mishnah and 4 per cent in the Tosefta). On the other hand, there were differences between the two compilations in the order of frequency of the other argumentative steps: In the Tosefta, the most frequent argumentative step is the challenge (43 per cent) and its proportion is similar to the second-most frequent argumentative step – the counterclaim (39 per cent), with the contradiction being far less frequent (14 per cent). In the Mishnah, on the other hand, the most frequent argumentative step is the counterclaim (43 per cent) and the second-most frequent is the contradiction (34

per cent), with the challenge being far less frequent (20 per cent). In this order of frequency, the difference between the two compilations in terms of the relative status of the challenge and the contradiction is striking: In the Tosefta, the challenge is the most frequent argumentative step and can be found three times more often than the contradiction, whereas in the Mishnah, the contradiction is more frequent than the challenge, but only by a factor of 1.7.

In terms of M&T's aggressiveness rating of argumentative steps, a clear difference was found between the compilations in the regular exchanges too: The argumentative steps at the high level of aggressiveness – the irrelevancy claim and the challenge – could be found in approximately half of the exchanges in the Tosefta (47 per cent), but in only about a quarter of the exchanges in the Mishnah (23 per cent), whereas the argumentative steps at the intermediate and low level of aggressiveness – the contradiction and the counterclaim – could be found in about half of the exchanges in the Tosefta (53 per cent), but in the Mishnah they are even more prevalent and can be found in more than three-quarters of the exchanges (77 per cent).

A conclusion that may be drawn from the comparison of the findings of the regular exchanges in both compilations is that more aggressiveness is evident in the argumentative steps in the Tosefta, and is expressed in the fact that the challenge is the most frequent argumentative step as well as in the similarity of the proportion of the argumentative steps at the high level of aggressiveness to the proportion of the argumentative steps at the low and intermediate level of aggressiveness.

### 4.4.3 Comparing the findings for the exchanges from the conversations having multiple exchanges in the Mishnah and Tosefta

Table 6 presents the findings for the different types of argumentative steps that were found in the 40 exchanges that are part of conversations containing multiple exchanges in the Mishnah.

Table 6: Types of argumentative steps in the 40 exchanges that are part of conversations having multiple exchanges in the Mishnah

| irrelevancy claim | challenge | contradiction | counterclaim |
|---|---|---|---|
| – | 21 (= 52.5%) | 14 (= 35%) | 5 (= 12.5%) |

Table 6 shows that in the exchanges that are part of conversations having multiple exchanges, no irrelevancy claim was found at all, and that the frequency of the three remaining types of argumentative steps is – in descending order – challenge, contradiction and counterclaim.

**A comparison of these findings and the findings from the regular two-part exchanges from the first part of the examination in the Mishnah**, which were presented in Table 5 above, makes it possible to draw a number of conclusions. First, in the exchanges of both types, an irrelevancy claim is a rare argumentative step – in the exchanges in the first part of the examination, it is found only rarely (3 per cent) and is not found at all

in those of the second part. Second, contradiction is in the mid-range in terms of frequency in both types of exchanges (34 per cent in the first part and 35 per cent in the second part). Third, there is a marked difference between the two types of exchanges in terms of the argumentative step that is most prevalent in them: in exchanges of the first type of the examination, the counterclaim is most prevalent (43 per cent) – which for M&T is the act at the lowest level of aggressiveness in the ranking; on the other hand, in the exchanges taken from the second part of the examination, the most prevalent step was challenge (52.5 per cent), which is the act at the highest level of aggressiveness according to this ranking. And fourth, there is a further difference between the two types of exchanges in terms of the degree of aggressiveness of the acts: In the regular exchanges, the common acts are at the intermediate and the low aggressive levels – the contradiction and the counterclaim – and they represent 77 per cent of the argumentative steps in these exchanges, whereas the acts at the high aggressive level – the irrelevancy claim and the challenge – can be found in only about a quarter of the exchanges (23 per cent); on the other hand, in the exchanges from the second part, which are part of conversations having multiple exchanges, there is similarity between the proportion of the argumentative step at the highest aggressive level – challenge (52.5 per cent) – and the proportion of the steps at the intermediate and low aggressive levels (47.5 per cent).

These conclusions are indicative of the more aggressive nature of the exchanges of the second type from the Mishnah as compared to those of the first type. It would appear that in the regular two-part exchanges, the nature of the discussion in the halakhic give-and-take conversations in the Mishnah is not aggressive – the discussant is much more likely to prefer the use of a counterclaim or contradiction than a challenge or irrelevancy claim. On the other hand, the nature of the discussion emerges as more aggressive when multiple exchanges appear in the conversation. In the situation of a conversation, in an exchange that comes in wake of a previous exchange, the speaker chooses to relate more aggressively to the previous one – he is much more likely to make use of the challenge and contradiction, while keeping the use of the counterclaim to a minimum. In both types of exchanges, we find that the steps at the intermediate and low aggressive levels are more common than the steps at the high aggressive level; however, whereas in the exchanges of the first type, the disparity is more evident (the intermediate and low aggressive levels cover 77 per cent of all the argumentative steps), in exchanges of the second type, which are part of conversations, the disparity between the high level and the intermediate and low levels is far smaller (52.5 per cent compared to 47.5 per cent).

**The comparison of the findings from the examination of the exchanges that are part of the conversations in the Mishnah to the findings of the corresponding examination in the Tosefta**, which were presented in Table 4 above, show that they are similar only for the rarest argumentative step – the irrelevancy claim (it is not found in the Mishnah, nor in the Tosefta, its frequency is 3 per cent). On the other hand, regarding the rest of the findings for the order of frequency, differences were evident between the two compilations: The challenge is prevalent in the exchanges in both compilations, but in the Mishnah more so than in the Tosefta (52.5 per cent compared to 37 per cent); however the counterclaim is more prevalent in the Tosefta than in the Mishnah (12.5 per cent in the

Mishnah compared to 37 per cent in the Tosefta); and the contradiction is more prevalent in the Mishnah than in the Tosefta (35 per cent compared to 23 per cent).

In terms of M&T's aggressiveness rating of argumentative steps, in the exchanges in the second part of the examination in the Mishnah, there is a similarity between the proportion of the argumentative steps at a high level of aggressiveness – the challenge – and the proportion of the argumentative steps at the intermediate and low level of aggressiveness – the contradiction and the counterclaim (52.5 per cent compared to 47.4 per cent), whereas in the Tosefta, the proportion of the argumentative steps at the high level of aggressiveness – the irrelevancy claim and the challenge was smaller in comparison to the proportion of the argumentative steps at the intermediate and low level of aggressiveness (40 per cent compared to 60 per cent). The similarity that was found between the proportion of the argumentative steps in the second part of the examination of the Mishnah (52.5 per cent compared to 47.5 per cent) was also found in the regular exchanges from the first part of the examination of the Tosefta (47 per cent compared to 53 per cent). On the other hand, in the first part of the examination of the Mishnah it was found that the argumentative steps at the high level of aggressiveness were less frequent than the argumentative steps at the intermediate and low level of aggressiveness (23 per cent compared to 77 per cent). That is to say, the regular exchanges in the Mishnah are less aggressive than the exchanges that are part of conversations in the Mishnah as well as than exchanges of both kinds in the Tosefta.

The aim of this article is to compare the findings from the Mishnah and Tosefta regarding the argumentative steps in the halakhic give-and-take conversations. This comparison may further contribute to the general discussion concerning the relationship between the Mishnah and Tosefta, because the editorial processes that appeared in these compilations may explain the differences, which were found in the comparison between them.[41] Nevertheless this article does not address this general discussion directly. In another study – about the *a fortiori* arguments in the halakhic give-and-take conversations in the Mishnah and Tosefta[42] – I also found differences between the two compilations. In a forthcoming article,[43] I will present a broad comparison between the discourse unit of the halachic give-and-take conversation in these two compilations, and there I will focus on the question of the relationship between the Mishnah and the Tosefta.

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[41]For a review of the discussion on this issue and of the opinions of various researchers on the subject, see, for example: H. Nathan, 'The Linguistic Tradition of Codex Erfurt of the Tosefta', (unpublished PhD dissertation, The Hebrew University of Jerusalem, 1984) (Hebrew), pp. 1–7; A. Houtman, *Mishnah and Tosefta: A Synoptic Comparison of the Tractates Berakhot and Shebiit* (Tubingen, 1996), vol. 1, pp. 1–2, 7–19; J. Feliks, 'The relationship between the parallels in the Tosefta and Mishna', *Talelei Orot* 11 (2004), pp. 55–98 (Hebrew); J. Hauptman, 'Does the Tosefta precede the Mishnah: Halakhah, Aggada, and narrative coherence', *Judaism* 50, 2 (2001), pp. 115–168; S. Friedman, 'The nature of the Tosefta in relation to the Mishna', in *Studies in Tannaitic Literature: Methodology, Terminology and Content*, (ed.) S. Friedman (Jerusalem, 2013), pp. 3–80 [Rewritten and abridged from *Tosefta Atiqta Pesah Rishon, Synoptic Parallels of Mishna and Tosefta Analyzed with a Methodological Introduction* (Ramat Gan, 2002), pp. 9–95] (Hebrew).

[42]Shemesh-Raiskin, '*A fortiori* arguments'.

[43]R. Shemesh-Raiskin, 'What a discourse unit can teach us about the relationship between the Mishnah and Tosefta: An examination of the parallelism between the compilations in the halakhic give-and-take conversation', *Bulletin of the School of Oriental and African Studies* (Forthcoming).

## 5. Comparing the findings from the examination of the argumentative steps in the Mishnah and Tosefta to the findings of previous studies

The studies I conducted on the argumentative steps in the halakhic give-and-take conversations in the Mishnah and Tosefta, described in Section 4 above, were based, as noted, on the classification of the four types of disagreement acts as presented in the study by M&T on naturally occurring conversations in English, described in Section 2 above. The study conducted by B&BK on a Talmudic text, described in Section 3 above, was also based on M&T's study. This section will compare the findings from the studies on the argumentative steps in the Mishnah and Tosefta to the findings of the two previous studies. Table 7 presents the summary of the findings of these four studies, i.e. it combines the findings contained in Tables 1–6. The Table notes for each argumentative step its proportion as a percentage of the overall number of exchanges or turns examined in each study, without noting the actual number of occurrences in each study.

Table 7: Summary of the findings of the four studies regarding the types of argumentative steps

| the study / type of acts | | irrelevancy claim | challenge | contradiction | counterclaim |
|---|---|---|---|---|---|
| **Muntigl and Turnbull 1998** | **second turn** | 8% | 12% | 18% | 56% |
| | **third turn** | 4% | 4% | 9% | 75% |
| **Blondheim and Blum–Kulka 2001** | | 18.7% | 28.6% | 45% | 7.7% |
| **Study on halakhic give-and-take conversations in the Tosefta** | **88 two-parts exchanges** | 4% | 43% | 14% | 39% |
| | **43 exchanges which are part of conversations having multiple exchanges** | 3% | 37% | 23% | 37% |
| **Study on halakhic give-and-take conversations in the Mishnah** | **116 two-parts exchanges** | 3% | 2% | 34% | 43% |
| | **40 exchanges which are part of conversations having multiple exchanges** | – | 52.5% | 35% | 12.5% |

A general observation of the findings of the four studies shows that they contain varying proportions of the different argumentative steps and their varying orders of frequency. At the same time, certain similarities between some of the findings of the studies are evident. For example, in both types of argumentative steps in the Tosefta, the order of frequency is similar (but this is not the case in the two types of argumentative steps in the Mishnah); there is

similarity between the regular argumentative steps in the Mishnah and the order found in M&T's study; the irrelevancy claim is rare in conversations in the Mishnah and Tosefta as well as in conversations examined by M&T's study.

I will now present the main findings that arise from each of the four studies and conduct a comparison between them.

**M&T's study** found that the frequency of the acts was – in descending order – counterclaim, contradiction, challenge and irrelevancy claim; and from the ranking of the aggressiveness of the acts, the proportion of the acts at the low and intermediate level of aggressiveness – the contradiction and the counterclaim – was higher (74 per cent and 84 per cent by the type of turn) in comparison to the acts at the high level of aggressiveness – the irrelevancy claim and the challenge. In other words, this study found a low level of aggressiveness.

**In the study by B&BK** of a Talmudic text, a different order of frequency of the acts was found – in descending order – contradiction, challenge, irrelevancy claim and counterclaim. This study differs from its predecessor in terms of the proportions of the different acts, as well as in terms of their aggressiveness rating: In their study, the frequency of the high-aggression pair is only slightly lower than that of the low-aggression pair (47.3 per cent and 52.8 per cent, respectively). To wit, the examined Talmudic debate seems to be more aggressive than the conversations that were examined by M&T.

**In the study on the halakhic give–and–take conversations in the Tosefta**, a similarity could be seen in the findings from both parts of the examination: The order of frequency that was found was challenge, counterclaim, contradiction and irrelevancy claim (in the second part of the examination, the two first argumentative steps were identical in frequency). In terms of the ranking of the aggressiveness of the argumentative steps, in both parts of the examination a similarity was found between the frequency of the high-aggression pair and that at the intermediate and low level of aggressiveness (in the first part, the proportions were more similar – 47 per cent compared to 53 per cent, and in the second part – 40 per cent compared to 60 per cent).

When comparing the findings from the study on the Tosefta to those of the two previous studies, a greater degree of aggressiveness was evident in the exchanges in the Tosefta compared to that found in M&T's study on naturally occurring conversations. Indeed the findings from the Tosefta are distinct from those of the studies by B&BK on the Talmudic text – both in terms of the frequency order and in terms of the proportion of the different argumentative steps – but there is a clear similarity between them in terms of the closeness in each between the proportion of the argumentative steps at the high level of aggressiveness and the proportion of the argumentative steps at the intermediate and low level of aggressiveness. This expresses a greater degree of aggressiveness in the argumentative steps in the Tosefta and the examined Talmudic text, compared to that found in the conversations examined by M&T.

**The study on the halakhic give–and–take conversations in the Mishnah** found a different order of frequency of the steps from the two parts of the examination: In the regular two-part exchanges, the order of frequency was counterclaim, contradiction, challenge and irrelevancy claim; and in exchanges that were part of conversations having multiple exchanges, the order was challenge, contradiction and counterclaim (no irrelevancy claim

was found). The exchanges that are part of conversations in the Mishnah are of a more aggressive nature than the regular exchanges. This can also be seen in terms of the aggressiveness ranking of the steps from the two parts of the examination: In the regular exchanges, the acts at the intermediate and low level of aggressiveness are much more frequent (77 per cent) than the acts at the high level of aggressiveness, whereas in the exchanges that were part of conversations having multiple exchanges, it was found that the frequency of the act at the high level of aggressiveness was similar to the frequency of the acts at the intermediate and low level of aggressiveness (52.5 per cent compared to 47.5 per cent).

When comparing the findings from the study on the Mishnah to the findings from the two earlier studies, it can be seen that in the regular two-part exchanges in the Mishnah, the findings are similar to those of M&T's study, and in the exchanges that are part of conversations having multiple exchanges, the findings are similar to those of B&BK's study in terms of the aggressiveness ranking of the argumentative steps, i.e. in both of them there is a similarity between the frequency of the acts at the high level of aggressiveness and the frequency of the acts at the intermediate and low level of aggressiveness.

It can be concluded from a comparison of the findings of the studies on the exchanges in the halakhic give-and-take conversations in the Mishnah and Tosefta that there is a difference between the two parts of the examination: In the regular exchanges in the Tosefta, greater aggressiveness was evident than in the Mishnah, whereas in the exchanges that were part of the conversations, in the Mishnah a greater aggressiveness is evident than in the Tosefta. The regular exchanges in the Mishnah are less aggressive than the exchanges that were part of conversations in the Mishnah, and also less aggressive than the exchanges of both kinds in the Tosefta.

In light of the comparison between the findings from the four studies described in this section, the degree of aggressiveness of the argumentative steps in them can be presented in the following sequence, which is presented in Illustration 1 (on the left side – the lowest level of aggressiveness).

The naturally occurring conversations in English studied by M&T are on the left side of the sequence because they contained a low level of aggressiveness. In contrast, the Talmudic text studied by B&BK is on the right side of the sequence because they contained a high level of aggressiveness. The halakhic give-and-take conversations in the Mishnah and Tosefta are between the two extremes: The regular exchanges in the Mishnah have a low level of aggressiveness; in the Tosefta in both types of exchanges, a higher level of aggressiveness was found, and in the exchanges that are part of conversations in the Mishnah, the level is even higher.

The existing difference between the two types of exchanges in the halakhic give-and-take conversations in the Mishnah – exchanges that are part of conversations and regular exchanges – can be explained, as noted, by the more aggressive nature of a conversation that is made up of a larger number of exchanges, as opposed to regular exchanges. Nevertheless, no satisfactory explanation has been found for the fact that this difference exists only between the exchanges of two types in the conversations in the Mishnah, but not between the two types of exchanges in the conversations in the Tosefta.

As a rule, the exchanges in the Mishnah and Tosefta are of a more aggressive nature than in the naturally occurring conversations examined by M&T. This appears to be because the nature of the argument in the halakhic give-and-take conversations in my study is different
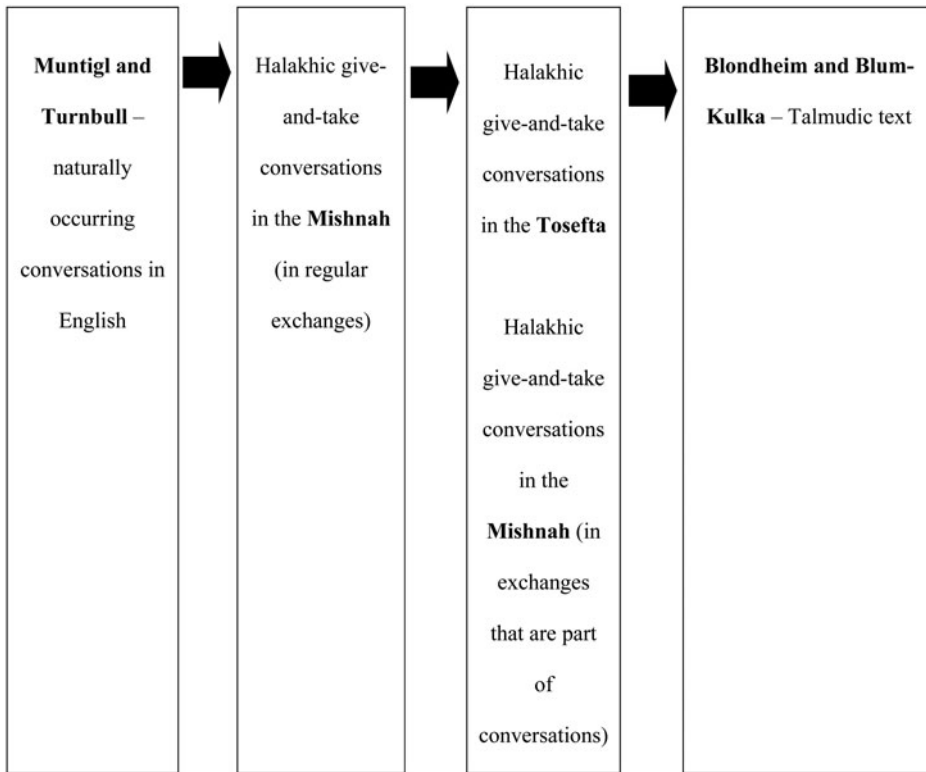
Illustration 1: Sequence of aggressiveness of the argumentative steps in the four studies

from that of the regular argument in the naturally occurring conversations in M&T's study.[44] At the same time, it would appear that the conversations in the Mishnah and Tosefta are not of a particularly aggressive nature, as shown, for example, by the low frequency of the irrelevancy claim in these conversations.

On the other hand, the Talmudic text examined by B&BK is of a more aggressive nature. Their study is distinct from the three other studies from a number of aspects, for example the proportion of frequency of the different argumentative steps: First, the irrelevancy claim – the act that is on the highest level of aggressiveness – is not rare in it (18.7 per cent), unlike in the three other studies where it was the rarest argumentative step (4 per cent on average); second, the counterclaim – the act at the lowest level of aggressiveness – is the rarest argumentative step in this study (7.7 per cent), while in the other studies it was a prevalent argumentative step, usually first or second in frequency (44 per cent on average; on this matter, there is similarity between this study and what is found in the second part of the examination

[44]M&T, 'Conversational structure', p. 228, explain at the beginning of their classification that former classification systems have been based on children's arguments, compared to their system of classification which has been based on arguments of adults and adolescents, and they comment that because of this difference, there may be a need to change the classification in order to adapt it to this kind of arguments. Namely, they too relate to the possibility that the nature of the conversations might affect the classification.

in the study on the Mishnah); and third, even the argumentative step that is most prevalent in this study – the contradiction (45 per cent) – was not found to be the most frequent in any of the other studies.

The unique features that arise from the findings of B&BK's study compared to other studies can perhaps be explained by the different examination method employed in their study, as well as the scope of the examination in this study. The examinations in the three other studies were based on a similar number of exchanges: M&T's study included 164 three-turn arguing exchanges,[45] and the studies on the Mishnah and Tosefta examined a similar number of exchanges – 156 exchanges in the Mishnah (116 in the first part and 40 in the second part) and 131 in the Tosefta (88 in the first part and 43 in the second part). In B&BK's study, on the other hand, one Talmudic text (Bava Kamma 56b–57b) was examined, but because of considerations of length, only the first eight turns of its 23 turn-sequences were analysed. In fact, the numerical data that they present in their article – which appear in Tables 2 and 7 above – do not relate to this Talmudic text, but rather to the frequency of the formulae in the four categories in tractate Berakhoth, which are presented in an appendix to their article.[46]

In order to draw conclusions regarding compilations from the rabbinic literature, it would be necessary to examine conversations from the Talmud using a similar methodology and scope, and to continue and examine other compilations from the rabbinic literature. Only in this way will be possible to see if the give-and-take conversations in other compilations turn up similar findings as those that arose from the study of the halakhic give-and-take conversations in the Mishnah and Tosefta.

The focus of this research was analyzing the argumentative steps in the halakhic give-and-take conversations in the Mishnah and Tosefta, an issue which belongs to the field of conversation analysis. As previously mentioned in the beginning of Section 1 above, arguing has been studied in numerous disciplines, including sociology. Thus the conclusions of this analysis of the conversations in the two compilations may be examined also by researchers dealing with early rabbinic culture. Furthermore, there is room to examine also regular conversations in various compilations from the rabbinic literature in order to compare the argumentative steps in them to the ones found in the conversations of a halakhic nature from the halakhic give-and-take conversations in the Mishnah and Tosefta presented in this article.

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[45]The three parts in each segment in their study: T1 of the first speaker, T2 of the second speaker, and T3 of the first speaker.

[46]See examples for the terms that appear in the appendix to their article in the explanation of the examination method presented in note 27 above.